NDRC: Approach to Scheduling Phase 2 Projects
Webinar Transcript
Thursday, August 20, 2015
3:00 – 4:30pm

Patrick: …of Community Planning and Development at HUD, and we are going to go ahead and turn the presentation over to today's panelists.

Duncan: Okay. Welcome, everybody. This is Duncan Yetman. I'm in the Office of Community Planning and Development within HUD here, also Block Grant Assistance. I'm trying to advance our slides here, having a bit of a problem. Okay. There we go. Okay. We're good. All right. So, today's National Disaster Resilience Competition Webinar is on Approach to Scheduling Phase 2 Projects. The presenters today are myself, Duncan Yetman and Jessie Handforth Kome, Deputy Director in the Office of Block Grant Assistance. Jessie is going to be joining the webinar a little bit late. She will likely be here for the Q&A session. So, myself and the remainder of the NDRC team will be leading you through today's webinars and questions until Jessie's arrival. I'm joined here in the room by Jorge Morales, also a CPD Specialist in the Office of Block Grant Assistance here at HUD, and Joey Biaetti, a recent appointee in the Office of Economic Resilience.

So, for today's agenda, we're going to give you the overview of the competition with an emphasis on scheduling. We'll take you through basically two aspects from the NOFA itself, with regard to scheduling: the timely expenditure requirements and your actual program schedule that you're including in your Factor 3, Soundness of Approach response. And then we'll cover questions that you may have at the end of the webinar. As always, we want to insert at this point the caveat that if any part of today's presentation does not complete conform to the NOFA, the NOFA governs. So, we remind you to please read the NOFA carefully.

Okay. As we know, the National Disaster Resilience Competition is making $1 billion available to communities that have been affected by disasters in the 2011 to 2013 timeframe. And the source of the funding was the Sandy appropriation enacted in 2013. As part of that legislation, Congress inserted a stipulation that HUD needed to obligate all of these funds on or before September 30, 2017. And, additionally, as part of that, they stipulated that all funds needed to be expended by grantees within two years of the date that HUD obligates the funds. So, here's just kind of a brief timeframe and this slide is really kind of taken from one of our recent FAQs that are part of the new set of FAQs on the NDRC HUD Exchange page, wherein we talked about the absolute, positively absolute end date for which you need to complete expenditures. Any funds remaining after September 30, 2022, will be swept by the Treasury and will no longer be available to HUD or to grantees.

So, this excerpt from Section IV. E. 2. of the NOFA pretty much lays it out fairly clear for you as to our requirements. It is, of course, dependent upon whether a waiver has been requested and has been granted prior to the expiration of the two-year period. But, it is, for all intents and purposes, a fairly hard and fast rule otherwise.

Now that we've gone over the timely expenditure requirement, we wanted to get into your program schedule. First of all, we want to note that program schedule is a required element of your response in Phase 2. Any applicant who submits a Phase 2 proposal without a program schedule will not receive a Phase 2 award. So, this is a threshold requirement. Within a proposed project, you may include one or more integrally-related CDBG-NDR activities. So, for example, your project, a project described as a voluntary buy-outs program, for instance, may include relocation services, relocation payments, acquisition of real property, demolition of real property, planning and disposition activities. If the activities can be completed by the same entity at essentially the same time, they may be grouped in the schedule. If the activities must or will be carried out sequentially or by different entities, the schedule may break them out. The program schedule, again, we want to emphasize, is based on 24 months from the obligation of funds, or the timeframe set forth in your waiver request. The schedule must be detailed and feasible, and include all CDBG-NDR activities within your proposed project or program. Include general administration and planning activities as well, and the expected level of environmental and permitting process review, essentially any governmental land use review, with their associated timelines - that must be included.

We're next going to get into another factor, or element, of the Soundness of Approach Factor in your response that's a part of your scheduling: scaling, scoping and phasing. Again, this is a required part of your proposal. You can provide priorities. HUD will consider them, but we may not choose to follow them in making our final award decisions. The next couple of slides, we're going to go over the definitions of what we mean by scaling, scoping, and phasing, and provide you some examples.

By scaling, we're talking about adjusting the size of your application proportionally, typically due to a reduction in funding. So, for instance, what this may mean is if your funding request for a housing project were cut by 20%, you would produce 20% fewer houses, on a very simplistic level. You may want to—other examples that we provided here, reducing, showing us how you may have your request for 750 housing units, and how you would scale that down to gradually, or incrementally to 250 units, based upon funding reductions. The thing to keep in mind here, especially with regard to housing units or even infrastructure improvements, the resulting reduction could be directly tied to the funding reduction on a pro rata basis, or not. That depends on economies of scale in housing production, infrastructure installation, etc. HUD is basically relying on you, the applicant, to provide the rationale for your scaling proposal, and these will be considered in scoring your program schedule.

With regard to scoping, what we're talking about here is adjusting the size, but again, not necessarily proportionally as you would do in terms of scaling. So, you may have a version of your proposal that is a premium version, your total request. And then there may be a base version, something less than the premium version. The example given here, pretty straightforward in terms of the differences that may be contained between the 90 million version and the $45 million version. What we want to be sure of is that, if there are particular elements that grantees want or feel must be included as part of a reduced proposal, that they need to make that clear. Don't leave it for us to assume that if your funding request is reduced, that naturally only we would know automatically in this instance which three elements of this project would be carried out. You do need to make it clear to us and you do need to tell us what you think those are.

Finally, we want to get into phasing a little bit. Phasing really is adjusting your proposal size sequentially. So, the typical example, the most frequent example we see of this is implementing flood buyouts, where you would do the buyouts and the demolition, and at some later date the property reuse would occur. You wouldn't have, that would be a subsequent phase for that particular parcel. A good example of phasing from Rebuild by Design is what we've referred to as the Big U in New York City. The Big U is essentially a big seawall, "seawall", because the seawall, it's a big seawall around lower Manhattan, which is being built in phases. And, this is one of those things where this seawall is a number of different things. It's parks, it's in some places, it is actual wall, but it's swales, it's different type of land uses that are able to address any potential storm surge. But, that project is being built in phases and HUD is now moving forward on one aspect of that right now. So, again, with regard to phasing, Jessie has just joined us here and she's leaping over wires [laughter] and she'll be coming on in a minute here. But, so with regard to phasing, this may be combined with both scaling and scoping. The more specificity on alternate possibilities for funding later phases, the better, and your program schedule and your budget may together reflect phases, too, as well. Anything else you want to add to that, Jessie? No, okay.

Okay. So, we've gone through the explanation of scaling, scoping and phasing. Now, we're going to get into making that waiver request. We talked a little bit briefly about infrastructure projects and we know that in many instances an infrastructure project, especially one of great complexity is going to take longer than two years to implement. So, the NOFA provides an Appendix E, a number of categories for waiver requests. Our discussion today is going to focus on expenditure deadline waivers.

So, the expenditure deadline waiver is submitted with an application that shows in your program schedule a time for completion that exceeds 24 months. You trigger the requirement for a waiver submission if your program schedule exceeds 24 months. OMB has granted HUD the authority to grant waivers in limited circumstances to meet this requirement, for you to meet your expenditure requirements. Your expenditure deadline waiver, it must justify the need for the extension, detail the compelling legal, policy, and operational challenges necessitating the waiver, and identify the dates when the funds covered by the waiver will be expended. Now, in addition, you need to also have, show us how the project is going to proceed in a timely manner. We understand that these projects do take more than 24 months to complete, but you need to show us how all aspects within that timeframe of completion, however long you're extending it out, there can't be any gaps, for instance, in your program schedule. We need to see how you're moving forward in prosecuting the project.

In addition to the expenditure deadline waiver, there is also contained with Appendix A, another tool available to you in terms of program scheduling.

Jessie: You want me to tackle this one, Duncan?

Duncan: Sure.

Jessie: There's a little play in the schedule for when we obligate the funds to you. When HUD obligates funds to a grantee, that's what happens at the point when we sign the grant agreement. And, if you look at Appendix A, you're going to have 60 days from the point at which we sign the grant agreement to, I think, that's the point to make your first draw. But, that doesn't say that your first draw has to be $10 million. Your first draw can be for $1,000, and it's really a test to make we're all, you've got all the paperwork done, we're all hooked up and you can draw as you need to. You can ask us to obligate to you an initial amount of say 5% of your grant award, while you get organized and get moving. And, so you can start the two-year clock for your funds, or whatever the date you have if you get a waiver, you can start that date as late as September, 2017. You need to let us know so we can all plan for that. But, September 30, 2017, any funds that are not legally obligated by HUD are going to lapse and no longer be available for use. But, we'll be announcing early in 2016, so that leaves some months there where, so if your schedule for your application is two and a half years, you might want to think about whether you need a waiver or not.

Duncan: Okay. So, as we conclude, we want to point you to the other NDRC resources that we have available, the fact sheet, the resources related to resilience. The webinar series front page that you see there at the bottom of your screen, definitely keep going back to that and checking that as we are posting webinar materials from previously aired webinars regularly to that page. So, we invite you to check that often.

Jessie: There's a question in the queue about the partnership agreements which have two years written into them. It's basically "If you submit an expenditure deadline request with your application, can you change that two-year line in a partnership agreement?" And, I believe that the answer is yes, you can say two years or whatever expenditure extension deadline is granted or something like that. But, you also need to remember when you're building your scopes of work that in some cases the end of expending the funds and the actually meeting a national objective will not line up. And, we have a FAQ out on that that acknowledges that, and so you may also want to add to your partnership agreement, you want to, you need to make sure that however you scope it out I mean, and that's the guidance we gave, that you cover all program activities and the compliance requirement. But, yeah, I mean, if you ask for an extension, you would have two years plus whatever extended period, and it's okay to adjust the partnership agreement for that.

Duncan: Okay. Okay. And, here's the next question. "If scoping changes result in entirely removing certain portions of the project, will a new cost/benefit analysis be required?"

Jessie: My, I can't completely predict what the leadership is going to do. But, if you have done a BCA that shows each component, you know, of possible components faithfully, then, so you will already have represented it in the BCA and we won't need a new one. If scaling or scoping raises a question about whether your project can pass BCA, like it increases some uncertainty, we'd have to talk about it. The reason I'm really having [*indecipherable*], because it raises the question of if you amend later, past award, if a project falls through, which it's not going to do, right. None of you are going to have projects that fall through. But, in a hypothetical world, then if you had to amend that drastically and you triggered the amendment, then we would require a new BCA, because that's going to be part of the way Appendix A works. But, there's that never-never land between when we make an award and you will have the award, and any changes we trigger, it's going to be up to us. We might put a grant condition on it and require an update of the BCA, because of a risk inherent in some uncertainty that we've made things more uncertain. But, we might not if in our judgment the project was still worth doing, because that's all you have to pass, ultimately, is that the benefits in our judgment are worth the cost.

Duncan: Okay. The question then is scaling, "How will the applicant know what amounts to scale to?"

Jessie: You're designing a project. I can't tell you that. You're designing the project. You're going to have to figure out if your project has scaling possibilities and whether it still has benefits at lower scales, or if it's worth it at higher scale. I mean, you're going to have to figure that out. Part of competing is figuring that out.

Duncan: Okay. Next question, "If we don't initially request an expenditure deadline waiver with our application, but the project might need one after funds are awarded, can we request a waiver at that point?"

Jessie: Yes, but you have to submit an expenditure deadline waiver if your schedule that you have to submit as part of your application shows that you're going to longer than two years. So, if you're asking to submit one later, it's because something went wrong. Or, potentially, you earned a lot of program income and something went really, really, really ridiculously right. You got a repayment earlier than you anticipated. But, either way, the answer is yes, but I'm not seeing a whole of cases in which that should happen. Ideally, you're going to know if your schedule is going to be longer than two years, which most infrastructure projects probably are, then you must ask for a waiver. If your schedule is shorter than two years, you don't have to ask for a waiver at the time of application. Got any more questions?

Duncan: I do not see any more questions at this point.

Patrick: Duncan, this is Patrick Taylor. I've got one question that came in the chat window and I'll just read it off to you if that's okay. I can't paste it into the Q&A.

Duncan: Okay.

Patrick: The question is from Dave Noble, and it is, "If you phase a project similar to the New York City example, how do you relate that to the benefit/cost calculations? Is it all benefits from the completed project, or partial benefits?"

Jessie: We said that each phase or chunk or scope or whatever has to be independently calculated in the benefit/cost. So, the NOFA gives that direction in Appendix H. You can't try to tell us what the whole project benefits will be and then only propose to do a small part and not give us the benefit/cost for that part that you actually want funded. And, just for what it's worth, you don't need read the name of whoever submits the question. We've been really good about doing anonymous questions, Qs&As.

Patrick: There's a follow-up for clarification on this, and it's, "The problem is that half a flood wall has few benefits."

Jessie: [laughter] I agree. So, what the NOFA says to do is figure out what scaling and scoping is possible, and a reasonable person test, essentially, in your proposal. If it really won't scale or scope, it's risky, but pitch it. Tell us. Make your best case. But, a lot of infrastructure projects, a lot of projects, period, can be certainly scoped differently, if they can't be scaled differently. And, a lot of major infrastructure projects have phases. The other answer is you might want to be talking to us about your leverage and your long-term commitment and other things that you're doing. Remember, the long-term commitment is part of your proposal, and if you're doing a BCA, the long-term commitment is part of the BCA. We did already put a thumb on the scale. But, yes, I mean, a partial flood wall is going to protect less of an area than a full flood wall, particularly the Big U.

Duncan: Okay. We have another question, "Can you elaborate what the fifth paragraph of Factor 5 on page 48 of the NOFA is asking?"

Jessie: Oh, boy, I love that.

Duncan: Individual [laughter] individual project or activity goals or outputs are not responsive to this factor. Page 48.

Jessie: Oh, yeah, I can definitely go for this one. Okay. So, if you're telling us that you're going to build a project and it will have these benefits, building the project is not a long-term commitment. A long-term commitment is you're going to change a law, you're going to do something we're not paying for to make yourself more resilient in a long-term way. It is not related to the project that we're funding. It is deliberately not the same as the project we're funding. We're asking you to put, not necessarily money in the game, although it is possible to have a long-term financing mechanism that gets you a long-term commitment. But, we're asking you to demonstrate that you're really serious. Your community, or if you're a state, your grant recipient community is really serious about resilience. So, we had a few people who tried in Phase 1 to tell us that they would measure things in Phase 2 and the project effects and that would be their long-term commitment, and that is not it. That is not the same thing - we're measuring those things anyway. We're looking for those outcomes anyway. We want to know in addition to that, what are you going to do to be resilient? Are you going to align your plans, are you going to pass better building codes, better laws, are you going to design a financing mechanism that is permanent or semi-permanent that will be like the Charlotte example and buy homes out of flood plains for decades to come? Are you, what are you going to do that's a long-term commitment that we're not paying for?

Duncan: Okay.

Jessie: We added that to make it triply clear, but it's what we always meant.

Duncan: Okay. Any other questions? We're not seeing any more here. We are available for the full time for the webinar, so if you have any questions, please go ahead and submit those.

Jessie: We love questions. And, we're also available at resilientrecovery@hud.gov if you don't want to ask them in front of God and everyone. And, it's been interesting. People have been asking good questions. I don't know, for those of you who are on, we did publish FAQs on Friday, and then, I guess, either yesterday morning or this morning, immediately had to correct the one about land, and a couple of you chided me in the Resilient Recovery mailbox about that. But, we're trying to get to your questions as quickly as we can. They're harder this time around, so, and we're going to try to keep being available for you and to walk with you all the way, right up to the application deadline just the same way we did with Phase 1.

The Rockefeller Foundation wanted me to mention that they are planning some additional technical assistance, and they sent me a note right before this. Let me see if I can find and read it to you. So, Theresa Cassano] sent a message saying that they don't have the details of their webinar finalized, but they are going to be working on hosting, the Rockefeller program team is going to host a webinar to discuss how to design a CDBG-DR eligible program within the guidelines and timing requirements of the NOFA. And, they're going to be sending notes to the applicant teams' emails with the date sometime next week, of their material. And, we will make sure that we don't have our webinars overlapping theirs. We don't want to overburden you with webinars.

So, do we have any other questions?

Duncan: I'm not seeing any here. We can also take verbal questions if someone wants to raise their hand by clicking on the hand icon, or if it's too complicated to get into 256 characters, we can also answer it verbally, if necessary.

Jessie: Okay. It's looking like we're not getting more questions.

Duncan: No.

Jessie: So, we'll give you back your time.

Duncan: Yep. And, we'll just give you a reminder then, closing out here by reminding you that our next webinar is scheduled for next Thursday. Again, we won't, we'll avoid any potential scheduling conflicts with Rockefeller. But, for now, it is scheduled for next Thursday at 3:00 p.m. We'll be reviewing resources available to applicants, specifically focusing on the NDRC HUD Exchange page. So, that's it for this afternoon. We look forward to talking to you next week. As always, send your questions in to resilientrecovery@hud.gov. Thanks.

Jessie: Thank you all.

Duncan: Bye-bye.

[Background discussion]

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