CDBG-DR for Program Planning, Admin, and Activity Delivery Costs
3-29-16

Tyler Bridges: Welcome to the "Community Development Block Grant Disaster Recovery Program Webinar for Program Planning, Admin, and Activity Delivery Costs." My name is Tyler Bridges and I'm a CPD specialist in the disaster recovery and special issues division here at HUD headquarters. Also joining me on this call are staff from the division, including Sandra Donaldson based in Missouri, Tom Tiffin based in Alabama and Marty Horwath based in Florida.

During this webinar, you will have the opportunity to learn more about the distinction between planning, admin and activity delivery costs and requirements. We're happy to see that many grantees and partners are on the line, including contract firms and nonprofits.

We would note that the primary audience today are those grantees that receive direct assistance from the department and as such, we will be giving them priority for asking questions, but our goal is to make sure that the broader community also understands these concepts as well. With that, I'd like to turn it over to our host for this afternoon, Marsha Tonkovich.

Marsha Tonkovich: Thanks, Tyler and good afternoon, everybody. I'm Marsha Tonkovich with the community building collaborative. We're a small firm that's a contractor to ICF and we do work around CDBG community development, economic development and disaster recovery.

And I have, I think, met many of you throughout the years on CDBG or NSP or various disaster recovery initiatives. So it's great to be here with you today. So I want to let you know kind of how the logistics will work today and then we'll jump right into our content. So we will have a couple of polls throughout our webinar and I'll be turning those over to Chantel who will walk you through how to do your voting and basically, you'll just click on a button and then she'll read aloud how we did.

Many of these polls are meant to be little quizzes on the material that we've just covered and we encourage you to take a few minutes when you're doing them if you're in a room with your colleagues or you could chat with your colleagues to have a conversation about the questions and the answers. Some of them are meant to provoke conversation as a reinforcement of what we've just covered.

In terms of asking questions, we do want to encourage you to ask questions. We're going to stop periodically throughout the presentation. I'm not going to wait until the end, I want to let you ask questions as we get the materials. So feel free to type in a question at any point and you'll see in your lower right-hand corner of your screen, a box that says questions and if you could go ahead and type in your question with as much context or explanation as you can in the space you have so that we understand exactly what you're asking.

Our screeners may ask you a couple questions back just for clarification today and then we'll answer them as periodic points throughout the webinar whenever we get to one of the blue divider slides in the section. We are going to try to focus on questions that are about materials we're covering today and also about questions that apply to policy or procedure or requirements. We're going to try not to focus specific project-detailed questions, but I would encourage you if you have those questions to talk to your HUD rep or HUD headquarters and get some technical assistance about those questions. So as we said, just as the CDBG-DR webinar series, this is now the third in that series and there are additional webinars yet to come in the coming weeks. So these are meant to build upon one another and to be -- you know, you can watch all of them, we hope.

They will all be available on the HUD Resource Exchange. So if you have the recipients or staff or partners who are not able to be with us today, please encourage them to feel free to watch those or listen to those online. And again, your HUD staff are always available to answer follow up questions.

So our agenda for today, we're going to focus on eligible costs and the rules around costs. So that's a little bit different. I think many of you worked with me earlier on our seminar on national objectives and eligible activities and those are the big buckets of kinds of things that you can do. Today we're going to focus on, within each of those big buckets, what are the specific types of costs that you're allowed to pay for and what categories -- how do you categorize those costs in order to make them eligible?

We'll talk about the documentation of those costs and then we'll close out today with a conversation about program income, because it does tie back to how you spend your money. So we have our first poll. So I'll turn it over to Chantel.

Chantel Key: Okay. Well, what exactly is your level of familiarity with cost principles? Do you have account finance compliance background or are you a policy or technical person, but generally understands the principles, new to the federally financed programs or none of the above?

Marsha Tonkovich: So take just a moment and vote for whichever one makes most sense for you and obviously, there's no right answer here.

Chantel Key: And the polls are now open.

Marsha Tonkovich: Okay. We'll give it just one more minute to finish the voting and then we'll talk about what you said.

Chantel Key: Okay. About 50 percent of our participants have voted.

Marsha Tonkovich: Okay. Chantel, so let's go ahead and close out the poll.

Chantel Key: Okay. And I'm sharing the results. We have 30 percent voted have an accounting finance or compliance background, 30 percent voted policy technical person, but generally understand the principals, 29 percent voted new to the federally funded program and 11 percent voted as none of the above.

Marsha Tonkovich: Okay. Well, that's a great mix. It's actually almost pretty much equal and that's fine. We're going to try to hit the webinar to address the needs of all those different groups of folks. So we hope that wherever you are, whether you're in accounting professional or whether you are new to all of this or somewhere in between that you'll be able to get your questions answered. And again, there are lots of additional resources and I'll also point you to some of the good written materials that it has as well as we go through this. So let's go ahead and jump in then to categorization of the costs. So we're going to talk about four different ways or four different eligible types of costs that you might incur through your CBDG-R program. And how you combine all of these and the amount of each of these that you have will be driven by the kind of program that you're running and the kinds of activities that you are funding.

And we'll define each of these in just a moment, but the key thing to think about is at the very beginning of when you're beginning your program and if you're in the middle of your program, as you're going through it, is having a good sense of your overall budget and how you intend to allocate your costs by each of these categories.

And the reason why that's important is because a number of these categories have maximum limits that you're allowed to spend for that particular type of cost. And so you want to have thought ahead about the kind of things you're envisioning undertaking with your program, how might those costs be eligible, how am I going to have to categorize them and am I likely to be close or tight on my caps? And that'll be particularly true with your administration cap that we'll talk about a little bit later.

So let's define each of the four types of costs. The project costs are the kinds of things we typically think of when we're doing activities. They are the hard costs and the soft costs related to providing or delivering that project. So it's construction materials, it is the soft cost engineering, the architecture; those sorts of things related to doing an activity.

Activity delivery costs are the kinds of costs that are related to the agency used by the grantees and recipients, your costs to make that particular activity or project occur. And again, we'll get into some more detail in just a moment. Planning costs are related to overall community or state planning related to disaster response or related to disaster recovery addressing new standards, new zoning, things like that. It's community wide, it's large kind of planning for how to respond to your disaster.

And then program administration costs are costs that are about how you overall administer and manager your CDBG-DR grant. And again, we'll get into more detail and examples of each of these. There are a number of really good resources, as I mentioned earlier, and you'll see at the back of this presentation some specific links to these materials. So if you do download the slides later, you'll get those links.

But I want to particularly reference three materials and there's two listed here, but there's a third that I also want to draw your attention to. So the first is 2 CFR 200, that is the new OMB regulation that can be consolidated and we'll talk more about what that means in just a moment, some of the old circulars. There is HUD CPD Notice 13-07, which is a great notice that covers the distinction between admin and activity delivery costs and it gives some really good examples and some nice charts that help you think about how to categorize your costs.

And then one more that's not listed here that I want to encourage you to read, because I think it's also good is an SD-215-01 -- 2015-01, which is the notice that HUD put out about the new OMB circular consolidation and it's got some good examples of how the circulars have changed and haven't changed and the timing of the implementation of those new changes.

Bottom line in all of this, and it'll pervade throughout all the rest of this section, OMB recently consolidated all of the old circulars for those of us who have been working with a while. We used to have circulars A7, A-110, Part 85, A-133. Each of those were individual OMB circulars, which dealt with particular aspects of financial management. In order to be more efficient and also just to focus a little bit more on performance and outcomes, they consolidated all of those into one regulation, which is 2 CFR 200 and all of these disparate sections are now all together.

And so if you haven't become familiar with how that was changed and the timing of when those changes became effective, I do encourage you to look at 2015-01. That notice gives some good guidance on that. Basic rule that there are some specifics that aren't quite -- don't follow this exact rule, but the basic rule is that the effective date of all of that consolidation was December 26, 2014 for new grants issued after that point and for additional funding issued after that point.

So again, there are some caveats and changes to that for particular programs. And like I said, that's helpful [inaudible]. So let's jump into the first category, which is direct project costs. So these are the costs, as I mentioned, where you provide subsidy to a beneficiary and by that, I mean homeowner, a landlord, a business, a rent developer and any of those kind of end beneficiaries. We're going to use your assistance to create a project and that project assistance might range from construction costs, the hard material costs of construction.

You might also include project soft costs that could include things like architecture, engineering, design work, all those sorts of things that a beneficiary has to incur in order to be able to do that project. So for example, if you give funds to a developer and that developer has to hire an architect to build the rental project that you're going to do or to plan for your rehabilitation, the cost of that architecture are project costs, because they were incurred by the beneficiary and they're tied [inaudible] for the project.

Similarly, things that we tend to think of as soft costs, but are really considered direct or project costs in CDBG are things like developer fees. If you have a construction contractor and that construction contractor has overhead and profit in his project, those kinds of costs, those overheads, the fees and so forth are again, a part of the project costs.

Similarly, if you are funding an entity, it could be a nonprofit, it could be a subrecipient who is delivering a direct service, you're going to pay that nonprofit to provide housing counseling or you're going to pay that nonprofit to do some sort of other service for applicant, that public service cost of delivering that service are project costs. So all of those are eligible types of expenses and again, they're all considered part of this direct project cost category.

Now, it's possible, although more unlikely, that a grantee, meaning you guys or even a subrecipient, nonprofit or other public agencies to get funds from you, could have project costs. So let's take a very common example, let's say that your water and sewer lines were completely damaged through your storm and you're going to have to go rebuild new water/sewer lines and in order to be able to do that, you're going to have to acquire land and then you're going to have to have the construction costs to build a new water/sewer line.

Now, if you're going to directly do that as a grantee, and that's a little less common, usually, again, as I said, it runs through some sort of partner, and you're going to directly incur those costs, those could be project costs as well, because your costs required land or your costs, if you're going to have some sort of force account method where you're going to do destruction, those kinds of costs could be project costs as well. Now, let's contrast that with activity delivery costs.

So activity delivery costs -- and I'm sorry, one last point on project costs, there's no statutory cap on the amount of project costs that you can have as a proportion of your budge and obviously, this is where the majority of your money is going. So obviously, you have to make sure it's cost reasonable and it's eligible and all of those things, but in terms of the proportion of your budget, obviously, you're going to see most of your money going for project costs.

So activity delivery costs, on the other hand, are your costs as a grantee or if you have a subrecipient who is administering that activity on your behalf, they are your costs to deliver that project or set of projects. So the only entities who are going to incur activity delivery costs are grantees or subrecipients. There's no such thing as activity delivery costs for developers or beneficiaries, because their costs are project costs. So these are your costs and your subrecipient costs to deliver a particular activity.

Now, let's stop for just one moment and define what it means when I say subrecipient for those [inaudible]. So in CDBG, a subrecipient is a public or a nonprofit organization who administers an activity on behalf of the grantee. So the state gives money to a city and that city runs a program on your behalf or you, the city, gives money to a nonprofit and that nonprofit runs a program that we have.

So when we say subrecipients, that's what we're talking about. Again, it's a public or nonprofit entity running a program. So examples of the kinds of things that we mean when we say activity delivery costs, there are things typically about your staff that are the most common kind of activity delivery costs you have. So if you have staff or your subrecipient has staff who are doing things, like your Davis-Bacon site inspections and reviews for labor standards or your engineering and architecture that you are paying for.

So if you the grantee are going to pay for an engineering assessment of a particular site, that would be an activity delivery cost. If you were going to be doing the intake and the screening of the applicant, if you're going to have folks come in, you're going to underwrite them and you're going to screen them for eligibility, you're going to figure out the amount of their assistance, the staff time to be able to do those reviews.

If you have office space where that office space is exclusive and you can make a very clear distinction about that office space or those utilities specifically for delivering a particular program or set of projects, that could be an activity delivery cost. Now, notice I'm being fairly precise about this, activity delivery costs and office space can be a challenge.

If your office space is in the middle of your community development department and you've got some sprinkled in and among other programs, they're in a seed program, your home program, your Section 8 program, whatever and you can't clearly separate the costs which are associated with the CDBG program delivery or activity delivery -- and by the way, those two words mean the same, "program delivery," "activity delivery" -- then you're not allowed to charge that as an activity delivery cost, because you have to be able to clearly segregate the costs in order to have it be activity.

So it's not enough to do some sort of proration. You know, you can't say that I have 100 employees of those, 50 actually work on CDBG, so therefore, 50 percent of my leasing office space cost. You're not allowed to do something like that as activity delivery, it has to be clearly separable. So in other words, it's a separate building or if you know the specific costs of the particular floor and the entirety of that floor is where you'll be delivering the particular program or project, that might be okay.

So you may be able to charge office space, but you have to be able to do the segregation. If you can't do that, and it's not easy to separate and you can't clearly show exact costs of that space, then we'll talk about that as part of administration or an indirect cost in a few moments. In CDBG-DR, particularly, it's also quite common to have activity delivery costs or program delivery costs, which are undertaken by a contractor.

And so oftentimes, because it's a feeling of it's necessary to address this as to respond, what we see are grantees who are contracting out for some service. So typically, things like [inaudible]. So if you hire a firm, procure them and you hire them to work on your behalf, taking in those applications, doing your underwriting and so forth, even though that's a cost incurred by a private contractor, it's a contractor through the grantee and it is doing that service in your stead or on your behalf and that could be an activity delivery cost, because it's a cost of the grantee.

That would also be true of things like environmental reviews. We've seen some grantees contract out for the data collection around [inaudible]; again, doing the job on behalf of the grantee. So those are the kinds of costs that for contracts, would be activity delivery, because again, they're [inaudible].

So the cap. There is no cap on activity delivery costs. You know, you may have heard some people say 30/20/10/whatever-percent; there is no specified particular cap on the percentage of your costs of your total budget or of your total project costs that can be activity delivery. That said, however, as with all things in CDBG, those costs have to be reasonable and comply with those cost principles that we talked about earlier, the OMB Circular Part 200.

So we're going to have to document that whatever we pay for is, of course, eligible, and reasonable, and necessary, and all of those things. What is eligible and reasonable and necessary is going to vary by the complexity of the activity you are administering. And again, remember I said the costs have to be tied directly back to delivering that particular activity.

So we have to have a connection between the activity delivery costs and the program or project which I am helping them to create. And so in thinking about a reasonable level of activity delivery cost, we need to look at the complexity of the project and again, cost [inaudible] and to think about what proportion would make sense.

And so the more complex of a project with lots of moving parts or program with lots of different kinds of applicants we have to review and so forth, you might expect to see a higher percentage of activity delivery costs than a program which is relatively simple, has been done before and doesn't require a lot of complex staff interaction.

So there's no hard and fast rule here, but there are -- you know, you have to think about what's reasonable given the kind of activity that I am doing. Now, whenever we're doing activity delivery costs, whether it's us or whether it's a subrecipient, we always have to be able to back up that cost just like any other cost we're going to charge CDBG. This is particularly difficult for activity delivery costs, because again, as I said, most of those costs are the staff who are working to create projects or to create programs. It's mostly time that we're talking about. And so in order to back up that cost, we're going to have to have timesheets and that's true for every single person who we're charging to activity delivery costs not only as a grantee, but also as our subrecipient.

And it's not enough, and we've actually had folks in the most recent rounds of funding who've had monitoring findings and found this issue, just to say that they worked on CDBG, because again, as I said, activity delivery is about delivering that program or project. And so we have to be able to break out the costs by that activity. So it's by that program, by that type of project that I am funding.

And so if the staff are working on your homeowner rehab program, their timing should indicate the part of their time that did that. And if they also work on your economic development program, it should then state that. So we need to have timesheets that are broken out by activity time. One thing that we've seen a lot of questions around is, what if I have other funding sources? I have state funds, maybe I have other federal funds who are paying for the hard costs of construction, but I want to use my CDBG-DR staff in order to be able to help them to deliver that activity.

You can do that if it's eligible under CDBG. If the underlying activity eligible, you could pay for the activity delivery costs, but what you have just done is invested CDBG money [inaudible] by having the staff work to deliver it to basically make the project itself CDBG. So therefore, the underlying project has to meet all the CDBG rules and that would include not only the DR rules, but all other federal rules that come with -- Davis-Bacon, environmental, all the things that we bring that are [inaudible]. So be very cautious about paying activity delivery costs if you're not also funding the underlying [inaudible].

As I mentioned, activity delivery costs are tied to the particular project or program that you are delivering. And so all the rules come with that and those rules include the national objectives and the 50 percent low-mod targeting requirement. And so the way that we count that, because again, this is primarily staff costs that HUD has, is that those activity delivery costs are considered to meet those rules in the same proportion as the underlying program or project. So if my underlying program had 60 percent LMI targeting, then 60 percent of my activity delivery costs would be considered meeting my [inaudible].

Again, we've talked about the citations under the OMB circulars. There is also some sections of the CDBG regulations, that Part 570 which also gives you additional guidelines. So the next category of cost is planning costs. And this is something that actually is a little bit confusing, because we could have project plans and we could have community or other kinds of longer-term plans. When we say planning in CDBG, we mean those longer, broader types of planning activities.

So it's not a specific project, you're not planning to feasibility or the analysis of a particular project, because that would be a project cost, but rather we're talking about an activity whose end result is some sort of community of state plan. And in our case, for this purpose, it's related to recovery. And again, it could have to do with maybe seeing the [inaudible] put in, do a flood map and you have to address it, maybe the community wants to change its building requirements for the rebuilding to make it more resilient, maybe you want to think about new mapping to figure out where you want to rebuilt so that you're more resilient in the future, all those kinds of planning activity at the community level would be a planning type of cost. Again, planning activities are only undertaken by grantees and subrecipients and we don't have private entities undertaking planning costs in the context.

Again, we might have private planners on the project, then that would be a project [inaudible], but in terms of the kinds of end result planning activities, these are grantee and subrecipient costs. And again, it can be anything from gathering data on the plan, to writing a plan, to public input on that plan, anything that's related to that community planning output. There is a cap on planning, that cap is 20 percent, but that 20 percent cap is 20 percent of your grant and program income. That 20 percent is inclusive of your administration. And so it's 20 percent planning and admin and as you'll hear in just a few moments, in most, but not all disasters, your admin is capped at 5 percent. So if you spend the full 5 percent on administration, that only leaves you 15 percent for your planning is a way to think about it.

And again, the sum of all of those, no more than 20 percent of your grant award plus any program income that you earn and we'll define program income in just a few minutes. Now, if you're a state and you're listening in, I know we do have some state grantees who are with us, you'll know this is actually different than your normal CDBG program. So normally when you run the non-disaster recovery CDBG program, planning is an end result as a planning only grant and because this planning grant is considered a project, that planning grant actually has to eventually meet a national objective.

And so it's actually treated as if it were a project. For the purposes of DR, that's been waived from most recent disasters. Now again, you're going to want to look at your particular federal register notice to be sure that this is true for yours, but in general, that typically gets waived and the state is allowed to act as entitlement to and fund planning only grants where the end result is a plan and where the activity does not have to meet a national objective.

So our last category of costs are program administration costs. And these are the kinds of costs that your organization, again, your grantee or your subrecipient, is going to incur in order to manage the CDBG-DR program. So it's not the general management of the city, it's not the mayor and that kind of thing, those are not going to be eligible program administration costs and it's not the delivery of a project or program, because those are activity delivery costs, this is the management of the part of the organization who is overall seeing your CDBG-DR grant award. And we're talking about things like people who monitor the clients with your grants, the people who do your periodic reporting and the costs in that reporting and who enter your data into the DRGR, the financial tracking system.

We're talking about folks who are in your human resources and your accounting support for the delivery of your CDBG-DR program. We might also be talking about that office space. So I mentioned earlier that if we really cannot very clearly separate, this might be an eligible admin expense, although again, you still have to be able to separate, in general now, which costs are related to CDBG.

So it might not be for a particular program, for just my homeowner's program, but it would at least be able to say this is a part of my office space, which is particular to my CDBG-DR program. And again, utilities is all the same law.

One point here, I want to make sure we make a key point about is the monitoring activities that you do, when you monitor your subrecipients, when you do your long-term monitoring, like after you have had an activity that's completed, but if you're still tracking jobs or if you're still tracking the housing affordability period, those kinds of long-term activities, all those sorts of things are the staff costs related to those or admin costs. They would all be under here.

Now, one key question we get a lot is, could I use my CDBG-DR admin to help subsidize other recovery programs? Maybe you're not getting enough admin from the FEMA funds that you had or from funding you got from EPA, unfortunately, the answer is no. You are only allowed to use CDBG-DR admin to administer to [inaudible] activities. So as I mentioned earlier, we do have a cap. The cap on CDBG-DR admin is 5 percent of your total grant award and 5 percent of your program income.

And again, as I mentioned earlier, the only people who can partake of that 5 percent pot are the grantee or any subrecipient. Now, the question is who gets to decide how the 5 percent gets divvied, because it's 5 percent in total? So the answer is the grantee. And so when the grantee decides if it wants to work with subrecipient, be that subrecipient a unit of local government or a nonprofit or maybe even some state authority that's a separate legal entity, the grantee has to decide how much of its 5 percent is willing to share with that entity.

And so that's negotiated depending on the complexity and the difficulty of the program that's being run by that subrecipient. And again, the grantee is responsible, but an aggregate where all those funds are all added together, both it and its subrecipient, the total does not exceed 5 percent. That will be called out in the grant agreement between the subrecipients and the grantee. So let's do one more poll and then we'll take some questions, Chantel.

Chantel Key: Okay. So for our second poll, which of the following expenses would be an eligible activity delivery cost? We have here staff costs to develop an action plan amendment related to a new housing program or the costs for a contracted entity which accepts and underwrites the DR economic development application, grantee who runs a CBDG-DR clearance program, rent for all of the office space occupied by the DR division or the funds paid to a developer related to the design of the DR-funded rental project. The polls are now open.

Marsha Tonkovich: And a hint, guys, there's a couple of these that you may have some questions about and we'll talk them all through. Some of them are a little bit on the fence and that was there on purpose so we could talk it through. And again, if you're with a group of your colleagues, feel free to debate them as you vote. Chantel, how are we doing on the voting?

Chantel Key: We have a little bit under 40 percent voted so far.

Marsha Tonkovich: Okay. So let's take one last moment, everybody, if you haven't had a chance to vote, just take a guess. So Chantel, let's go ahead and close the poll.

Chantel Key: Okay. And I'm sharing the results. We have 27 voted the staff costs to develop an action plan, 20 percent voted costs for a contracted entity which accepts and underwrites DR economic development applications, 15 percent voted grantee runs a DR clearance program, 19 percent voted the rent for all office space occupied by the DR division and 19 percent voted funds paid to a developer related to the design of a DR-funded rental project.

Marsha Tonkovich: Okay. So let's go through all of these, because that's interesting that we had a dispersion of the votes across all those. So what we're asking for here is which of the following would be an eligible activity delivery cost? So remember, those are costs which are incurred by the grantee or subrecipient and they're typically your staff costs and related costs for you to deliver a program or project. So with that definition in mind, let's go through each of these. So let's start with the first one.

So the staff costs to develop an action plan amendment, let's ask the question, is that related to a specific program or project? That would be no; right? The action plan is going to be related to the administration of your overall program. So yes, we're doing an amendment for a housing program, but the action plan is about how you overall administer your activity and how you administer your funds.

And so the cost related to developing action plan amendments are admin costs, they are not activity delivery. So that first one would not be activity deliver, it would be admin.

The second one, the cost for a contracted entity which underwrites the CDBG-DR economic development program application, is that activity related to delivering a specific project/program? Yes. It is; right? It's related to your economic development program. And is it being undertaken by the grantee or subrecipient or on their behalf? And the answer, of course, is yes; right? We have a contracted entity working for the grantee who is doing the underwriting on your behalf. So that second one would be an eligible activity delivery cost. The third one is a clearance program. We're here and this one is one that's kind of in the middle.

So the grantee is going to fund a clearance program where the grantee is going to directly demolish dilapidated homes. The grantee is going to go out, it's going to take its own funds, probably have to acquire those houses and then tear them down. So that one would actually typically be a project cost. It could be activity delivery.

As I said, you could either way on that one and it probably wouldn't make any difference, because they would be eligible either way, but it probably would be a project cost. The rent for all office space, and here's the key here, all office space occupied by the CDBG-DR division. Remember, I said that if you're doing activity delivery, you have to tie it back to a particular program or project. So is CDBG-DR division a particular program or project? Probably not.

And so the office space for the entire division is probably more likely an admin cost if we can separate those costs and not have it interspersed with our other kinds of things that we do that are not DR, but typically that's an admin cost. And the last one, funds paid to a developer to design a CDBG-DR funded rental project.

So again, remember the key on activity delivery is if the cost is undertaken by the subrecipient or the grantee. So a developer would not a subrecipient. A developer is the entity which is undertaking the construction activity, it's not someone who is managing a program on your behalf. And so that would actually be a project cost, not an activity delivery cost. Good. So let's start taking some questions.

Chantel Key: Sure. So we have three questions right now. The first one is, how do we handle activity delivery costs, for example, for intake or determination of eligibility of an applicant that turns out to not be eligible? Would that be considered activity delivery costs or does the cost have to be moved to administration?

Marsha Tonkovich: That's a great question and we're actually going to cover that question in a little bit, but I'll give the quick answer now and then we're going to dive a little more deeply into it when we talk about eligible costs in a few minutes. But the answer is initially, it can be considered an activity delivery cost. So as I mentioned earlier, screening of applications and underwriting of those applications is an eligible activity delivery cost if you've got a timesheet and you've tied it back to that particular program.

So I'm going to come back and talk about housing rehab in just a moment. Unless the program is housing rehab, what the HUD guidance says is if that activity does not go to fruition, if you do not complete the activity and meet a national objective at the end, then the staff costs, those activity delivery costs for that incomplete application do have to be moved over to administration.

So you have to be able to -- that's why it's important to have those timesheets to back out what the people were working on, because you are required to then back out that cost out of activity delivery and move it into admin and if you have too much of that happening, obviously, that's going to count against your admin cap. So it's important to have a handle on that.

Now, as I mentioned, there's a slight difference for housing rehabilitation and that housing rehabilitation difference is in CDBG, there is a quirk of the way that the statute works that allows for housing rehabilitation to be set up as activity delivery to be set up as an activity unto itself. And so for housing rehabilitation only, you are allowed to leave that cost in activity delivery even if the house does not go to fruition and does not get constructed and meet a national objective.

Housing rehab only you're allowed to leave it in activity delivery. That's, again, why the timesheet is important to prove that it was housing rehabilitation [inaudible]. Again, my suggestion to you if you get yourself in this situation is to have a conversation with your HUD field office. I will tell you honestly that there have been times where there's been additional flexibility given the situation and given the particulars of the circumstance.

So I would encourage you, if you're starting to see a lot of time spent having to get moved over to admin, you want to have a conversation with your HUD rep about that and figure out how to approach it. The other thing to be careful about, is again, as I said, if you move it over to admin, it counts against the admin cap and if you start to see a lot of that being backed up where you're beginning to eat up a lot of your cap, you may end up having to pay some of it back, actually with non-federal funds, because again, you're going to finish out your cap.

So again, if you're starting to see a lot of that happening, have a conversation with your HUD rep and work together to see how to proceed. Next one, Brandy.

Brandy Bones: Yeah. And we have two questions that are related. It's about soft costs, such as studies and designs and asking for clarification as to when and whether they could be considered activity delivery costs or whether they're always admin.

Marsha Tonkovich: Okay. So if the costs of a project-specific kinds of study -- so the feasibility of a particular site or if it's a rental project and you're trying to figure out the market for that project is or if an engineering assessment begins to figure out how much you have to elevate it or any of those kinds of things like that where you can tie that cost, that study or that engineering or whatever it is cost to a particular program or a particular project, then you can call it an activity delivery cost, not an admin expense.

Again, assuming that cost is being undertaken by a grantee or a subrecipient and that's an occurring cost. Again, if that project doesn't go to fruition and assuming it wasn't housing rehab, you've got the same issue that we just talked about. If that cost is being undertaken by a developer who's going to pay for the study, the engineering, whatever it is, that's a project cost and that can be an eligible project expense, not activity delivery.

Remember, developers never have activity delivery costs in projects. The issue there gets at the timing that I think Brandy was hinting at, which is when a developer [inaudible]. And the reason why that it's important is because we have a disaster that occurs, you get your funding from HUD, now you have your grant agreement, you have both who are trying to recover and may be very well doing some of the architecture and engineering now in advance of having had a grant award from you. So those are called pre-award costs and sometimes those are allowed, it depends entirely upon your particular disaster and what HUD has waived. And the reason why some of those can be a challenge has to do with the environmental review that has [inaudible].

So what I would encourage you to do is if you have a developer who wants to incur some pre-award costs, again, watch the Federal Register notice, it will clarify how this is going to apply for your particular disaster. If you want to see what's been done in the past, look at the Sandy notices that came out for a 113 or 115-2 is the Sandy appropriation, you'll see how HUD handled this very issue.

Again, no guarantee that yours will be handled the same way, but at least it's a good direction to go. And if you're still stuck in that boat, have a conversation with your HUD rep while you're waiting to decide [inaudible]. So pre-award costs can be a little bit tricky for developers. If we're post-award and you've already got an agreement with that developer, then those kinds of costs are an eligible project cost. Next one, Brandy.

Brandy Bones: Yeah. And the final one [inaudible] is related to I think what we just went over in the poll, if a grantee pays a procured consultant to write their disaster recovery action plan, can that also count towards the 15 percent planning costs?

Marsha Tonkovich: Okay. So if you have someone doing your action plan and they are doing it procured for you, can you count that towards planning and admin rather than, I guess, project costs or something? Yes. So it doesn't matter whether the planning is being undertaken by the grantee or whether you have contracted with someone to do your action plan amendment for you. That can be considered an eligible planning and admin expense and actually, technically it would be a planning expense part of the 20 percent planning [inaudible].

Brandy Bones: Okay. That's it for now.

Marsha Tonkovich: Okay. And folks, do you want to weigh in on those? [inaudible]. Well, hearing none I'm going to keep going then. So we're going to next move on to indirect and direct costs, which do get confusing when compared to admin costs, particularly. So we're going to try to make a distinction in what we mean here.

So if you go back and you look at the OMB circulars, you'll see that the circulars clearly call out two big types of costs and there are lots of subsidiary sections and we've been talking about those sections as we've been going. But two big types of costs in the federal world, there are direct costs and there are indirect costs. The direct costs are costs which you can attribute to a particular, they say cost objective, but in our world, that would be a particular [inaudible]. So by that, we mean CDBG-Dr.

So can you attribute that specific cost to some element of your CDBG-DR program that was specific to your housing program or your economic development program or infrastructure program, whatever it might be. You can directly attribute that cost back to one or more of your CDBG-DR eligible activity. So in this case, we're not specifically trying to get down to a particular project or even a particular program type, what we're saying is that cost, we can directly associate with CDBG.

So it's not serving more than CDBG, it's not serving CDBG plus [inaudible] or CDBG plus all of your housing programs or whatever it might be, it is specifically attributed to CDBG-DR. And how you're going to know that will be based upon the documentation. We talked about the billing, we talked about the backup documentation and so forth.

You are able to document that particular cost directly and solely related to CDBG. Contrast that with indirect costs. So indirect costs are costs which are typically cutting across multiple programs or multiple types of endeavors that the grantee is doing. So it benefits more than one objective. So think of costs like shared janitorial services.

So if you have a specific city and that city has one janitorial contract and that janitorial contract services every city agency, for the parks department, in the human services department and the CDBG [inaudible], everybody gets the same janitorial services or maybe everybody has a shared human resources department in the city whose job it is do all the hiring, the firing, all that kind of stuff across every city agency. So you can see that it's a cost which cuts across different types of programs, it cuts across different types of activities from call centers and so forth.

And the city is providing a service, or the state as well, across all of those various programs or various activity types. So you are getting a benefit, you're getting that janitorial service, you're getting that human resources service and it benefits your CDBG-DR program, but it's not solely [inaudible] attributed to shared [inaudible]. Those are called indirect costs. And so if your city or your state wants to be able to have CDBG pay for part of that, pay for its fair share, if you will, of the indirect costs, then you have to do what's called an indirect cost allocation plan.

And the idea behind an indirect cost allocation plan is that you have an accounting professional, often a CPA, but another professional who tallies up all of those indirect costs and figures out, based upon that analysis, what the percentage is, the proportion [inaudible], which is shared across everybody.

So everybody gets a pass, if you want to think about it that way that their program pays to cover their share of those shared direct costs. And so that indirect plan we'll talk about in just a moment, but until you've got an approved indirect plan, you're not allowed to charge a direct cost [inaudible]. So if you want to do this and you don't have an approved indirect plan and you have indirect shared kinds of cost, you're going to have to go through the exercise of putting together an indirect cost allocation.

Now, one of the things that people, as I said, get confused about is they mix up indirect and admin, because they sound the same. They're both of those overhead kinds of expenses, but the distinction is even with admin in CDBG, you have to be able to directly attribute it back to administering or managing your CDBG funds, it's directly attributable to the direct costs.

Indirect costs are things which, as I said, are kinds of shared. Now, one of the things we've had a lot of questions about in the past is, if I do get an approved indirect cost allocation plan, does that somehow raise my admin budget? As we said, admin is 5 percent of your grant award in your program income. And the answer is no.

So if you want to be able to pay for your indirect costs and assuming that those indirect costs are particularly admin kinds of expenses, although they could be project, but particularly they're admin and if you're going to charge that proportion back to your admin budget, that has to fit within your 5 percent admin allocation. It does not [inaudible] 5 percent by any [inaudible]. So what we've had happen, particularly for smaller grantees, is the larger your indirect cost allocation, your indirect portion of your budget that you're covering, the less you have left to pay for admin and it can really eat up your admin budget.

So you need to be careful to think about how you're going to do that, if you're going to [inaudible]. So if you're going to do a cost allocation plan, as I mentioned, you do have to have it approved. It goes into your federal cognizant agency. So it depends upon who does your audit reviews and so forth for your agency. If you don't know who that is, your financial people probably do.

If you're a nonprofit and you haven't ever heard of that, talk to the folks who are your grantee, they can probably help you through it or the HUD field office can help you through it to figure out who the cognizant agency is. Usually, but not always it's the federal agency who gives you the most amount of money. So you might have HHS, you might have [inaudible], you might have HUD. It could be any of that number of [inaudible].

So again, talk to your HUD rep to help you figure that out. As I said, your plan has to be based upon the legitimate costs that CDBG could benefit from. So you can't just have a shared service, like back to my janitorial service concept, if that janitorial service doesn't actually service a CDBG agency, then we shouldn't be paying it. So it has to be tied to things if we are actually going to pay for it.

However, we also have to be careful that we don't double [inaudible]. If an expense is covered by an indirect cost rate and we're going to go ahead and bill that rate back to CDBG, then we can't also pay for that same type of cost as an admin expense. So if I'm going to pay for those janitorial services as an indirect cost allocation item, then I can't also pay for the very same janitorial services as an admin.

We have to be quite careful, because once you've decided to do this to know whether that cost is covered by your indirect plan or whether that cost is covered by your admin plan. So let's do our third poll, Chantel.

Chantel Key: Okay. So for our third poll, which of the following costs could not be covered by an indirect cost allocation plan? A consolidated personnel agency that does hiring, HR for all state departments or lead-based painted sections only for DR projects. Another option we have is office space located in city hall, subrecipient costs for shared printers, copiers, office supplies or is it basic office supplies purchased for the entire agency and distributed to individual departments?

Marsha Tonkovich: So again, some of these are kind of tricky. So we'll talk through them. Take your best guess on which ones would not be part of an indirect cost allocation plan.

Chantel Key: So about 30 percent of our participants have voted.

Marsha Tonkovich: Okay. We'll give you just one more minute. Again, take your best guess and we'll talk them through. Chantel, how are we doing on the voting?

Chantel Key: We have about 58 percent.

Marsha Tonkovich: Okay. So let's go ahead and walk through them.

Chantel Key: Okay. And I'm sharing the results now. We have 9 percent voted with the consolidated personnel agency, 55 percent voted lead-based painted sections only for the DR projects, 15 percent voted the office space located within city hall, 9 percent voted the subrecipient costs for shared printers and copiers and 13 percent voted basic office supplies purchased for the whole agency.

Marsha Tonkovich: Okay. So let's go through all of them. So the first one, and again, you're looking at which ones would not be part of an indirect cost allocation plan. So the first one is the consolidated personnel folks that does the hiring across everybody in the state, all the state agencies. So that's the kind of thing that would typically be in an indirect cost plan, because it's a shared cost across everybody.

Now, your personnel agency could handle it differently and it's possible that they have specific people who just work on the CDBG program. And so maybe that's an admin expense if you handled it that way. But if they're all shared across everybody in the whole state and therefore, you want everybody to pay for a part of the cost of personnel HR agency, then yes, that could be a part of an indirect cost allocation plan.

Looks like most of you got the next one right, that lead-based paint. So lead-based painted sections would not be part of an indirect cost allocation plan, because those are specific. They're either an activity delivery cost if those inspections are undertaken by the grantee or the subrecipient, because again, they're specific to a CDBG project, they're a direct cost or perhaps they could actually be a project cost if they're undertaken by the developer as part of his rehabilitation of the project, but they would not be an indirect cost.

Office space located in city hall could possibly be an indirect cost. Again, it depends upon whether you're able to separate those costs and if you knew that the CDBG-DR agency is one particular wing of city hall and you know just what that costs or you know the particular floor and how much that costs, perhaps that's all attributable to CDBG admin.

But assuming it's just all part and parcel of what city hall costs and you're going to pay for your share of city hall, then that could be an indirect cost allocation item. The next two are definitely ones that could be indirect cost allocation items. The subrecipient costs for shared equipment, again, shared across activities, everybody uses the same printer, so that could be an indirect cost.

And again, office supplies or buying them in bulk from Staples, let's say, and we're going to parcel out the pencils as people need them, again, that would be a common type of indirect cost. All of those sorts of things that we just said could be indirect costs with the exception of lead-based paint, which would not be. It would have to be part of that indirect cost analysis and then the planning.

So with that, Brandy, do we have any other questions?

Brandy Bones: No. None right now.

Marsha Tonkovich: Okay. Then let's go ahead and move on to documentation, then we'll have another chance to take some questions as we go. So I think people get the general idea behind the four eligible types of CDBG costs and then this overlay from OMB, which is direct and indirect costs. Those are the categorization of those costs. So now we have to look at how do we prove that that type of cost I incurred was in fact eligible? And that is obviously through documentation.

And it's a federal grant, so we're going to have documentation. I think the place where people typically get in trouble with documentation is around those personnel costs. People generally understand if I'm paying for a good or service, I have to have an invoice or a bill or a contract to back up that expense, but it's the personnel where we have people working every day and doing a lot of different things where it can get confusing.

And so as we mentioned earlier, back up those personnel costs. And again, whether they are staff of a grantee or staff of a subrecipient, if they're going to bill back the personnel costs of either activity delivery or as admin, all that needs a timesheet and that timesheet has to indicate the particular activity type or if it's admin, that the person is actually working and it can be a mix. So we can have staff who spends a third of their time on their homeowner program and a third of their time on your economic development programs and the last third of their time helping you on your admin or your planning.

And it's fine to allocate someone's time that way as long as we have a timesheet to back up how we allocate their salary. So we have to have a timesheet or time card or any kind of timekeeping system which backs up the cost that the staff member is incurring, time that they are occurring by program [inaudible] so we know how to attribute that activity delivery cost to the particular program or to admin if that were applicable.

We also do have to have payroll to back that up. So it's not enough to have a time card or a timesheet or Susan for however many hours she said that she worked, we have to back up what salary we paid Susan and that salary that we paid her is backed up by your payroll records.

And that payroll we then have to show how we took Susan's salary using her timesheet and we divided her salary by the applicable program that she worked on if we're doing activity delivery or admin, if that's the case and show how her salary gets distributed based upon her timesheet. So the two things work together. As I mentioned earlier, we also have to back up for all the other things that we might buy. So every single thing we're going to spend money on in CDBG-DR, we need some type of back up.

We're talking about invoices, we're talking about agreements or contracts if we're contracting for a service. We have to have a backup documentation of what it is that we actually spent money on for every single expense that we [inaudible]. We will have to also prove that those expenses were cost reasonable and we'll talk about that in a few minutes.

As I mentioned earlier, on salary, again, we have to have the salary -- and we have this in here twice, because unfortunately, it's been an area of a lot of auditing fines. So we do have to make sure that you've got that backed up by time roll, by timesheets and that then ties out to payroll. There is a process for the administrative and financial staff of the grantee to actually certify the voracity of what they have done and you're required that certification periodically. I believe that certification is done at a minimum annually or semi-annually, but it would be -- many people do it more frequently.

So we get now to the question that we had earlier and I want to recap the answer, because it is, unfortunately, a very complex part of CDBG. So the question we had earlier, which was about incomplete projects. So I put money into activity delivery, I have a staff person who is doing the screening of applications. And let's take it out of housing rehab for now and let's focus on economic development today, but it would be true of anything that's not housing rehab.

And I have those applications coming in and I'm screening them for whether they have a tie to the storm, their DOB, Duplication of Benefits, and their underwriting, and how much need they have, and all those things that I have to do before I'm allowed to [inaudible]. And going through that process, I determine that they are ineligible or they decide to drop out, they don't want the assistance or they get their needs met somewhere else.

So that application, the time involved in screening that application, unfortunately, because it did not, in the end, meet a national objective, needs to actually get moved over -- the cost of that time needs to get moved over to admin and not remain in activity delivery, because it didn't [inaudible] an activity [inaudible] met a national objective. So in order to be able to do this, again, for everything but housing rehab, you're going to have to have a process for tracking what ends up happening to your applicant and moving over the associated costs over to your admin budget.

Now, again, as I said, in the past, in the real world, there has been some flexibility here and I would encourage you to talk to your HUD rep about how they think you should handle this and how, when they come out to look at you and they come out to monitor this question, what they're going to be looking for and work out an arrangement between you and your HUD representative about how to approach this issue, because you can imagine that this can get pretty detailed and pretty consuming and the burden of having to do all of this process work.

So have a conversation with your HUD rep about this. The exception, as I mentioned, is for housing rehab. The statute just happens to be set up that way for housing rehab and housing rehab only. You are allowed to leave those costs in activity delivery, not admin [inaudible] if that particular activity [inaudible].

Now, I will tell you that there have been grantees that taken advantage of that and ended up having a very small percentage of their applicants actually going through to getting rehabilitation and getting [inaudible] and ended up having most of their costs for ineligible applications that never proceeded. And when you get a little out of whack like that, there actually can be a monitoring finding [inaudible] procedures and for intake [inaudible]. So obviously, you want to be monitoring them at a sensible proportion that their applications [inaudible].

A related concept, but not the same thing is what happens when we have ineligible costs? So rather than a [inaudible] just for whatever reason, the project did not proceed or did not get to completion, here we have something where the money was spent, but it was spent on something ineligible. So we gave money to someone for homeowner rehab, let's say and we thought they were going to use it to repair their roof, but in fact, they used it to buy all top-end appliances and put in a Jacuzzi.

So those are ineligible items that we don't pay on. So when we have an ineligible expense, there we don't get the opportunity to move it [inaudible]. When it's an ineligible expense, we actually have to pay that money back to our HUD line of credit or to our treasury account out of non-federal funds. We can't get CDBG to pay for that. So what really happens in that instance is you would [inaudible] your grant agreement with the homeowner, in my example, they would repay you, you would repay HUD, but it would have to be paid out of non-federal funds.

Finally, in addition to documenting eligibility, you have to make sure that for every one of these expenses as part of documenting your project that you have documented a connection back to the disaster which you are addressing. So whether it's planning expense or project expense or whatever, we always have to be making sure that we've documented, that it is tied back to disaster recovery CDBG funds. Any questions yet, Brandy?

Brandy Bones: Yes. We have two questions. One is, if a project is awarded to a subrecipient and then the applicant of that subrecipient hires a grant administrator to handle everything for that specific project, would that be considered an activity delivery cost since it's specific to that project?

Marsha Tonkovich: Good question. So we have a grantee who hires a subrecipient, the subrecipient hires -- and I assume they mean staff, but I guess it could be contracted, it probably doesn't [inaudible] -- but they hire someone to administrate the particular CDBG eligible activity that they are going to be doing on behalf of the grantee.

So if what that person is doing, if the job description of that person in what they end up doing is directly related to the project, directly related to working with applicant, directly related to activity, then yes, that's an activity delivery cost for the subrecipient. If, however, what the person is doing is also planning for the program and reporting to the grantee and doing financial management and all of that, then that might be an admin expense. So it depends upon the nature of what the job is.

If what that person is exclusively doing is related to delivery of that program or activity, then that would be an activity delivery cost and they'd have to document the timesheet and all the stuff we've already talked about.

Brandy Bones: Okay. And then the second question was related to how does the grantee document that their planning activity is actually tied back to the qualifying disaster event?

Marsha Tonkovich: Okay. Good question. So the grantee wants to do a planning only activity again within that 20 percent cap and we talked about the planning having to have at least some connection back to the storm. So I think, in my mind, it would depend upon what you're planning for. So to be frank, I think it's probably pretty easy for most planning activities to have a good tie-back to the storm, because most of the reason why you're planning is about helping the community to grow, helping the community to recover and so forth from the storm.

So I think I'd want to document the nature of what the planning activity is, what I'm funding. So am I funding, for example, something about new housing standards? And if that were about new housing standards, I could document in my files that that's related to rebuilding in a way that is [inaudible], that would be documentation.

I think you just want to be able to look at the nature of the kind of plan that you are funding and say, how does the nature of the kind of that plan help us to recover from our designated event or our event? Really, I think the only kinds of plans that you might have a hard time with are things where let's say, all of your disaster, everything that happened is all entirely to your infrastructure.

You know, I can't imagine it, but it could've happened, I suppose, that all your damage [inaudible] infrastructure and yet you're doing a housing plan that has nothing to do with infrastructure. You know, that kind of thing might be hard to make a connection [inaudible], but generally speaking, I think it should be pretty easy to say what is the [inaudible] between why I'm bothering to pay for this plan and how it can help the community still. And ask yourself that question and I think in most cases, you should be able to connect [inaudible] and document that. Any more, Brandy?

Brandy Bones: No. That's it for now.

Marsha Tonkovich: Okay. And HUD folks, do you want to jump in on any of those questions?

Tyler Bridges: No. You're doing great.

Marsha Tonkovich: Okay. We're going then move on to cost principles. So this is tying back to those OMB circulars that I mentioned earlier that is now in 2 CFR Part 200 that was consolidated. And for those of us who have done this for a long time, that's the old A-87 requirement, which deal with how we have to actually be approaching cost documentation and cost eligibility. And those cost principles in Part 200 call out 4 basic things at any federal cost.

Now we're no longer in just the CDBG world; we're actually in any kind of federal grant that you're working on, but we'll apply it in a CDBG context. Any federal [inaudible] costs has to be necessary, reasonable, allowable and allocable. So we're going to go through each one of those. So let's first talk about necessary. And this is one that particularly comes up as a question in CDBG-GR.

And so what we're saying when it's necessary is remember, federal funding is supposed to be funding of [inaudible], that you have backed out all of your other resources available to you, we are filling a funding gap, that you need the federal assistance in order to address that gap in your funding. And so need is obviously a little bit pushy. And so how do we figure out what that [inaudible]? Well, you want to document things like, is it cost necessary to [inaudible] this recovery action?

So we're going to do rehabilitation. We could show the budget for the rehabilitation and show all of the resources and there's a gap and therefore, we have to help fill that gap [inaudible] example. You know, in order to be able to undertake the rehabilitation of this community or revitalization of the community, we need to be able to rebuild their sidewalks or need to be able to help them repair the broken streetlights. [inaudible]

We want to ask ourselves the question, how is this expense that I'm trying to pay for necessary in order for the recipient to be able to recover from the storm? And if you document that, however that is, and again, typically, it is some sort of cost analysis, that'll help. Now, one of things that we've seen that comes up is disaster recovery gets longer into its lifecycle, because the nature of disaster recovery is that you never really finish it in a matter of the first couple of months. It tends to take quite a few months, if not years to be able to get through the process and the longer you get away from the storm, the more likely it is the entity to beneficiary has recovered on their own.

And so you want to ask a question about, do they still need this assistance? And this comes up particularly in economic development projects where you might have a business that comes in to you and says, I would like working capital assistance.

They're perfectly eligible, but do they still need the working capital assistance? You know, maybe they needed it a year after the storm, but now it's three years later, do they still need our assistance in order to get back on their feet or are they in fact already back on their feet and no longer need our help? So that kind of a financial analysis to say, do they still today need our assistance? And that can be tied to the underwriter and whether it's rental housing underwriting or economic development underwriting, cost analysis or other types of projects, you want to do some sort of analysis to prove that there is in fact a gap and that that gap is reasonable and that we need to be the one filling this gap, which leads us to cost reasonable.

So this is slightly different than a necessity and this is basically saying, is the amount that I am paying for the eligible item what a reasonable person would pay for that similar item? So this is no longer about eligible or not, if it's needed or not, it's is the amount that I am paying for a reasonable cost to pay for that item or set of items? And cost reasonable is purveyed everything you pay.

So everything you're going to spend money on in CDBG needs a cost reasonable [inaudible] and sometimes you can group them together and do it in a cluster, but you still need to have an analysis of before I pay that expense, is it the reasonable amount paid to that [inaudible]? So how do you really do that? Well, you're going to look at what comparable market prices for a similar [inaudible] item, what would that cost? What is typical, reasonable, necessary, appropriate to pay for that particular cost item?

One of the ways that people do this as part of [inaudible] is what's called an independent cost [inaudible] and this is a requirement for whenever you have to put your item [inaudible]. And so what that says is prior to putting your RFP or your [inaudible] for bid or whatever you call it, you need to do an in-house cost estimate to say even this [inaudible] work that I am procuring, how much do I think this [inaudible] could cost? And that in-house process is often done by an engineer or an architect or a planner or someone who knows something about what these items particularly cost. Sometimes it's also done by a contractor or perhaps you could hire out for someone to do that cost estimate for you, but there has been monitoring findings [inaudible] when they have failed to do an in-house cost estimate prior to issuing [inaudible].

So do an in-house cost estimate. That gives you the range of what you would expect a bid to come back at from your RFP. Use your RFP and then compare the bids that come back to your in-house cost estimate or independent cost estimate that you did prior to the [inaudible]. If they don't line up, if you're not within some reasonable portion of percentage of what you thought it was going to cost and what your low-cost bidder thinks it's going to cost, then you need to go back and look at what's happened.

You know, perhaps there's an error in what you [inaudible] or see was unclear and people didn't know what to bid, but you do need to look at when you get that situation [inaudible] mismatch. One of the things that people have often thought is if I do a procurement and I choose the low-cost bidder, that that is sufficient documentation of cost reasonableness and HUD is very clear that it is not.

Did you have to have this in-house cost estimate and then did you have to prepare this cost estimate to the bid in order to look at what you think is reasonable and if there is that mismatch that I talked about, you then either have to reissue the RFP, because there was some confusion, you have to look at if there was an error in what you did and calculate your cost estimate, but you somehow have to [inaudible] this process.

If you're not doing an RFP and maybe you're just paying for cost in a developer, a developer is coming in and he's going to build some rental housing giving you a bill or telling you it's going to cost however much for the roof, how do you know whether his development budget is reasonable or not? And so the way that most people do this is through third party costing software or in-house experts who [inaudible] database or experience of costing similar things.

There's a lot of costing software out there. People use a range of different things, Marshall & Swift, RSMeans, Xactimate. There are a number of different costing packages out there that people use to do what they think this [inaudible] ought to cost and then compare as to what the developer is saying to see what his line items were, but otherwise, you have to have a documentation that what you're paying for is reasonable given typical market costs. So that moves us on then to allowable. And so when we say allowable, what we mean is this is a type of cost which is both eligible under the program that is funding it and does not violate the kinds of allowable costs for any federal grants, which are called out in Part 200. So there are some kinds of costs that regardless of which federal program you're using you can never ever spend money on.

So any federal grant can never spend money on lobbying, or alcohol, entertainment, things like that that they just aren't going to use federal taxpayer dollars to pay for. And I think those of us who are doing this or even folks who are new, this is just fairly logical. And then there are some types of costs, like equipment, for example, or the pre-award costs that we talked about earlier that depend upon the particular regulations of the program that it's funding.

So in our case, it's GBR. And so let's take equipment as an example, there are prohibitions in the CDBG-DR regulations about when you can and cannot buy equipment and which kinds of equipment are allowed and which kinds are not. So in this case, Part 200, we defer to CDBG and CDBG would tell you you can buy equipment in these instances, but not in [inaudible].

So you just need to go back to the CDBG regulations. The criteria in general for allowability has to do with first, whether it [inaudible] the gap. Generally, [inaudible] the accounting principles, is it a kind of cost that would be generally and allowed and that it is not double-dipped? You haven't already paid for that same cost with your FEMA grant or with your CPA grant or transportation grant or whatever else you have and again, you have documented it's eligible and [inaudible] of that particular program.

Allocability. When we say allocable, what we mean is it gets back to that indirect cost allocation that we talked about, that you can associate this cost directly with CDBG-DR, that you can reasonably allocate that cost back to what you are supposed to [inaudible] and that you've got a plan for how you're going to attribute.

So with the direct costs, you know that it's allocable to CDBG-DR, because you know it's a CDBG expense [inaudible]. If it's an indirect cost, you've got your indirect cost allocation plan, that it's been approved and therefore, [inaudible] eligibility process, but you document [inaudible]. So we have another one of those things that are covered in the [inaudible] circulars that we're not going to do a lot of detail on. There are later webinars that are going to cover these in a little bit more detail, but again, we can take questions if people have them.

So financial management system, this is one of the ones that the circulars actually did offer some additional guidance or Part 200 offered some additional guidance. And really, what they're looking for here is effective and efficient systems, things like internal control, that you have a process of safeguarding personally identifiable information, people's social security number, tax records [inaudible], that you have good cash management procedures, that you have a way of monitoring and managing your expenses to make sure that they are in fact reasonable and eligible, documented.

So all those things around good financial management. And one of the things that's important about CDBG-DR is that we have to have a financial management procedure. And so one of the things that HUD will monitor you on is do you have those procedures in place and are you in fact following them? Many people will just borrow their financial management procedures from their overall agency or from their other HUD programs. I highly encourage you to go back and take a look at those and not just carry them over to [inaudible], that there are things about [inaudible] about how you're going to report in DRGR, their tracking system, the timing of what you have to do, overlay the federal [inaudible], but I don't think you can just move [inaudible] take those and tweak them for this kind of [inaudible].

And again, I think it's [inaudible] audit those financial [inaudible] procedures [inaudible]. The next thing is covered in the Supercirculars procurement. For those of us who've done this, as I said, we know about Part 85 or Part 84, for those of you who are new. Those are the old HUD regulations that used to cover procurement. Those have now been consolidated into Part 200.

Honestly, there's not a huge amount of difference. There are a few things that have been made more clear, a few tweaks that have been made here and there, a few limits that have been changed, but the general construct of how we do procurement pretty much remains the same. If you are a grantee, you will have to have procurement procedures and again, those are some of the ones I guarantee you will get audited.

So you want to make sure you have good procurement procedures and again, probably tweak for the context of CDBG-DR and you want to make sure that your procedures are compliant with Part 200 or the old Part 85, again, fairly similar, that you're following a set of rules. If you are a state, you actually have an option, you can either choose to follow Part 200 or you are allowed to follow the state procurement law.

Most state procurement law is actually much more stringent than Part 200, but you'll have to document that [inaudible]. There are also, for CDBG-DR, some transparency requirements around procurement. And again, you'll have to look at your Federal Register notice about those appropriations to know what they are, but in most of the recent ones, there's been requirements around posting RFPs, posting the winning bidder and other similar sort of things, but the public knows [inaudible].

Conflict of interest goes with procurement, as you know and most of those requirements tie back to the bidding process and having objectivity in the bidding process, but there also are conflict of interest requirements around beneficiaries and their relationship to the funding and whether you are funding anybody who has a relationship with you, decision makers and funding process. So you do want to make sure you have conflict of interest procedures and again, that you are carefully tracking and following. There are [inaudible] in both CDBG regulations and in Part 200 that talk about the source documentation that we talked about, backup for each of those costs and also all the other things that you're doing, all the eligible activities, national objectives and so forth.

And if you're looking for a resource for a checklist for this, if you go onto the HUD Resource Exchange, there is a good HUD monitoring guidebook that covers both regular CDBG and CDBG-DR and you're probably going to want to use both sections and that will tell you the kinds of things that HUD is going to look for when they come out to monitor you and you can use it as a starting point.

You'll probably have to withstand and augment for your activity [inaudible] and for your program, but at least it's a starting point for what your record should look like. Finally, the Supercircular, there used to be a circular called A-133, which covered audits. That's now been subsumed into Part 200. We still have audits when you're over a threshold. That threshold was increased to $750,000 from the old $500,000 and that's if you get $750,000 of any federal resource.

So all federal sources put together, you are required to do an audit and if you are required to do an audit, then you were allowed to chargeback funds of that audit. And so there's, again, a lot more detail. That was one of the more significant changes when they consolidated all the circulars to 200. So if you're an auditing person, you might want to take a look at that if you have not already [inaudible]. So with that, I will do our next poll, Chantel.

Chantel Key: Good. Thank you, Marsha. So for our fourth poll, we have which of the following costs would likely be okay DR expenses under the cost principles? An economic development project that provided a 30 percent return to the owner, cost to replace damaged countertops with new countertops imported from Italy, you have two cost estimates, independent cost estimate and lowest bidder estimate, reimbursement of the state human services agency for temporary housing expenses or a portion of the state's annual tourism budget. And the polls are now open.

Marsha Tonkovich: Okay. And how are we doing, Chantel?

Chantel Key: We have about 22 percent.

Marsha Tonkovich: Okay. So let's just give it a moment. Again, take your best shot at it and we'll talk it through together. And some of these are a little bit on the fence on purpose so we can talk them through.

Chantel Key: Okay. We're about 50 percent. Do you want me to go ahead and close it?

Marsha Tonkovich: Yes, please.

Chantel Key: Okay. The polls are closed and I'm sharing. We have 6 percent voted economic development project that provided a 30 percent return to the owner, only 2 percent voted the countertops, 58 percent voted independent cost estimate as the lowest bidder price, we have 30 percent voted reimbursement of the state human services agency and 4 percent voted a portion of the state's annual tourism budget.

Marsha Tonkovich: Okay. So let's go through each one of these. Thanks, Chantel. So obviously, the first couple, I think not very many people thought these would be okay. So the first one having to do with a 30 percent return. Remember that we talked about cost reasonableness and necessity. So one of those aspects of reasonableness is a level of return that is earned by for-profit beneficiaries.

So we're talking here about businesses; we're talking about rental developers. And one of the key things about CDBG and also with the federal circulars is that those return investments, through those beneficiaries, must be reasonable. Now, we don't know whether 30 percent is reasonable enough, but it's probably in the bounds of what would not be considered a reasonable return on investments to other than for rental developer.

You know, you have to look at particular circumstances of your marketplace and particularly, if you're doing rental housing, for example, what's a typical kind of a process that might be made by a developer, the type of building they're doing, but in no cases, it's probably at the level of 30 percent. So that's probably not a reasonable expense under federal grants. Similarly, the next one having to do with replacing damaged countertops with new Italian granite, we don't do luxury in federal grants. As I mentioned, there's certain kinds of things that just aren't done with federal taxpayer funds and one of those is luxury items. And replacing with new luxury fancy granite would not be one of those [inaudible].

The next one, the independent cost estimate, the cost estimate comes in at $1 million and the lowest bidder is $1.1. And remember that I mentioned that it doesn't have to be on the penny. So you're probably not going to get your bid to come back in exactly what your cost estimate thought it was. And so you need to have some procedures that say, what is that range, what's too low or too high is generally considered to be within the range of what I think my bid should be? And in this case, this is a very minor distinction between the independent cost estimate and the lowest bidder. And so you would probably say that that was documented as a reasonable cost, because it's within a reasonable range of what [inaudible] cost estimate that it should be and you'll want to define that.

You know, is it 10 percent range, is it 5 percent range, whatever you think is justified. Obviously, the caution is the larger you make that range, the less likely it is that the IG or the HUD monitors are going to think that's a reasonable correlation [inaudible] your cost estimate, low-cost bidder. So you want to have a reasonably [inaudible], but yet [inaudible]. The reimbursement of the human resources agency, the issue with this one is you're taking federal funds to replace federal funds. So what you've got is federal CDBG who is using federal SSBG, which are HHS funds. And so you'd be paying federal money with federal money and that's something we don't do.

We don't use federal money to repay other federal money. There are a couple of exceptions to that that it's specifically allowed, but in general, federal does not reimburse federal. The next one is the annual tourism budget and this is one we've actually gotten a lot of questions about. So if you look at the appropriations in the Sandy waivers, you will have seen that a couple of grantees got specific waivers to pay for tourism. Those were costs for specific campaigns in particular storm-damaged areas with the idea of economic revitalization of those particular storm-damaged areas. It's not the come-to-our-state campaign; it's not a part of the state tourism budget in general, particular campaign related to the revitalization of damaged areas.

So in this case, it was about the state's annual tourism budget and the idea that we hoped the state will come back. That's probably not going to be a reasonable CDBG expense, because it's not directly attributable to that disaster. So let's take any additional questions, Brandy.

Brandy Bones: Yeah. We've got about four or five. So as a subrecipient, my budget is split between administration and grant delivery. How do I determine which part of my budget includes the activity delivery costs?

Marsha Tonkovich: Okay. So that's a good question. So you're going to need to go back and look at what you're spending that budget on. You know, it's not a specific magical proportion that says it's 80/20 or something like that. You're going to have to go back and you're going to have to look at your budget and say, how am I -- you know, you've got probably a bunch of your budgeted salary, I would imagine.

So go back and look at the people who are included in that salary line item and say, what job are they doing and then say if I know that Susan, Bob and Joe are all out there directly working with clients, they're doing counseling, they're overseeing housing projects, whatever they might be doing that's directly related to a project, then you can take their salaries and include it within your budget for activity delivery costs.

And if you have other staff where what they're doing is making sure the subrecipient piece of managing the grant, reporting to grantee and monitoring your progress and all of that, those salaries would go to admin. And actually, what would probably happen is you'll end up dividing salary based upon your best guess of how they're going to spend their time. So you're going to have to go back and look at all of those individual salaries and say, what do I think they're going to be doing and therefore, what bucket do I put it in? And then the same would be true of other kinds of direct expenses. So you probably have costs of travel, you might have costs for machinery and equipment and again, you're going to have to look at those things and say, how are they being used?

So for travel, for example, is travel for the staff who are running around doing inspections and they need to drive their car around to fill that [inaudible] gap, then that would be an activity delivery cost. If, however, the cost is for buying the paper that you used in order for you to write your annual report or quarterly report to HUD or to the grantee, that would be an admin expense.

So you're going to have to go back and do your best guess on your budget about which bucket you put it in and that's just for a budgeting purpose. Then what you're going to have to do is as costs are incurred, you're going to document those actual costs and true-up your budget. It might be that if you hire somebody a little bit more expensive and one category goes up or maybe you spend a little more on travel than you thought, you're going to have to track that over time to see how it ends up working out.

But at the end of the day, in order to be sure you're comfortable, that you're not going to go over the admin allocation that you have and that you're charging eligible between activity delivery and admin, you're going to have to dig deeper into what those costs are that are included in the budget and what's [inaudible]. Does that cover that one, Brandy?

Brandy Bones: Yeah. I think it related following his [inaudible] more detail about what level of detail is required in the timesheets. So regarding different funding sources as well as within CDBG-DR, how you allocate on your timesheet the time you're spending on different activities.

Marsha Tonkovich: Okay. So let me give you the ideal, best case answer and then I'd like to talk practical. So it depends on what kind of timekeeping software that you need. There are some grantees, and this is the best case scenario, who literally track individual time, this is particularly around activity delivery now where they will track time down to the level of the beneficiary or the case that the particular staff was working on.

So they'll have hours for project one, hours for project two, hours for project three, hours for project four so that you can literally attribute the hours to project by project. And that way, if you have to go back and let's say that project falls apart and therefore, you have to move that time back over to admin, you have the timesheet that's down to that particular address so that you could then know what times they actually have to move.

So that would be the most complicated. And there are lots of software packages that would allow you to do that. You could set up a coding system that has a sequence of number of codes and you would just run a number code, depending on what each project would be sequentially numbered or application number, however you want to set it up and then you would be able to track the labor costs to each individual project or beneficiary of whom you're working with.

Now, that works if you're doing larger infrastructure projects, because you probably don't have a million [inaudible]. If you've been tracking your costs project by project, it's probably pretty practical and reasonable. Obviously, much more difficult to do if what you're doing is serving loans or businesses where that individual might talk with 15 people or 20 people in a day, much more complicated to do.

So at a minimum, what you have to do is have the timesheet down to the level of the particular activity type or the way you set it up in DRGR, whatever that grouping is on their timesheet. So if you set up, for example, all of your small business loans as one DRGR activity that at a minimum, the timesheet has to go down to that level so that you can attribute their activity delivery costs to, in my example for this loan program or as the homeowner rehab program or the rental rehab program, however you set it up.

Now, again, in order to be able to track out activity delivery costs to projects in DRGR, you want to have the timesheet at a minimum match out to however you set that up in DRGR. And again, there's a DRGR webinar coming up in a couple of weeks. So if you want to have follow up questions about how to do that in DRGR, they can certainly walk you through that, but that would be the minimum level of specificity.

The more precise is literally site by site, homeowner by homeowner. And again, that's up to you to decide what level you want to do it at. It's not sufficient to just do it as admin and activity delivery in those great big buckets like that, because then you won't know in DRGR how to attribute those costs to the particular activity group [inaudible]. So did that cover that, Brandy?

Brandy Bones: Yes. And then it's three more questions of your time. So as part of insuring reasonable cost, when are we required to do a market research analysis in order to determine if the cost is reasonable?

Marsha Tonkovich: Okay. So CDBG never actually requires a market research as a requirement. Now, that doesn't mean it's not a good idea, but there's nothing in CDBG that I'm aware of -- and again, I'll ask the HUD folks who are on the call to join in if they want to jump in, but there's nothing that I'm aware of that says we have to do a market research to decide if our cost is reasonable, because usually cost reasonableness has to do with whether what I'm paying for that item is what a common person would pay for that item.

That said, I think in some instances, and it's probably not a lot, it's probably prudent to do market research. So for example, let's say you're going to fund some sort of economic development activity and you're worried that it won't fly where it's going to happen, that you're going to put money into a grocery store and that grocery store isn't going to work in the location that it's going to be.

So that would be more of a feasibility analysis, part of your activity delivery if you're paying for it or a project that the developer is paying for. I don't think it's so much about cost reasonableness as more is it a feasible project that I should really be funding, [inaudible]? But I don't know of anything in cost reasonableness that says you have to do market research. Folks at HUD, do you want to jump in on that?

Tyler Bridges: Yeah. This is Tyler. I mean, I'm in agreement. So I can't remember the exact language in the 2 CPR 200, but basically, it says costs a person would pay. So you would do your own -- you know, if you would use your own local government funds in that same manner, then that would be reasonable whereas you wouldn't go more extravagantly because it's now federal funds. But in terms of the requirement for the market study, I think the example that you gave was a good one. And also, if it's really complex or you're really unsure, you should always contact your CPD rep about a specific cost reasonableness question.

Marsha Tonkovich: Good. Thanks, Tyler. Brandy, next one.

Brandy Bones: Okay. Next one is, would cost estimating software be charged to activity delivery or program administration? For example, for undergoing rehabilitation activity and they're using the software by a paid staff member, would that be ADC or administration?

Marsha Tonkovich: Okay. So what I think the person is talking about is all the costs for software that I talked about usually has a price, an annual subscription. Sometimes, depending on how you work the service, they might charge you per deal that you evaluate or you buy the software. So if you can attribute those costs, if the use of that software is exclusively going to be used for, in your case, I think you mentioned housing rehab, but that's CDBG-DR eligibility activity type, then you could charge it as an activity delivery cost. That annual subscription to the software or the purchasing of the software would be a reasonable activity delivery cost for the grantee or the subrecipient to undertake.

Again, assuming you've procured it and assuming it's cost reasonable and all those things that we talked about, I think that would be okay as an activity delivery cost assuming it is only being used for CDBG. And the key thing would be if you're also going to buy the software and then you're going to happen to use it for your home program or you're going to use it for your public housing construction or whatever, now we've got an issue with cost allocation. So assuming it's just being used for CDBG-DR and if they tie directly to an eligible activity that you are funding, and again, being paid by the subrecipient or the grantee and again, it's cost reasonable, I think that would be an eligible activity delivery cost. Tyler, do you agree? Tyler, I think you might be muted.

Tyler Bridges: Yes.

Tom Tiffin: Marsha, this is Tom, I agree as well. That was a good example.

Chantel Key: Okay. And one more question for this batch and it relates back to the poll that we just took. A question was asked about the replacement of the granite countertop. So if we do our undertaking of rehab project for a home and actually the homeowner happens to be also low-moderate income and prior to the disaster they did have hardwood, they did have granite countertop and in order to make them, quote-unquote, whole, how we replace what they've lost using CDBG disaster recovery, would this be eligible?

Marsha Tonkovich: Well, that's an interesting way to put it, Brandy. You know, one of the things I think is important that we dispel right now is that CDBG-DR is not meant to make them whole, that's not our job. You know, our goal is to fill the gap in the cost of construction and to help people get back in their homes, but our job is not necessarily to put them back exactly or even better than they were, although, of course, we want them back in standard, decent, safe and sanitary, all those kinds of things housing.

So I think it might come down to your policies and procedures for your program and it probably depends upon the kind of granite and the cost of the granite, whether you think [inaudible] granite is cost reasonable. And that's why, when I did this example, I made it imported from Italy, this fancy, new countertop is clear that would be outside the range of reasonable. It could be, and I've heard arguments from some grantees, that they can get granite for cheaper than what they can get solid surface kind of countertops. That could be that it's a very inexpensive granite. You know, it could be that you can deem that to be cost reasonable in your policies and procedures. So it's not that granite is always bad, but it does raise eyebrows and it begins to look like a luxury item.

So I think if you're going to [inaudible] things like that, granite countertops, hardwood floors, special fixtures, you have to be able to justify that that's a reasonable, necessary, typical construction expense in medium-modest quality housing community and you'd want to look at the cost of that as compared to the cost of putting tile or putting whatever the kind of countertop.

And sometimes what people will do, when they've gone through that analysis, is they'll figure out what the cost of a tile countertop -- let's say a tile countertop would cost $1,000. If the granite countertop is going to cost $5,000, which is considerably more and yet has the same function, then they'll subsidize the $1,000 and the homeowner can use their own funds for the extra $4,000. That's the kind of thing you're going to have to work through.

And again, there's no totally hard and fast rules here, but you're beginning to verge into the area where you're going to get question costs. And so before I did those kinds of costs, which in outset, observer might say sounds like a luxury item, I would have a conversation with my HUD field office rep and work through what they feel comfortable with in terms of eligible costs. Hardwood floors, similar sort of thing.

I will give you a heads-up on the hardwood floors that one of the things that HUD has allowed are hardwood floors as an acceptability issue. There are times when a person is mobility impaired and going over carpet and that kind of stuff is difficult for them. That's a good example of where hardwood floor or tiled floor might be allowed.

So I would say for those kinds of margin costs, get it into your policies and procedures, treat people equally and talk to your HUD rep to come to a consensus. Tyler, Tom, you guys agree?

Tom Tiffin: Totally.

Marsha Tonkovich: Okay. So Brandy, it sounds like that's it for now. So let's keep going. So timeliness, there's a lot more detail on this topic in your previous webinar, the first one that we did in this series. So if you want to have more [inaudible] on this topic, please go back and look at those, but a quick overview, there are typically, in the appropriations that come from Congress, requirements related to the obligation and the expenditure of your funds, how quickly you have to do that. It does vary by federal appropriation. So we have the Sandy example here, it might not be the same for your appropriation, whether you're older or newer. So you've got to go back and look at the Federal Register notice that HUD published to get the details of how it will work.

We think the Sandy appropriation will probably be the model going forward. And what that one says is by September, 2017, which is the end of the federal fiscal year for 2017 all the funds have to be obligated. And obligated means in a contract, which means the grantee and HUD for the grant agreement and HUD is allowed that grant/grantee rolling agreement so that you can take some of my funds now, some of my funds later, some of my funds a little bit later, but all of that altogether has to be obligated by September, 2017. So your federal appropriations might have a different end date, but they'll typically be a date of which all of your funds have to be obligated. And then of the date of obligation, you have a certain period of time to get the money spent.

And in the case of Sandy, that was two years, the two years is the date of obligation has every penny drawn down. So when we say spent, we literally mean [inaudible] at a DRGR and expended for an eligible activity. There are some waivers that can be hedged beyond two years, but there's an absolute finite deadline that, again, your appropriation will have for the last date of [inaudible] funds.

So you want to pay attention to the timelines as you're looking at expenses. Program income, we're going to just do a quick overview of program income and I'll have a little bit of time for questions at the end, but there is a lot of great resources out there in CDBG on program income. So you'll see two regulatory sites, either the state site and the entitlement site for program income. On top of that, though, and I think actually more important for DR purposes, your Federal Register notice that came out with your funding appropriation will describe program income and will describe how it can be used and its rules but again, they have [inaudible] over time.

So make sure you look at your Federal Register notice, not just CDBG regulations. When we say program income, what do we mean? So program income are funds that come back to the grantee or to a subrecipient because I spent CDBG-DR funds. So the easiest example to think about is you lent money to let's say, a rental developer and that rental developer builds their housing and then over time, they pay back that loan fee and that's principle plus interest on that loan.

That money is coming back in to the grantee as a loan or payment over the years. That money coming back in, regardless of when it comes back in, whether it comes back in tomorrow, next year or 10 years from now, that money getting repaid, the principle plus interest, was with CDBG loans and therefore is CDBG-DR program income.

Program income is only earned by the grantee, so money coming back into the grantee or any entity that you have deemed as subrecipient who, again, gets money coming back in [inaudible]. And we'll talk about what kinds of money in just a minute, but it's only the grantee and subrecipient. So if we have a developer who makes money on a deal or a business to the beneficiary and makes money on a deal, that's not program income. It's money coming back in to the grantee or a subrecipient.

So the two most common ways of getting program income, and we actually speak quite a lot of it into DR, is real property that's acquired or improved with CDBG-DR funds and then sold. So let's say, for example, you as the grantee do a clearance program. And so in clearance, the CDBG role is [inaudible].

So you go out and you acquire land and you clear the demolished properties off that [inaudible], which you've now got -- you know, maybe it was damaged by the storm and he's now got vacant land. You turn around and you sell that vacant land to a developer or a business or a homeowner, whoever and you get the proceeds of that sale through the grantee. That money coming back into you is program income.

So you bought the land, sold the land [inaudible]. Another common way, as I mentioned, is the repayment of the [inaudible]. So if you make a loan to a business, you make a loan to a developer, you make a loan to a homeowner, they pay you back both the principle plus the interest, the entirety of that repayment and however long it takes for them to repay you, all that is program income.

Those are the two most common that you're going to see in CDBG. There's a lot of other complicated types of program income that could happen, but those are really the far and away most common. And if you do have any other kind of income coming in, I encourage you to take a look at the Federal Register notice to see what is defined as what is and is not program income and we'll define not in just a moment.

The other thing people get confused about is program income versus applicable credit. And applicable credit [inaudible] typically, but not always earned by fees that you might charge for something, like in de minimus amounts of that. You know, you can't charge a big application fee that to preclude [inaudible], but maybe you have small fees or something [inaudible], that's an applicable credit. It's an offset against the cost.

And again, the HUD notice that we mentioned earlier has a good description of what those are, that [inaudible] notice and the description of this is [inaudible] subscribed fee the only circulars were. That notice has a really good discretion of applicable credit. So that was Notice 2015-01 if you want to look at that. So what is not program income? So again, this is going to differ by your appropriation. You're going to have to go back and look at your Federal Register notice, but in general, most of the appropriations have allowed for a very de minimus amount of money that is earned on an annual basis and not be considered program income.

So if your entire grantee every bit of CDBG-DR program income for this allocation that you earn, add it all together for the year, if the sum total of all of that, in the most recent one, it was $35,000, in others, it used to be $25,000, so whatever your threshold is, if the total of all of that is less than, in this example, $35,000, then that money is not considered to be program income and you may do with it what you will.

Now, it's not that the first $35,000 is free and then everything over $35,000 becomes program income. Once you go over $35,000 for the year, everything is program income, the first dollar all the way on through. So the risk of guessing that you're going to have less than $35,000 is that if you go ahead and spend that money as if it were free and then you later find out that you went over $35,000 because somebody prepaid a loan or you got a payment you didn't expect, now you're in trouble, because you haven't spent the funds appropriately. So my caution to people is unless you're absolutely positively sure that all of your income in its entirety, all the money you might get back, not program by program, but all of it, is $35,000 or less or whatever your threshold is, treat it as if it's program income.

So that's not program income. And again, look at your notice to see what your cutoff is. If you have funds that are done by what the entitlement program calls the Community Based Development Organization or CBDO, the money that's retained by that CBDO, if they do ineligible community revitalization, economic development or energy conservation activity and they earn money from that, they get to keep it, they don't pay it back to you, then that money is not program income.

And in the state program, that's called a 105(a)(15) activity and there's a lot more detail about who qualifies or kinds, if it's only nonprofit and it's only special kinds of nonprofit and it's special kinds of activity. So if you're thinking about funding nonprofits to do community economic development, neighborhood revitalization or energy conservation, look at 105(a) to see the statute and it will give you more guidance on who qualifies and how it works.

Finally, funds which don't go back to a grantee or a subrecipient, so if a developer makes money, if a business makes money and they get to keep it, that's not program income, although, you would need to make sure you haven't over-subsidized them and that it was cost reasonable. So obviously, you have a process for tracking all of this, because you have to know what program income came in and how you spent it.

And so you need a process, a set of procedures around program income. One thing to know on program income that is confusing, we don't literally send the money back to your line of credit, [inaudible] with your grantee and you track and report its progress in DRGR. So you don't literally get a check back to HUD [inaudible]. I see this last poll, we just have a couple more slides yet to go.

Chantel Key: Okay. So for our fifth poll, we have which of the following payments are not program income? Principle plus interest on a DR loan repaid to a grantee, private business gets a DR loan and returns to profitability, a grantee buys land using DR and sells that land to a developer or a CBDO makes DR small business loans under 105(a)(15) and receives payment. The polls are now open.

Marsha Tonkovich: Okay. In the interest of time --

Chantel Key: And the answers are -- I was just going to say that answers are rolling in. We have about 34 percent voted so far.

Marsha Tonkovich: Okay. Well, let's go ahead and close it just in the interest of time.

Chantel Key: In the interest of time. Okay. The polls are now closed and I'm sharing the results. And we have 9 percent voted the principle plus interest on a DR loan repaid to a grantee, 48 percent voted private business gets a DR loan and returns to profitability, 16 percent voted grantee buys land using DR and sells to a developer and we have 28 percent voted the CBDO makes DR small business loans under 105(a)(15).

Marsha Tonkovich: Great. Thanks, Chantel. So let's go through each of these. So as I mentioned earlier, the principle plus interest on a loan that gets repaid back to a grantee is always program income. So that first one is going to be program income. So if a private business gets a loan or a grant from us and that then enables them to get back on their feet and they start making profits because they're now healthy again, that's exactly what we want and as long as they get to keep that money and they don't pay it back to us, then that's not program income, because it's being retained by a beneficiary. Now, again, you need to look at reasonableness to make sure we haven't over-subsidized them, but in general, that's not program income.

We talked earlier about the idea that if I buy land as a grantee and then I clear it and I sell it, that money coming back in to me when I sell that land is program income, because it's turned back into a grantee.

And then finally, the last one, a CBDO that goes under one of those three eligible activities, which would include economic development and assuming they qualified as a CBDO and all the other activity types as the eligible activities and that CBDO does an eligible activity and it gets money back in, that money that comes back in and is retained by the CBDO or the 105(a)(15) organization state program, that money is not program income as long as they get to keep it. If they have to then pay it back to its subrecipient or pay it back to the state or city, then it is program income.

So what do I do with program income? So I actually have to follow all the CDBG rules, tie to the storm, eligibility, including all the CDBG-DR rules. So things that had to do with a disaster, duplication of benefits, tie to the storm, none of that gets washed just because it's program income.

So however long it revolves, all of that still has to be eligible. That includes the 50 percent eligibility charges, the 50 percent low-mod targeting that's required also applies to program income. All other federal requirements apply too. So Fair Housing, Davis-Bacon, environmental. Again, it's just as if you have another dollar of CDBG-DR. On the flipside, just like regular CDBG-DR, we get to take 5 percent of it, and we talked about that earlier when we talked about the cap, for program admin.

Now, if you're going to be getting program income, you have to describe in your action plan how you plan to use it. Is it going to be more of the same from my existing programs, am I going to use the program income for a different kind of program, what's my plan for how I'm going to use it? And HUD actually lays out a couple of options for how you can think about your program income and again, these will be specific to your particular Federal Register notice. So you need to be cautious about it. But generally, the options are as follows, you, the grantee, would keep the program income. So it all comes back into using it. Everybody pay all the program income back to you, all your subrecipients and then you have to spend that program income before you drawn down any new money out of your DRGR account.

So the program income is coming back in, it's in your bank account as the grantee, you draw down that bank account before you're allowed to go back and start drawing out of your DRGR account. Any money on hand that's program income gets spent first [inaudible] DRGR. The downside of that, don't forget, is that we talked about those expenditure deadlines that are ticking away in the background.

So the more program income you have and the more you have to spend it, the slower you're going to be to spend that at DRGR. You have to think about balancing that. You could also allow your subrecipient to keep the program income. So rather than making the subrecipients pay it back to you, you as a subrecipient keep it and they have to spend it before they can draw any more money from you.

So let's say you're a state and you allow the city to keep the program income, the city can't do any draw requests until it has spent the program income it has on hand, but other cities in the rest of the state can keep on drawing. We could take program income and put it in a revolving loan fund.

And so it's not that we're capitalizing revolving loan funds to grants, we're not, we're taking the program income and we're putting the program income in a revolving loan fund and then lending it out for additional CDBG activity. That revolving fund has to have a specific purpose, it's not just all program income. It's for if you designate it for a particular activity type. So it's for small business lending, or it's for housing rehab, or it's a rental rehab, or whatever the purpose is. And then the next bill for that purpose gets paid out of the revolving loan fund and the other program or other kinds of activities you're doing continue on their merry way.

If you're a state, you could set up a revolving fund where instead of funding a specific activity type, you're going to use that fund to make awards to units of local government. So you'll set up a program where you make a loan to a state or make awards from the state out of the RLS units of local government.

And the last option is you could take your program income and you could transfer it to your regular CDBG program. So rather than being CDBG-DR, you move the funds over to your regular state or entitlement CDBG program, the funds become regular CDBG funds and they have to be written up in your consolidated expense as part of your regular program and they lose all their CDBG-DR requirements, but they also lose all the CDBG-DR waivers.

So they become regular CDBG funds. And those are your options for how you can use your CDBG-DR funds. So let's take our last bit of questions, Brandy.

Brandy Bones: Okay. We have a question on liquidated damages assessed against a contractor who is being paid using CDBG-DR funds. Would that be considered program income even if those funds are being rolled back into the project?

Marsha Tonkovich: Okay. So you have a contractor who does something wrong, you make a damage claim against that contractor and they pay, I assume, some sort of fee or a fine, basically that they're paying back to the grantee. That might be an applicable credit. I'm not sure about that. I want to turn that over to Tyler. What do you guys think? Tyler, I think you might be muted or Tom.

Tyler Bridges: Sorry, I'm poor at mute. I don't know the answer either. I'm wondering if Tom or the other HUD folks -- but it does sound like an applicable credit to me as well.

Tom Tiffin: Marsha, yeah, that's sounding like an applicable credit, but I think the grantee would need to run it through the CPD rep, because it can get really tricky, depending on the nature of the repayment.

Marsha Tonkovich: Okay. So sorry that's not a very clear answer to whoever asked it. I think that's right, I think you should talk to your HUD rep, the specifics of the circumstance and maybe they can walk you through it. If you need an immediate answer, you might have to go back and look at that OMB Notice that I mentioned that has some descriptions of applicable credits versus program costs. The next one, Brandy.

Brandy Bones: Okay. And then the next one is with a key or clock in DR for the PL 113-2 allocation, are there any provisions to allow us to send our regular grant funds before we draw down program income?

Marsha Tonkovich: No. Unfortunately, I know this is a challenge with the two-year clock ticking and with these expenditure deadlines, but unfortunately, the rule is the rule, it's program income on hand. Unless you have put it in a revolving fund for a specific activity purpose, you have to spend the program income first before you're allowed to draw out of DRGR.

Tyler Bridges: So Marsha's exactly right. Sorry, now we're all talking. Some grantees have requested waivers of their CPD rep in a very specific way where it's not a wide ranging waiver. So there are opportunities to look at program income in a different way, but you really want to start that conversation with your CPD rep.

Marsha Tonkovich: Okay. And Sandra.

Sandra Donaldson: Hi, Marsha. I was just going to point out that the Federal Register notice for their particular DR grant may not have a two-year clock. The clock may be a different timeframe. So it might not be as big of an issue as those who have a two-year clock.

Tyler Bridges: Well, yeah. So what Sandra is referring to is for the NDR grantees, most, if not all, requested and will receive an automatic waiver of the two-year expenditure deadline that will allow them to expend their program funds until 2022. So they have the same requirement, but the OMB gave us the waiver authority or the ability to grant an extension.

For the Sandy grantees who are doing partial obligations and are doing two-year extensions, Sandra, it's actually a great point, if you're running into a situation where you've got program income on hand that is preventing you from fully expending your grant funds and you're approaching the two-year expenditure deadline, you should work with your CPD rep to request an extension of the expenditure deadline for at least that amount of funds so that you're not at risk of having to return those funds. So you basically forfeit those funds.

Sandra Donaldson: Well, Tyler, I'm also referring to the South Carolina and Texas new Federal Register notice that will be issued soon also.

Tyler Bridges: Yeah. So that hasn't been published yet. There is no statutory requirement on the two-year expenditure, but I believe that there is some consideration about other means of expenditure deadlines. But yeah, you are correct, Sandra. There is no statutory requirement.

Marsha Tonkovich: That's what I was going to say, guys, is again, you have to go back and look at your particular appropriation, because I know we have folks on the phone who actually are older than Sandy grantees. So you're going to have to go back and look at that issue in terms of what your expenditure deadline is for your particular congressional appropriation. What's the next one, Brandy?

Brandy Bones: Is there a fund set on program income generations? Is there a time when you don't continue to generate program income?

Marsha Tonkovich: Well, we'd love that to be true, but unfortunately, it's not. Program income is program income and perpetuity. So although, obviously, it sort of loses a practical point of view, but technically, it remains CDBG-DR program income 20, 30 years from now if you were still happening to earn income at that point.

That's why HUD allows at some point where it becomes kind of silly to continue to try to tie it back to the storm and all those sorts of things. They allow you to eventually say, we no longer have any disaster recovery needs, we're going to take the money and put it over to our regular CDBG program, but there's never a point at which it continues to still be coming back into the grantee or still coming back into a subrecipient. There's no point at which it stops being program income.

Brandy Bones: Okay. I think that's it.

Marsha Tonkovich: All right. Well, HUD, anything else? Is there anything you want to add on that last point?

Tyler Bridges: No. And also, in terms of program income in the later appropriations, grantees can explore the possibility, I think Marsha covered this, importing their program income over to their state or entitlement program. So if year-end program income binds, explore with your CPD rep all of the situations that you have available to you.

Marsha Tonkovich: Great. Anybody else at HUD want to jump in?

Sandra Donaldson: Marsha, I was just going to say we're out of time. So if you want to just refer to the resources very quickly and close us out.

Marsha Tonkovich: Yeah. So this is the last resources slide, guys. So again, this will all be posted on the website. I encourage you to take a look at those and I think there are a lot of terrific resources that help you through these cost issues.

So with that, I'm going to wrap us up. Thanks to the HUD staff, thanks to all the attendees who are with us, glad to have you and please join us for the remaining of the webinars. Thanks everybody.

(END)