



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: QUESTIONS REGARDING
COMMUNITY DEVELOPMENT
BLOCK GRANT (CDBG) FUNDS

DATE: January 9, 2012

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL MEMO

This is a clarification of the information memo that was distributed on January 6, 2012, related to item 4.2 on the Council agenda for the January 10, 2012 meeting.

ANALYSIS

On January 6, 2012, the Director of Housing distributed the attached Informational memo answering several questions that have arisen in connection with the recommendations for CDBG Funding for FY 2012-13. Question 5 deals with the recommendation that CDBG funds be used to pay debt service on outstanding HUD 108 Loans that the Redevelopment Agency is obligated to fund.

The decision to use CDBG revenues to make this debt service payment was made through the City and Agency Budget Process last year for FY 2011-12, in light of restricted Agency revenues. However, the HUD Loans remain an Enforceable Obligation of the Redevelopment Agency and redevelopment funds can be used to make the payment if the Council and the Agency Board wish to make that policy decision. Using tax increment to pay debt service on the HUD Loans however would likely impact the General Fund, in that the City would probably have to pay a correspondingly higher amount of debt service on the Convention Center and/or 4th Street Garage Bonds.

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It should also be noted that although HUD has indicated that it wishes to convert the loans to a fixed interest rate next year, it is not clear under the loan documents that it can require the Agency to do so.

RICHARD DOYLE
City Attorney

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Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: QUESTIONS REGARDING
COMMUNITY DEVELOPMENT
BLOCK GRANT (CDBG) FUNDS

DATE: January 6, 2012

Approved

Date

1-6-12

INFORMATION ONLY

On January 10, 2012, the City Council is scheduled to consider the Housing Department's recommendations for expenditure priorities for CDBG funds set forth in its December 15, 2011 memorandum.

This issue has generated a number of questions which the Department would like to answer prior to the January 10th Council meeting. Those questions and the Department's responses are included as an attachment to this memorandum.

/s/

LESLYE CORSIGLIA
Director of Housing

Attachment

For questions, please contact Leslye Corsiglia, Director of Housing, at 408-535-3851

**QUESTIONS REGARDING
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS**

1. Why is it important that we take action now?

In a typical year, the City begins the CDBG process in the Fall, culminating in final decisions in April. This timeframe enables the City to meet the HUD deadline of May 15th for submittal of the Consolidated Plan, which includes recommendations for HUD Community Development funding. Due to the direction received for CDBG funding this year, which requested a change in prioritization of funding, this timeframe has been delayed. While we first intended to bring this forward to the Council in December, based on feedback received at a December 1st Housing and Community Development Commission meeting, it was decided to amend the recommendations. To give time to make these revisions, the Council date was moved to the first meeting in January, or January 10th.

While the May 15th date remains firm, the steps that need to be taken prior to that date have been compressed. At this time, in order to issue RFPs anticipated as a result of these recommendations, we are already constrained as far as time for release of the RFPs, timeframe for nonprofit responses, and review and recommendation of awards. The HUD-required Citizen Participation Plan requires public hearings and review periods prior to the May 15th deadline. Were the Council to decide to delay action, we would be required to reduce the timeframe for RFP submittal and review. We are unable to change the HUD required deadlines.

2. Could the Council opt to delay a decision on whether to pay the HUD Section 108 debt until it has more information about the Redevelopment Agency's finances given the recent Supreme Court decision?

Yes, the Council could opt to delay making a decision on how the Section 108 debt service is to be funded should more information and analysis on this issue be desirable.

3. Is the City required to set aside 15% of its revenues for public services? Alternatively, can more than 15% of the funds be allocated for these services?

Federal regulations governing the CDBG program provide that a maximum of 15% of the City's annual entitlement plus the prior year's program income (but excluding any carryover funds from prior years) can be devoted to public services. A City can decide to fund less than 15% for services, but does not have the option to fund more than 15% for these purposes.

4. Do public service funds have to go to nonprofit agencies, or can the City use these funds for City services or City priorities and projects?

There are no federal requirements that the funds go to nonprofit agencies. Many cities choose to use all of their CDBG allocation to fund City staff and City projects.

5. Why is it recommended that Section 108 debt service be paid for using CDBG funds? Is there another possible source? Can this loan be deferred, or can the payments be reduced?

The Redevelopment Agency entered into three agreements with the U.S. Department of Housing and Urban Development through the Section 108 program to fund important redevelopment projects. The annual debt service on these loans is variable, but for FY 2012-13, the amount is approximately \$1.96 million. This amount represents the amortized debt service payment for the year after loan payments are accounted for (total debt service exceeds \$2.3 million). Due to the Agency's financial situation, there are not funds available to make this payment. The CDBG fund is the backstop for HUD Section 108 payments. If the Council were to decide not to use the CDBG funds for this purpose, the only other fund that we could identify to make this payment would be the General Fund. Given the constraints on the General Fund, staff is not recommending this option.

As for the potential to defer or reduce the amount of the annual payment, this is unlikely. HUD has indicated the desire to convert the loans to fixed rate financings rather than the current variable rate structure within the next year. This is not expected to result in a decrease in the annual payment.

6. Can additional funding for public services, including senior services, be increased by eliminating or reducing funding for Section 108 debt service?

No. If the City Council were to recommend another source for payment of the Section 108 debt service, this would not result in more funding for any public services, including services for seniors. As mentioned earlier, the maximum amount of money that can be allocated to public services is 15% of the annual allocation plus program income. The Administration is recommending the maximum amount of funding for public service activities.

7. Why is staff recommending larger grant amounts? Isn't it better to fund a larger number of CDBG grants for public services at smaller dollar amounts thereby funding a broader array of services?

HUD allows 20% of the annual allocation (plus program income) to be used for administration, fair housing, and planning activities. Due to the reduction in CDBG funding the past two years, the amount available for these activities has been reduced from \$2,319,223 to \$1,688,793. The Administration's proposal would fund the full \$385,000 in fair housing funding out of this allocation, though in the past part of this funding has come from the 15% public service allocation. This was done to maximize the funding available for nonprofit agencies under the public service allocation, but results in a further reduction in funding for program administration. This has resulted in a drop in funding for City staff to manage the program of \$865,430, from \$2,169,223 to \$1,303,793. The City will need to reduce its staffing to accommodate this funding reduction.

Administration of federal programs is time consuming and complex. The only way that this level of administrative funding, and therefore the reduced staffing level, is workable is by reducing the number of grants administered. Should the City Council desire to reduce the grant

size from the recommended amounts to a smaller number—such as \$50,000—there would need to be an increase in staffing. This would result in fewer dollars available for services. As explained above, due to HUD limitations on the percentage of funds that can be allocated to administration and public services, we estimate that this would result in approximately \$120,000 less in funding available for direct services to San Jose residents.

8. Could the administration of the CDBG program be made more efficient, thereby freeing up additional funding for services?

As noted above, the program has incurred significant administrative reductions, and is recommending more in an effort to ensure that more funds go to services. This is being accomplished through efficiencies and changes in program administration and overhead. It is not reasonable or responsible to expect further reductions. The City needs to ensure it has the staffing available to manage the program in accordance with HUD requirements. If it has insufficient staff resources, the General Fund will be put at risk.

9. Why is it important to fund foreclosure assistance?

The foreclosure crisis shows no signs of abating. As of mid-December 2011, approximately 54,500 foreclosures had been reported since 2008 and there were an additional 8,900 active foreclosure filings pending. In the worst-hit neighborhoods, up to 16% of the owner-occupied units have been affected. Each foreclosure involves a family losing their home with resulting impacts on its emotional, mental, and physical health. It also leads to negative impacts on the neighborhood. Until recently, the City operated the ForeclosureHelp Center, which provided City residents facing foreclosure with information, counseling, and assistance in successfully modifying their loans. Due to budget constraints, funding for this Center is no longer available. The City has no other funding that it has allocated to this critical problem.

Also, there are only 11 HUD-certified foreclosure counselors Countywide who can intervene with lenders on the borrower's behalf. Cuts in HUD funding for such counselors have been announced. The Department's recommended foreclosure assistance funding will provide a one-stop, multi-service delivery system that streamline and improve the efficiency of the community's response to this continuing crisis. The recommended funding will provide money to nonprofits to help individuals remain in their homes, address the needs of tenants who often have no where to turn and help to decrease the number of scams, with the ultimate result of neighborhood stability. Foreclosure partners have indicated a willingness to work together to provide these services in a collaboration similar to the Fair Housing Collaborative.

10. The December 15th memorandum to the City Council is contradictory regarding the recommended amount of funding for senior services. What is the correct number?

The \$200,000 in the Recommendation section of the report is the correct number.

11. The December 15th memorandum to the City Council is contradictory regarding the recommended eligibility of assistance to victims of domestic violence. What is the Administration's intent in this regard?

In preparing the December 15th report, the Department inadvertently included services to victims of domestic violence in the list of programs and services that are not proposed for funding. The Department's intent is that domestic violence services would be eligible for CDBG and/or ESG funding next fiscal year.

12. What are eligible activities under the CDI category?

CDI funds can be used for the following activities: (1) Housing Activities—such as downpayment assistance, housing rehabilitation and repair, security deposits, and energy efficient improvements; (2) community/nonprofit facilities – such as senior centers, homeless facilities, youth centers, and community gardens; (3) Other real property activities—acquisition and rehabilitation of commercial or industrial buildings (but not Government buildings); (4) Public facilities improvements—construction or reconstruction public improvements such as streets, sidewalks, parks, water/sewer improvements, and tree plantings (but not for maintenance activities); (5) Economic development-- microenterprise assistance, commercial rehabilitation, and business equipment purchase, and (6) Individual Development Accounts (IDAs).

13. Can funding for micro-enterprise development or other economic development activities be restored?

To the extent that additional CDBG resources can be identified, the Department would recommend that economic development activities – including the Smart Start Centers, administered by the Library Department, and microenterprise activities – be funded. At this point, there are not additional resources for this purpose, and if they were to be funded, other recommended CDI activities would be curtailed or reduced.

14. What neighborhoods are eligible for CDBG funding?

Public service dollars can be spent Citywide, as long as the recipients of the services meet the income requirements of the CDBG Program. CDI funds must be spent in areas of the City that meet income requirements, where 51% of the beneficiaries are lower and moderate income. Attached is a map of CDBG eligible areas.

15. Are all of the funds being targeted to the three place-based strategy neighborhoods? Are there services that will be provided Citywide?

Only some of the funds are being recommended for the place based strategy neighborhoods. The following chart shows the funds that will be available Citywide versus in the three targeted neighborhoods:

<u>Citywide Programs/Projects</u>	
Housing Rehabilitation Program	\$2,125,000
Housing Minor Repair Program	\$400,000
Homelessness	\$467,000
Fair Housing	\$385,000
Senior Services	\$200,000
Foreclosure Response	\$300,000
TOTAL	\$3,877,000

Targeted to Place-Based Strategy Neighborhoods

Community Development Improvements	\$1,504,000
Blight Eradication	\$1,300,000
Public Services	\$300,000
Neighborhood Clean-Up	\$200,000
TOTAL	\$3,304,000

Additionally, 100% of Emergency Solutions Grant (ESG) funding will be devoted to City-wide programs to end homelessness.

16. How were the three neighborhoods and agencies selected for the place-based strategy? How long will each neighborhood receive funding? When will other neighborhoods be considered?

Based on over a decade of work with Strong Neighborhoods, including the recent City Council Approved Strong Neighborhoods Business Plan Update and knowledge obtained through the administration of the Neighborhood Development Center, City staff reviewed neighborhoods for three criteria; need, opportunity, and partnerships. Need was well documented though blight findings, census data, and data analysis conducted as part of the Business Plan Update. The criteria of opportunity looked specifically at neighborhoods that were improving and near a positive tipping point and had the potential to make significant sustainable improvements; this narrows the list of neighborhoods considerably. Finally staff looked at those neighborhoods that met the first two criteria and had existing strong nonprofit partners who were primarily focused on place based neighborhood development. From this quantitative and qualitative analysis, the Administration's professional judgment is that Mayfair/Somos Mayfair, 5 Wounds/CommUniverCity, and the Santee/Franklin McKinley Children's Initiative are the best fit with all three criteria.

17. Will the place-based funding be used to fund the services currently provided by the Strong Neighborhoods program? Will the place-based funding go directly to the three neighborhood groups?

No. The intent is not to bring back City staff or recreate the Strong Neighborhoods program, but rather to build on the decade of work that has been made possible by dedicated neighborhood leaders. Two years ago, the Redevelopment Agency Budget for Strong Neighborhoods was \$40 Million for capital projects with more than 40 assigned staff. Today there is no Redevelopment funding and the City-wide neighborhood team has just four full-time positions. The CDBG funding proposed would go to support nonprofits already working in these communities, and capital projects that have already been identified by neighbors as priorities. No additional City staff positions are being added. And, the four staff who remain would continue to work with neighborhoods, including those that may become future CDBG place based-neighborhood candidates.

The recommendation is open as to whether the funds would be awarded to any of the three neighborhood groups. The idea is to fund activities that the neighborhood thinks are most important. If they select a service that is provided by a nonprofit partner, we would then do an RFP to competitively select providers. If they instead select an activity such as a neighborhood

coordinator, we would contract directly with the neighborhood group. We plan to work with the communities to obtain input prior to decisions being made.

18. How long will these communities receive CDBG funding? What is envisioned? When can new neighborhoods be considered?

CDBG funds are not intended to be used in neighborhoods for long periods of time. Rather, neighborhoods can be assisted on an "Interim Funding" basis, usually defined as two to five years. The proposal would be to provide funding to these neighborhoods for the period of time needed to get them to the point of independence. At that point, neighborhoods that have taken the steps to organize and become ready can become new place based neighborhoods.

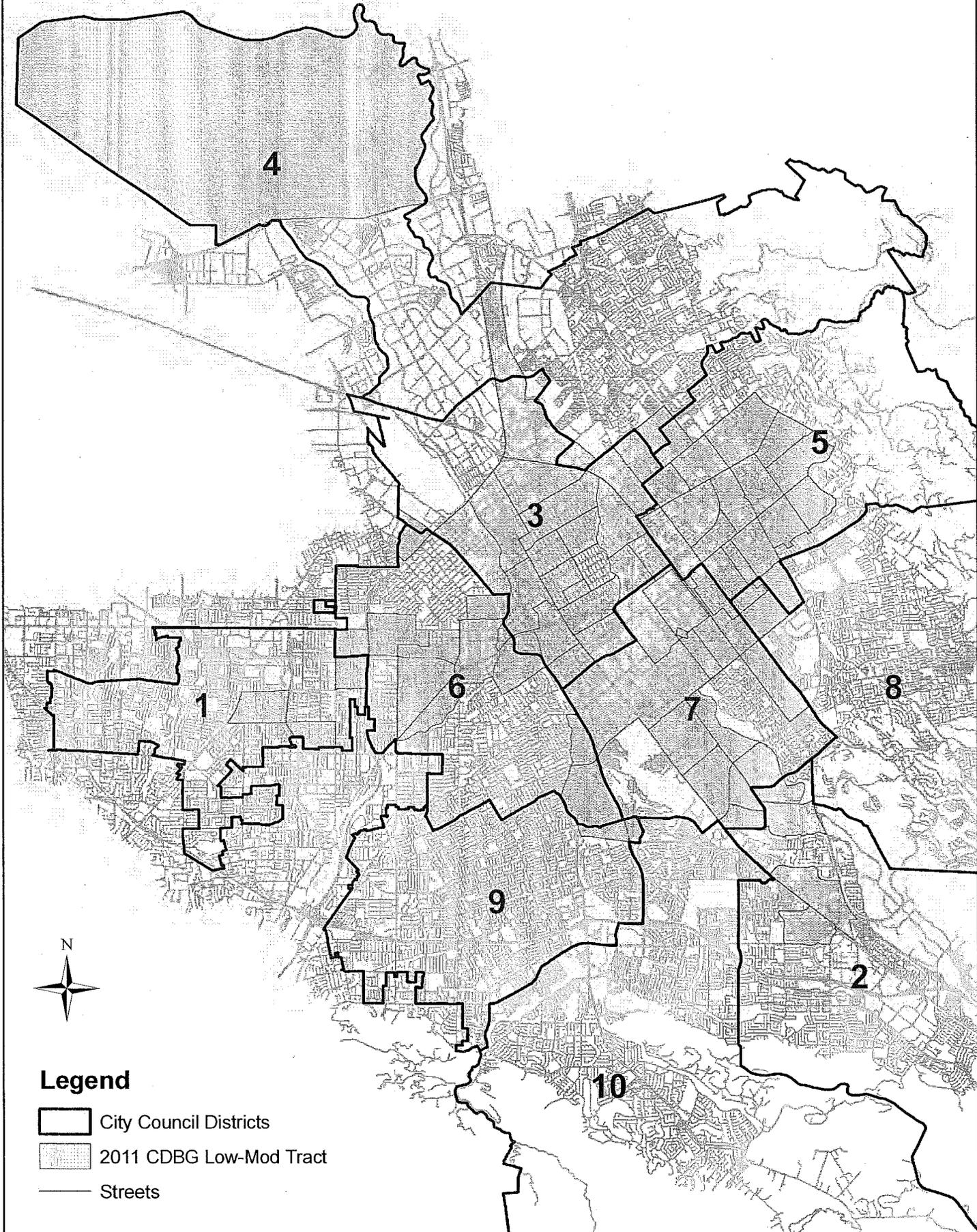
19. Will the \$300,000 recommended for public services in the three neighborhoods be awarded through a Request for Proposals (RFP) or sole source process?

The intent of the \$300,000 set aside for these three neighborhoods is to allow each neighborhood to determine priorities and how they might best use these dollars, with each neighborhood being allocated \$100,000. Staff has been meeting with the three neighborhood groups to discuss their needs, and will be identifying, with their help, how to direct these dollars. The goal is to arrive at an allocation strategy that supports community priorities, allows for meaningful community participation, and allows for sharing of lessons between the three neighborhoods. Depending on their input, we would either determine the need to issue an RFP or to sole source the activity. HUD does not require that the Department issue an RFP. It is expected that the collaborative group comprised of the three neighborhoods will develop recommendations by the end of February.

20. How are the communities in the three neighborhoods being engaged?

All three communities have been deeply engaged in the development of the Neighborhood Improvement Plans and were a part of the Strong Neighborhoods Business Plan Update that informs this CDBG Strategy. As it relates to the proposed CDBG funding strategy, City staff has engaged these neighborhoods through the three partner organizations-- Somos Mayfair, CommUniverCity, and the Franklin McKinley Children's Initiative. Once the City Council approves the proposed funding strategy then City staff and the partner organizations will work in collaboration with each of the communities as the funding strategy is put into place. Additional outreach has not taken place pending this determination to manage both staff time and community expectations.

San Jose CDBG Eligible Census Tracts



Legend

-  City Council Districts
-  2011 CDBG Low-Mod Tract
-  Streets