CDBG CARES Act

ENGAGING & MANAGING SUBRECIPIENTS

The Subrecipient Agreement as a Management Tool

Rob Sronce: Hello and good afternoon, everyone. Pause a minute as folks are joining. We have a number, a lot of interest today, so thanks for joining us. Still seeing the numbers climb here. We have more entering the session. Okay. I'm going to go ahead and get started.

Again, hello and good afternoon, everyone. Thank you for joining us for today's webinar. The CDBG-CV recipient agreement as a management tool. This session is part of the CDBG CARES Act webinar series. This is part two of a two-part webinar on the use of subrecipients for CDBG-CV grantees. We hope you joined us for part one this past Tuesday, which was "Working With CDGB-CV Subrecipients To Expand Programs." If you missed it or not able to join us, both sessions are being recorded and will be posted on the HUD exchange. Next slide, please.

My name is Rob Sronce. I'm with the Cloudburst Group. I am glad to be here with tow of my colleagues, Sara Daines -- hello, Sara.

Sara Daines: Hi.

Rob Sronce: And Cherré Palenius. Hi, Cherré.

Cherré Palenius. Hello. Hi.

Rob Sronce: We are also joined today by staff from HUD's Office of Block Grant Assistance, Puping Huang. Hi, Puping.

Puping Huang: Hello, everyone.

Rob Sronce: And Gloria Coates.

Gloria Coates: Hello, everyone.

Rob Sronce: Working behind the scenes today is our Zoom host John Panetti from ICF. Thanks, John. Before we do start, I'd like to review a few things and answer probably some of your questions, you have right now. This webinar is scheduled for one hour. However, it might run a little bit long. We thank you for your patience. If you need to step away, please be reminded that the session is being recorded so you can come back to it later once we post it on that Exchange.

All attendees are in listen-only mode. If you do need help with Zoom or have other technical issues, please chat at the host through the Zoom chat. That'd be John. He'd be glad to help you.

Please do not use the chat for questions to the presenters. Please use the Q&A feature of Zoom. That way we can log your questions and we hope get to them. However, today's session may go right to the hour so if we don't have time for questions and you have a burning question, please make use of the HUD Exchange, ask a question for CDBG-CV.

You'll notice on some of the slides there are links. Those will be live in the PDF; however, I'll do my best to drop in some URLs as we go along so you can find them as we are talking about them. Again, as you have questions, drop them in the Q&A.

And, oh yes, and one thing, this webinar is intended for CDBG-CV grantees in these states, counties. If you're not a grantee, you're welcome to stay but we'll only be answering questions from grantees. And really, it's focused on those grantees who are administering CDBG.

Yes, as I mentioned, the slides, transcript, recording will all be posted on the HUD Exchange. Takes maybe two, three weeks on the outside. It takes a bit of time for us to get them approved and compliant with HUD Exchange standards, so thank you for your patience but they will be out there. Next slide, please.

We'd like to go over the objectives from Tuesday. We discussed the benefits of collaborating with subrecipients, how to be strategic when it comes to identifying, selecting, and engaging with subrecipients and we began to discuss how the subrecipient agreement is an important management tool. Next slide.

Today we'll continue the conversation with a specific focus on the subrecipient agreement itself, including specific CARES Act requirements and available waivers, how to manage risk through the subrecipient agreement, and, of course, producing results and timely performance. Next slide.

So once again, there are two sessions. One was this past Tuesday and one today. Both are covering the use of subrecipients and CDBG-CV. Tuesday, the affective use of subrecipients broadly, and today a deeper dive into the subrecipient agreement itself. So now, allow me to turn it over to our first presenter, Sara Daines.

Sara Daines: Thanks, Rob. In the first of this two-part webinar, we discussed the benefits of collaborating with subrecipients as you work to prevent, prepare for, and respond to the impacts of the coronavirus. We touched on ways you can strategically identify, select, and contract with subrecipients. The importance of your subrecipient agreement was stressed and the basic elements of an affective agreement were presented. Examples of ways you can incorporate monitoring provisions into your agreement that would allow you to review the materials and procedures developed by your subrecipient early in the process and how to check on their progress throughout the term of the agreement were identified.

As Rob has noted, today we are continuing our discussion of the importance of your subrecipient agreement and the development and implementation with successful CDBG-CV program.

Before we dive into the specific CDBG and CDBG-CV provisions that you should include in the agreement, let's review the benefits of having a well-crafted agreement in place that were presented during the first session. The agreement can help you establish clear performance expectations by identifying how funds are to be used and including specific benchmarks, noting when you expect them to be accomplished and when. It can reduce any ambiguity in terms of who's expected to do what, by establishing the roles and responsibilities of both you and your subrecipient. It can serve as an affective staff and subrecipient training tool throughout the term of the agreement. The agreement also provides you with a mechanism for verifying regulatory compliance and monitoring program performance. It should be referred to throughout the term of the agreement, not just at the beginning or the end of the grant award. And finally, a clearly written agreement can help you manage your program and assist in the development and implementation of a successful and compliant program.

The federal regulations and cost cutting requirements that apply to your annual CDBG program also apply to your CDBG-CV funds and any activities designed to prevent, prepare for, or respond to the coronavirus that are funded with your FY-19 and FY-20 CDBG allocations unless waived by HUD under the CARES Act.

While we will go into more detail later in the presentation, I thought it would be helpful to do a quick run through of the special regulations or waivers included in the CARES Act. They will need to be addressed in your subrecipient agreement in addition to those required under your CDBG program.

A key provision of the CARES Act is what is referred to as the coronavirus PPR Tieback. Regardless of how the funds are to be used, you must be able to document that a proposed activity will assist your community in its efforts to prevent, prepare for, or respond to the impacts of the coronavirus.

The CARES Act modified or waived a number of regulations that allow a grant to use to better address the needs of their lower and moderate-income residence during the pandemic. Included among them was the suspension of the 15 percent cap on public service activities, and the extension of the assistance period that emergency subsistence payments can be provided.

Several of the waivers provided flexibilities designed to address the economic impacts of the pandemic. The Act standardized the minimum poverty rate standards established for presumed LMI jobs, allowed individuals applying for a new job and those retaining their existing job to be considered as households of one for purposes of documenting LMI benefits, waived the aggregate public health benefits standard and modified the individual public benefit standards. Under the CARES Act, HUD must ensure that there are adequate procedures in place to prevent any duplication of benefits as detailed in the Stafford Act. This responsibility was passed onto all CDBG-CV grantees and their subrecipients.

A lot of the material we'll be covering in the next series of slides is going to be familiar to many of you as the structure of your CDBG-CV subrecipient agreement must follow federal CDBG regulations while incorporating the CARES Act requirements. That being said, your agreement should be tailored to the specific CDBG-CV program or activity to be undertaken by your subrecipient. It should include, at a minimum, the following provisions.

When drafting your statement or scope of work or services and budget, be sure to describe the purpose and nature of the activity on the specific and individual task required to complete each activity. Include quantitative measures and schedule establishing deadlines for identified tasks. This will help you track the progress they are making, ensure that the project is completed on time and allow you to evaluate its overall success. A detailed line-item budget identifying specific activity and administrative costs should also be included.

Identify the records your subrecipient must maintain including required retention periods and reporting deadlines.

Explain how you will treat any income generated by the funded activity. Cherré will go over, in greater detail, how income generated by a CDBG-CV funded activity is to be treated later in the webinar.

Include the uniform administrative and financial management requirements and standards identified in 2 CFR 200. These provisions will vary depending upon the activity and the nature of your subrecipient.

Incorporate references to other federal regulations that are specific to the activity. This could include, for example, regulations regulated to labor standards, and the Americans with Disabilities Act.

Identify what corrective measures may be taken in the event the subrecipient fails to address serious non-compliance concerns that may be identified. And address how and when you will end the agreement or initiate other remedies for no-compliance. If your subrecipient material fails to comply with any of the provisions of the agreement, does not complete the activity in a timely manner, improperly uses funds or program income, or submits inaccurate or incomplete records. And be sure to identify how and when your subrecipient must return unspent CDBG-CV funds and accounts receivable when the agreement ends. Explain what would happen if property acquired or improved with funds in excess of $25,000 is no longer used for an eligible activity or no longer meets a national objective.

Be sure to check out chapter three of HUDs Managing CDBG, the guidebook for grantees on subrecipient oversight available on HUD Exchange. While it does not address the specific requirements of the CARES Act, it includes several recourses that you may find helpful when drafting your agreement. The guidebook includes a listing of recommended provisions and relevant federal register citations, a sample scope of work for a variety of projects, and a template that could be used as a basis for your agreement.

There are a number of CDBG-CV provisions that must be included in your agreement in addition to the CDBG provisions we have highlighted. You need to clearly identify that CDBG-CV funds are being used to develop and implement the planned activity. Include a specific reference to the use of CDBG-CV funds in your scope of work. The CARES Act permits a reimbursement of approved pre-application, pre-award, and pre-agreement costs. If you elect to reimburse your subrecipient for costs incurred after January 21, 2020, and before the project was approved, acknowledge that decision in your scope of work and include the costs in the line-item budget.

Include a statement that describes how the activity addresses the CARES Act PPR Tieback requirement. Explain how it prevents, prepares for, or responds to the direct impacts of the current pandemic, indirect costs, such as economic and housing market disruptions caused by social distancing or stay at home orders or how it further mitigates efforts to address future pandemic impacts. Provide information specific to your community to support the narrative. Focus on the overall effect of documented coronavirus impacts on LMI populations or neighborhoods. Consider both backward- and forward-looking risks or vulnerabilities.

Several quick guides have been established or issued by HUD that highlight how a range of activities can comply with the PPR Tieback requirement. The Community Violence Quick Guide, for example, highlights a range of public infrastructure projects and social service activities you may have planned and provides strategies for how to use local studies to strengthen the tieback to the coronavirus. Another useful resource is HUDs Using CDBG and CDBG-CV to Support Pandemic Recovery.

Moving on to the National Objective requirement. The CARES Act did not end this requirement, and as such, every activity carried out with CDBG-CV funds must meet the standards for one of the three National Objectives. Be sure to include a narrative in your agreement identifying the National Objective the activity advances and describe how it meets the criteria for the identified objective. Additional information on documentation options for the LMI and Urgent Need objectives, the most frequently used national objectives for CDBG-CV activities, will be covered by Cherré later.

HUD CDBG CARES Act webinar series includes a session on National Objectives that may be helpful. The webinar provides an overview of CDBG National Objectives and alternative CARES Act requirements and flexibilities for the on-line jobs and Urgent Need objectives. The presenters also discuss documentation requirements.

And lastly, include a provision in the agreement describing the duplication of benefits restrictions of the Stafford Act and requiring repayment of any funds that they receive that are found to duplicate financial assistance they have or are likely to receive.

It is also important to identify and include in your agreement the following general CDBG-CV provisions.

Documentation requirements for each activity. Types of the -- examples of the types of documentation you should consider requesting, depending upon the nature of the activity, will be presented later in this session.

Verification that the amount of the assistance is necessary and reasonable.

A contract for draw-down request to ensure that the project progresses in a timely manner. Remember that while you have six years following the execution of your CDBG-CV grant agreement to spend down your funds, at least 80 percent of your award must be spent within three years of the performance, period of performance identified in your grant agreement. Unexpended funds may be subject to recapture after the three-year performance period. Language confirming that CDBG-CV funds are not being substituted for non-federal financial support and as previously discussed, provisions for the repayment and recapture of funds used inappropriately or not documented adequately.

When drafting the agreement, be sure to review your subrecipient's policies and procedures to confirm that the funds will be used for an eligible activity and that unless the activity is intended to address an urgent need, that at least 51 percent of the anticipated beneficiaries will be at low and moderate incomes and that they have policies in place which reflect the requirement of the CDBG program.

In addition to including information on how the activity meets a national objective, confirm that you will be able to meet the overall benefit requirements of the program. Be sure to include enough detailed information from people not familiar with the project to understand why the subrecipient is receiving funding and how the funds will be used. Try to keep the language simple, succinct, and easy to understand. Think about how you will be monitoring the activity and what you will need from your subrecipient and when you need it. Be sure to incorporate language addressing your monitoring needs and reporting expectations.

Before we shift gears to talk about the selection of a National Objective, there are a couple of last things to consider. The agreement must be signed by both you and your subrecipient before you disperse any funds and before the planned activity begins. The agreement must remain in affect while the activity is in progress and they have control of any funds that were awarded for the activity, including program income. It should be reviewed periodically to allow for adjustments based on change in conditions or performance expectations. One last thing to note, your agreement must satisfy both federal award requirement as well as both state and local laws. Ask your attorney to review it before sharing it with your subrecipient.

Moving on to the selection of a National Objective during the pandemic. Cherré, it's your turn.

Cherré Palenius: Thank you, Sara. In section one, we briefly introduced identifying a National Objective the pandemic activity is addressing and describing in your subrecipient agreement how it will be documented and what the necessary requirements are for meeting the National Objective. Over the next several slides we will dig deeper into who are the beneficiaries, what are the program requirements, what documentation is needed, how and what form is required, and is the activity an eligible activity that meets the overall benefit test, etc. So let's get started.

There are several things you need to think about when determining which National Objective fits with the eligible CDBG-CV activity such as, who will be assisted and what documentation will you need from the subrecipient, how this documentation will be obtained, does the activity meet all the program requirements, and does this activity contribute to the overall benefit test. Remember, per the Federal Register notice, 70 percent of the CDBG-CV funds must be used for activities that benefit low-moderate income persons, which has been waived for the coronavirus related economic development activities, which we will talk more about later in this presentation. So let's continue examining the documentation requirements based on the specific National Objective.

So when the National Objective is lower-moderate income clientele, the subrecipient must provide documentation that at least 51 percent of the participants for the activity are or will be, which is defined as earning less than 80 percent area median income adjusted for household size.

Therefore, in essence, 49 percent of the participants do not have to be low-moderate income. Yet, be careful here, if there is a miscalculation, you'll be out of compliance. So best practice may be that at least 51 percent of the participants are low-moderate and maybe 45 percent are not low-moderate; or you can document that only low-moderate income households will be assisted; or document that households will be presumed to be low-moderate income, which HUD has defined as abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS or migrant farm workers; or document that the nature and location of the activity primarily benefits low-moderate income households.

Here the documentation needs to describe how the type of the service, or the location lends itself to serving primarily low-moderate income households. Example would be like a food bank or a homework assistance for students negatively impacted by the pandemic; or for economic development when the micro enterprise owner is a low-moderate income household. Per the Housing Community Development Act of 1974 is where you'll find the definition for micro enterprise, which means it's a commercial enterprise with five or fewer employees, where at least one of whom or more owns the enterprise.

When the National Objective is low- and moderate-income area the subrecipient must document that at least 51 percent of the residents in the primarily residential area have incomes less than 80 percent area median income and the services are targeted to individuals living in the qualifying area. The subrecipient or the grantee needs to define the boundaries of the service area and can use the CDBG low- and moderate-income data set located on HUD Exchange, census tract information or complete an income survey documenting that at least 51 percent of the residence in the area have incomes less than 80 percent area median income. The service area can be a CDBG target area or is a designated neighborhood revitalization strategy area. For new grantee staff you may want to consult the CPD notice 19-02 for additional information on using the 2015 American Community Survey or ACS data.

When the National Objective is lower-moderate income housing the subrecipient must document that the units will be or are occupied by low-moderate income households defined as households whose income is less than 80 percent AMI. The HUD published CDBG annual income limits are posted on HUD Exchange; or they must document based on the activity that the low-moderate income household is experiencing housing instability living in substandard conditions, subject to mold, no heat, lead base paint, which may force the household to become homeless or they are experiencing overcrowding, such as living temporarily at a homeless shelter, outdoors, couch surfing, etc.

When the National Objective is low-moderate income jobs the subrecipient needs to provide documentation that the employee's annual income is equal to or less than low-moderate income limit for a one-person household. This is based on the HUD waiver indicated at the bottom of the slide; or you can substitute records showing the type of job and the annual wages or salary of the position is less than or equal to the low-moderate income limit for a one-person household; or document the location of the business or where the employee lives is located in a census trap that has a 20 percent poverty rate, has evidence of pervasive poverty, poverty and general distress, and does not contain a central business district unless there is a poverty rate of at least 20 percent, which is in accordance with the August 2020 Federal Registry Notice where HUD indicated that by standardizing the poverty rate to 20 percent may avoid wholesale collapse of central business districts and of closed or at risk of closing due to insufficient revenues.

When the National Objective is urgent need the CDBG-CV Federal Registry Notice provides acceptable ways to document the use of the urgent need National Objective or CDBG-CV and for any CDBG fiscal year 2019 or 2020 funds that are used to prevent, prepare for, or respond to coronavirus effects. Here, no income or clientele qualification is needed but the activity must address an urgent need from which no other funds are available.

For review, the grantee needs to provide documentation of the emergency conditions presented by the pandemic creating a significant health threat and hampering the overall welfare of the community. The same documentation used to make the activity eligible may be used to show the activity is designed to alleviate existing conditions and that grant funds were used for activities to prevent, prepare for, and/or respond to coronavirus. Document the public health emergency using information from the U.S. Health and Human Services Public Emergency Declaration, the Federal Disaster Declaration, and/or your own local or state emergency declaration.

Lastly, the grantee needs to document that the CDBG-CV or CDBG fiscal year 2019 or 2020 funded activity will present, prepare for and/or respond to the virus and that the grantee or UGLG, Unit of General Local Government, cannot finance the activity on its own. Use the required records of compliance with the mandatory duplication of benefit requirements demonstrating that no other funds are available for an activity. Use Urgent Need National Objective for public services, such as supporting local food banks, to assist individuals impacted by COVID. Urgent Need National Objective offers subrecipients maximum flexibility to respond quickly under the CDBG-CV notice. One note of caution here, remember that 70 percent of your expenditures for your entire CDBG-CV grant must be for activities that benefit low-moderate income persons.

Now we'll move on to the documentation requirements you should request from your subrecipients based on the activity they are providing and some monitoring requirements you should consider.

Here the National Objective is low-moderate income clientele, which we defined in slide 16, were at least 51 percent of the participants for the activity are or will be low-moderate income or are earning less than 80 percent of area median income or that you're only assisting low-moderate income households or that households will be presumed to be low-moderate income, or the nature and location of the activity primarily benefits low-moderate income households. When the activity is eviction prevention, for rent, mortgage, utilities or security deposit, the subrecipient needs to document that without assistance, the beneficiaries could become homeless and the beneficiary has the wherewithal to cover future rental, mortgage and/or utility payments.

If the assistance provided exceeds 100 days, a visual lead-based paint inspection is required. When the activity is hotel or motel vouchers the subrecipient needs to document conditions of overcrowding, housing for the homeless, need for quarantine rooms for healthcare workers. When the activity is food in security, the subrecipient needs to document the beneficiaries, low-moderate income area or the need to relocation. Lastly, when the activity is for counseling or referral services, the subrecipient needs to document the services being provided are for low-moderate income persons and indicate the purpose of the counseling, budgeting, employment, mental health, etc.

Noted here are the CDGB-CV waivers that allow grantees and therefore subrecipients to provide these eligible activities. Elimination of the 15 percent public services cap for all activities that have a PPR Tieback prevent, prepare for, or respond to and extending the emergency subsistence payments to six months. Remember that beneficiaries can only receive up to six months of consecutive assistance for cost incurred after January 21, 2020. However, HUD has clarified that the first payment counted as payment one can cover more than one month of past due rental and utility payments. Your monitoring should include verification of the low-moderate income beneficiaries or the low-moderate income area information and that the assisted beneficiary can cover future rental, mortgage, and/or utility payments. And when the assistance exceeds 100 days a visual lead-based paint inspection has been conducted.

In this slide the first two eligible activities are the same as the previous slide yet the National Objective here is urgent need, to meet an unfunded urgent local need. Now the subrecipient needs to document that without assistance, that beneficiary could become homeless and that that beneficiary can cover future rent, mortgage, and/or utility payments, plus document the visual lead-based paint inspection was conducted when more than 100 days of assistance was provided.

When the activity is for counseling, the subrecipient needs to document the type of counseling services provided. When the activity is health services, your agreement needs to describe the activities being provided and to who. One note of caution: the distribution of personal protection equipment must be tied to another eligible public service activity such as low-moderate income clientele, or low-moderate income area.

When the National Objective is urgent need, the CDBG-CV waivers that allow grantees and therefore some recipients to provide these activities is the elimination of the 15 percent public service cap for all activities that have a PPR Tieback which includes any fiscal year 2019 or 2020 CDBG funds that are used for CDBG-CV eligible activities and extends the emergency subsistence payments to six months.

Here you need to document that, as a grantee, you had no other available funds to finance the previously mentioned activities, document the pandemic which is creating the immediate threat, referencing local or state emergency declarations, etc. Document that individuals receiving assistance can cover future payments and a visual lead-based paint inspection was conducted when more than 100 days of assistance is provided.

Now I'll pass the presentation over to Sara.

Sara Daines: Thanks, Cherré. There are two ways to determine if an economic development activity meets the standards established for the low- and moderate-income job creation and retention national objective. The first is a location-based presumption of low and moderate-income benefit. CDBG regulations allow grantees to assume a person is low and moderate income if they live or work in a census tract or block group with a poverty rate of 20 percent of the area's residential in nature or 30 percent if they live or work in a central business district and if there is evidence of pervasive poverty and general distress.

Pervasive poverty and general distress is defined by HUD as being an area where all of the block groups included within the census tract have poverty rates of at least 20 percent. The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent or a determination has been made that the census tract exhibits signs of general distress as evidenced by high crime rates, drug activity, homelessness, abandoned housing, deteriorated infrastructure, or a substantial decline in the population of the area.

The activity can also be qualified if at least 51 percent of the jobs created or retained will be either held by or considered to be available to low- and moderate-income individuals. As with all CDBG-CV funds, regardless of what National Objective Standard is used, the activity, once determined to be eligible for funding, must be designed to prevent, prepare for, or respond to the economic impacts of the coronavirus.

The CARES Act, as noted in this slide, standardize the threshold requirements used to determine if a proposed activity meets the presumed benefit criteria established for the CDBG program. For purposes of determining compliance with the programs National Objective requirements, economic development activities can qualify under the CARES Act if the poverty rate of the census tract in which the business is located is 20 percent regardless of the character of the area. It does not have to be 30 percent if it is in a central business district.

When including CDBG funds to assist a business under this objective, include information like the location of the business and the poverty rate of the underlying census tract in your agreement. When monitoring your subrecipient, verify where the funds were spent and confirm that they were spent at the location identified in the agreement.

If the jobs that will be created are retained by the activity, would be held by or made available to low- and moderate-income individuals, your agreement should include language requiring the submission of documentation identifying the jobs that would be created, detailing the general responsibilities of the position, and what the employees filling those positions would be paid. If it is not a salaried position, include the rate of pay and the number of hours the person in the position would typically work.

Alternatively, you can require the submission of income verification forms completed by new and retained employees. Be specific when identifying what information, you will need to verify their compliance with the agreement and clear about when the information should be submitted.

As noted in the slide, the CARES Act provided two important flexibilities for documenting LMI compliance. Individuals that apply for or hold jobs can be considered as households of one for purposes of meeting income eligibility requirements rather than considering the individual's total family size and income. Records showing the type of job and the annual wages or salary of the position may be submitted by the business in leu of individual income verification forms.

When monitoring your subrecipient, verify that their project files include the documentation required in your agreement. Review the materials to verify that they are complete and that the jobs created or retained by the funded activity comply with the CDBG and CDBG-CV program's eligibility requirements.

Grantees must develop underwriting criteria to evaluate projects, to ensure that the costs associated with an economic development activity are eligible, reasonable, clearly identified and that if any additional funds are required to complete the activity have been committed. To address this requirement but sure that the budget included in your agreement identifies all of the costs of the activity in addition to the source, status and amount of any matching funds needed to complete the project.

You also need to determine that the project is financially feasible. While you do not need to address this in your agreement, be sure to keep a record of this aspect of your underwriting review in the project file. You also need to determine that the return of the owner's equity investment is reasonable and clearly state the anticipated return of their investment in the agreement.

Finally, funds are to be dispersed on a pro-rated basis. Create for the inclusion in your agreement a draw down schedule with conditions for the disbursement of funds. These provisions will help you verify, during your monitoring, that any matching funds needed to complete the activity are being invested in the project, that the total projected cost of the activity have not changed, and that the owner's return on their investment remains reasonable.

The standard for aggregate public benefit was waived in the CARES Act and the individual standard for CDBG-CV eligible projects was revised with activities being required to meet one of the following public benefits standards.

The assisted activity must create or retain at least one full time permanent job equivalent for every $85,000 of CDBG-CV funds invested. The original amount was $35,000 per FTE. CDBG-CV assistance provided to businesses offering goods or services to a low- and moderate-income area is limited to $1700 per low- and moderate-income individual residing within that area. Providing to the enactment of the CARES Act, this assistance was limited to $1000. An alternative individual public benefit standard option is available which allows grantees to demonstrate that assistance was provided due to business destruction related to the pandemic.

This would include local stay at home orders, occupancy limitations related to social distancing recommendations and restrictions directed towards entertainment businesses such as music venues and movie theaters. When this option is used, no monetary standard applies though a description of the disruption being addressed should be included in the scope of work.

These standards should be incorporated into your agreement and as noted on this slide, can be a simple statement of the maximum amount of funding that will be provided on a per job or LMI basis. And when monitoring the agreement, confirm that the activity remains in compliance with the individual public benefit standards incorporated within the agreement.

To paraphrase the uniform administrative requirement a bit, real property acquired or improved with CDBG-CV funds must be continue to be used for "the originally authorized purpose as long as needed for that purpose." Often referred to as the change of use standard, federal long term use requirements and disposition restrictions apply to subrecipients receiving more than $25,000 to acquire or improve a property and remain in place for a minimum five years after the expiration of the agreement.

If the funds have been provided to convert a building for use as a COVID testing or vaccination site or to improve the HVA system of a childcare facility or to reconfigure the interior of a food pantry, for example, if more than $25,000 were invested in the project, the change of use standards would apply.

To ensure compliance with the program's long term use requirements, you will need to develop a process for disposing of real property assisted with CDBG-CV funds when the facility is no longer used as originally intended. This process, and the specific regulations noted in the slide should be incorporated into your agreement. To verify compliance, you will need to monitor the property on a regular basis and verify that it is being used for its intended purpose for at least five years after the expiration of the subrecipient agreement.

A duplication of benefits occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose and that the total assistance received for that purpose is more than the total need for assistance. The duplication of benefits restrictions established in the Stafford Act apply to activities receiving CDBG-CV funding.

To prevent a duplication of benefits, grantees must establish policies and procedures that require subrecipients and individual program beneficiaries to repay any assistance that is determined to be duplicative and to provide a protocol for monitoring compliance. As noted in the slide, this may be accomplished through the use of a subrogation agreement, an internal calculation of the unmet need of both the subrecipient and the individual beneficiaries and the execution of an affidavit certifying that no other financial assistance has been received.

Your agreement should include a provision detailing the CDBG-CVs program's duplication of benefit restrictions. The signed subrogation agreement, completed calculation form, and signed and dated affidavit should be included as appendices.

When monitoring for compliance with the Stafford Act, you will need to assess the needs of the subrecipient at the beginning of the project and again at the end of the grant or loan period. Depending on the scope of the project, it may be appropriate to review these documents on a more frequent basis. During your review you should recalculate the unmet need of your subrecipient to determine if they received any additions funds that may have changed since your initial needs analysis.

You will also need to verify the completeness of the affidavit executed by program beneficiaries and review the calculations of unmet need that were completed prior to them receiving assistance. Additional guidance on monitoring for compliance with the CDBG-CVs program's duplication of benefit requirements can be found on the HUD Exchange.

Turning it back to you, Cherré.

Cherré Palenius: Thanks, Sara. So CDBG programming is defined at 24 CFR 570.504. While CDBG-CV activities could generate program income, any program income earned is considered annual CDBG program income and therefore, it's subject to the 15 percent public services cap. Why? Because the waiver is to the 15 percent public services cap is for eligible activities that prevent, prepare for, and/or respond to the pandemic.

So what requirements do you need to consider or include in your subrecipient agreement? First, do you allow the subrecipient to retain any program income earned? If affirmative, you need to verify that the amount held does not exceed the subrecipient's projected cash needs per CDBG activities, which includes activities to prevent, prepare for, and respond to coronavirus. Don't forget the requirement that 80 percent of your CDBG-CV grant must be expended within three years.

Next, if the amount of program income earned is over the projected cash needs the program income amount needs to be receded as program income to your annual CDBG program. Your subrecipient agreement needs to clearly define how and when program income should be returned and what the CDBG threshold is for returning program income. Grantees need to consider the affects of additional program income for compliance with the timeliness requirements to their annual CDBG program.

Will the program income generated, plus your line of credits CDBG funds exceed the 1.5 ratio? The guarantee needs to monitor and verify the amount of program income being generated, if any. If program income is being retained by the subrecipient, you need to verify the use of these funds and if the funds are being used for eligible CDBG-CV activities. You need to document the subrecipient is meeting all the CDBG-CV requirements. Additional information is available at the resource noted on this slide. Grantees with additional questions are encouraged to submit their questions to the CDBG-CV AAQ.

Now we will move onto monitoring your subrecipient on a risk assessment. As indicated earlier, monitoring is an affective management tool for ensuring that your subrecipients comply with all regulations that are in their administrative, financial, and programmatic operations and that they meet their performance objectives on time and within budget.

In accordance with CDBG regulations, grantees must monitor each subrecipient at least annually. Grantees should develop an evaluation system whereby grantee staff reviews the subrecipient's eligible activities and the National Objective for each activity the amount of CDBG-CV or fiscal year 2019 or 2020 CDBG funds used. The subrecipient's experience. Are they a new subrecipient or a seasoned subrecipient? And any possible past findings.

As previously discussed, you need to monitor for duplication of benefits. Due to the emergency nature of assistance being provided, obtaining a verifiable, self-certification form completed by the beneficiary is a quick and efficient method for documenting compliance.

However, you need to make sure the certification includes information on how the pandemic created their hardship, provides the full name, birthdate of everyone in the household, information on their annual income, includes a question relative to race and ethnicity and the signature of each adult member, plus a subrogation agreement indicating the applicant agrees to repay any assistance that is determined to be duplicate.

In essence, if the applicant has received financial assistance from another entity for the same purpose, exceeding their need, you have some recourse. When providing emergency rental assistance directly to the landlord on behalf of a tenant, collect a W-9 from the landlord, or enter into a landlord agreement. That way, at the end of the year you can provide the landlord with a 10-99 indicating the total amount of CDBG-CV funds provided.

A monitoring check list helps your monitoring staff examine the correct and necessary items for the subrecipient's activity they are reviewing, based on the subrecipient agreement. An affective monitoring checklist could include the activity summary, which describes the objectives, the grant amount, dates, and term, the status of the project, types of documentation required for review, applicable regulations, CARES Act, CDBG, CDBG-CV and cost cutting, action to monitoring staff will take to determine compliance and problems encountered.

You need to determine how often and when to conduct monitoring for each of your subrecipients. This decision may be based on your initial assessment of the subrecipient and if they are a new subrecipient or a subrecipient taking on new activities. To begin, the monitoring staff may initially conduct a desk review of the subrecipient's application, their agreement, progress reports, draw down requests and any previous monitoring reports to determine how the subrecipient is progressing.

Are they consistently late submitting progress reports or documentation requested? Is there math errors on their draw down request? All of which may determine to the monitoring staff that an onsite review should be conducted. Additional information guides can be found in the CPD monitoring handbook noted on the slide. Another good resource for new monitoring staff located on HUD Exchange is the updated managing CDBG a guidebook for grantees on subrecipient oversight.

Your subrecipient agreement needs to fully describe what the eligible CDBG-CV activities are, indicate the PPR Tieback for each activity, what the National Objective is for each activity, describe what documentation must be retained, and describe your monitoring requirements.

No agreement is perfect yet a good subrecipient agreement helps ensure that both you and your subrecipient are successful. Maximizing the impact of the CDBG-CV funds you've provided, ensuring you meet the three-year 80 percent expenditure requirement.

Before we move on to questions, for your reference, this slide indicates the various resources woven throughout the presentation that you can review and/or share with other staff. Now we'll take questions from the audience. Rob?

Rob Sconce: Thank you, Cherré. And we are very close to time. Let's see. One is there is a question if you, Cherré, could mention again some of the data resources you had on public health. I didn't track which slide number that was. But if you know, if you want to jump to that.

Cherré Palenius: Yes, I can do that.

Rob Sconce: Okay.

Cherré Palenius: Okay. So for review, the grant team needs to provide documentation of the emergency conditions presented. You can use the U.S. Health and Human Services Public Emergency Declaration, the Federal Disaster Declaration and/or your own local or state emergency declaration. Now the CDBG-CV Federal Register Notice provides acceptable ways to document the use of the urgent need National Objective.

Rob Sconce: Thank you. And here's a question about reporting requirements that are included in the agreement. Should those, essentially be the same as any other CDBG project or agreement or where might they be different?

Sara Daines: There aren't any real, there isn't any specific guidance included in the regulations regarding the frequency of, sort of the interim reports that you may require of your subrecipients. Most folks tie it to the disbursement of funds. So they submit a report. They receive funding and reimburse for their expenses. I think the key would be to, your risk analysis in terms of the capacity of your subrecipient to undertake the project in a timely and compliant manner.

Rob Sconce: And are the reporting requirements any different in terms of what you need to be collecting?

Sara Daines: I don't think so, Cherré?

Cherré Palenius: Yeah. The only difference I can tell is that you have the PPR Tieback and the duplication of benefits. But other than that, I would agree with you, Sara, that the reporting requirements are pretty much the same.

Rob Sconce: Great. Thanks. And Puping, is there anything else that grantee should be collecting that they need to report in IDIS that you'd like to mention?

Puping Huang: No, I think Sara and Cherré covered them all. It's, the majority of the stuff is the same as the CDBG and the additional requirement is PPR Tieback and duplicate benefit. The grantee needs to document those.

Rob Sconce: Okay. Thank you. We had a question about the provision of assets, the five-year rule. When does that clock start to tick?

Sara Daines: It starts to click, I believe it's at the five years following the performance period identified within the agreement that you have with the subrecipient. So a lot of places will establish fairly short period of compliance for their subrecipient and then the clock would kick in after that. Others establish time frames that are longer than the five-year requirement. It depends on the project and the community. But basically, it kicks in after the agreement has expired.

Rob Sconce: Great. Thank you. And this isn't related to the subrecipient agreement, but I know we had questions about this yesterday. I want to open up to HUD about the expenditure deadline. There's a question we heard may recapture. Is there any wiggle room there from HUD? I know the language says, "may be recaptured at the end of the third year. Did you want to speak to that, Gloria? Puping?

Puping Huang: You repeat the question again?

Rob Sconce: Yes, so the question really was, we heard funds may be recaptured at the end of the, after the expenditure deadline. Does that also mean that they may not be recaptured?

Puping Huang: Actually, I have not seen clear guidance on that. So we have not really gone that far yet, like decided what do we need to do. For now, it's six years is the expenditure deadline. I don't know what, after six years, if there's residual funds, whether it would be recaptured or allow extension if grantee apply for extension. Yeah, I have not heard any final decision on that yet.

Rob Sconce: Okay. And the 80 percent expenditure deadline?

Puping Huang: Go ahead Gloria.

Gloria Coates: I'm sorry. As far as we know, it's still going to happen. It may take, you know, it may take a little longer than that to actually recapture the funds, meaning that if they reach the three-year window and they don't have the percent expended, it may be some months after that date before the money probably is captured and returned to treasury. But like what Puping said, we don't have that in writing so we can't give that to people but that looks like that's probably the most likely scenario.

Rob Sconce: Great. Thank you. And I'm reminded of when I asked, when I was a grantee, and I asked the field office director, "What happens if I don't submit my QPR on September 30th?" He said, "Let's not find out. Let's see if we can not have that happen." So I think that if you are having trouble, please reach out to your field office and ask for, there is technical assistance available. So please reach out to your field office or submit a question and ask a question. We'll see if we can't get you some technical assistance, so we don't, you don't reach that point.

So with that, we are at time -- little bit over. We started a little bit late as people rolled in, so it gave us a couple more minutes here. So but thank you everyone. Thank you, Sara, and Cherré. Thanks John and the team at ICF for hosting and special thanks to our guests from HUD Gloria Coats and Puping Huang.

Please again take advantage of the many resources on HUD Exchange. The slide deck transcript and recording will be available on the HUD Exchange in about two to three weeks once we get it all compliant and approved. If your question was not answered today, again, please use HUD Exchange, ask a question for CDBG-CV grantees.

Thank you for joining us today. Have a good afternoon and this concludes today's webinar.

Sara Daines: Thank you, everyone.