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## MEMORANDUM

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**TO:** Governing Body, City of Cheyenne  
**FROM:** Renee Smith, Grants Manager  
**DATE:** JANUARY 4, 2023  
**SUBJECT:** RESOLUTION TO DECLINE HUD CDBG ENTITLEMENT CITY STATUS

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Before you is a resolution authorizing the Mayor to decline the Community Development Block Grant Entitlement Program funds beginning with the Housing and Urban Development program year 2024 which is the City's fiscal year 2025. Due to the impact that this will have on the City and program participants, I would like to provide a more detailed explanation of what led to this request.

Before I begin, I would like to read comments from the City of Casper and Douglas County Colorado who both declined their CDBG Entitlement status within the last few years. The Casper Community Development Director said, "the time requirements for City staff to complete the onerous requirements to qualify projects and the increasing quantity of HUD reporting requirements are not balanced with the results that are realized by the City's low income citizens. She also used the terms infeasible and impractical. "The reporting requirements and attempts to satisfy the Denver HUD Staff have become exhaustive and City Staff efforts can be utilized in a more efficient and productive manner to connect Casper's citizens with local resources, and to pursue other sources of funding to benefit our low income population."

The Board of County Supervisors representing Douglas County Colorado were concerned with HUD's 'reinterpreting and changing the intent of the Fair Housing Act'. One member said, "We heard from and worked with members of our community concerning the potential impact of receiving these federal dollars from HUD and we share their concerns. My principal concern moving forward is with the assertiveness of the present rule and the potential that it can prevent us from being compliant with the Fair Housing Act regardless of our desired intent." The terms they used for the growing number of rules attached to CDBG funding were unreasonable, unachievable, and ill conceived.

Over time, the City of Cheyenne has managed the HOME, Hand, and CDBG HUD programs to help homeowners with repairs, lead paint remediation, and creating affordable housing for low income households. When a homeowner applied for these HOME or HAND dollars, the City of Cheyenne

Housing and Community Development Office placed a mortgage on their home and as of six months ago, we maintained 30 mortgages for a balance of over \$870,000, dating as far back as 1997 and some of which don't expire until 2042; four of the homeowners have been deceased and several more have been in foreclosure for many years. We are in the process of re-evaluating the HUD requirements and have begun releasing any eligible mortgages as the debt will never be collected on many of them and these obligations put the city at further risk. All nonprofit acquisitions funded with CDBG dollars have had mortgages on their properties, such as My Front Door, Habitat for Humanity, Family Promise, and Safe Harbor. We are releasing these mortgages and amending contracts to comply with HUD's affordability requirements.

In the last two years, we have had to use City funds to reimburse HUD on three occasions for a determination of ineligible services, a cancelled activity, and over expending approved program administration dollars. While these were not high dollar amounts, the potential risk is very high. For example, an organization was awarded \$589,000 in both CDBG COVID and FY2020 grant funds to replace their HVAC system. Due to supply chain and contractor issues, an extension was approved until December 31, 2022. We have been unable to pay the contractor invoices due to their incorrect wage calculations to comply with federal Davis-Bacon guidelines. Should this activity be deemed ineligible by HUD, the entirety of these funds would need to be reimbursed from the City's general fund.

Currently, we are managing FY2020, 2021, and 2022 funds as well as FY2020 CDBG Covid funds that will most likely have to be returned to HUD if we can't spend them by the deadline. In order to spend unused funds, we have to reopen an application cycle, public comment periods, project evaluation, and award notifications which could take an additional six months to a year. We have been routinely red flagged by HUD for not spending funds in a timely manner. We are given a deadline to spend up to 80% of our funds and must submit a remediation plan should we fail to meet that requirement. If the remediation plan is rejected, we may be obligated to reimburse all drawn funds. Last month, we returned 2015 funds that couldn't be expended before its deadline. For the current FY2023 cycle, we did not receive enough applications for the funds we were allocated. I believe that there are several reasons for this, stemming from the substantial challenges that come with applying for and managing HUD dollars.

To give you a few examples:

HUD requires that eligible projects meet specific noise standards. Both COMEA and Safe House are located in a noise hazard area due to railroad and vehicular traffic. While CDBG funds can be used to pay for some noise mitigation such as fencing, windows, doors, and construction materials at an increased cost, they could be ineligible for future funding because they will still be considered in a noise hazard area.

An environmental review process is required for all HUD-assisted projects to ensure that the proposed project does not negatively impact the surrounding environment and that the property site itself will not have an adverse environmental or health effect on end users. Not every project is subject to a full environmental review which can take six months to a year to conduct, but every project must be in compliance with the National Environmental Policy Act (NEPA), and other related Federal and state environmental laws. Grantees must bear the expense of conducting both the Phase 1 and Phase 2 environmental review. We were approached by a new developer who was interested in applying for CDBG funds; however, if ANY funds are used for a housing project, the entire subdivision would require an environmental review and be held to all federal grant restrictions.

CDBG grantees must comply with all existing and new federal provisions to include Buy America, Davis Bacon, and Title 3 which requires that any recipients of HUD financial assistance must provide job training and employment opportunities for low or very low income residents, particularly those who are recipients of government assistance for housing. As an example, one nonprofit organization was going to use their CDBG grant award for a subcontractor to perform services. The subcontractor did not want to be registered in SAM.gov which is another HUD requirement, so the funds were returned. Several nonprofits have elected to no longer apply for CDBG funds as it is too cumbersome for them to manage.

To conclude, there are other important factors to consider:

The scope and number of reporting and compliance restrictions creates significant compliance risks associated with using HUD dollars. If we are found in violation during an annual review, not only must we reimburse any funds used with CDBG dollars with general funds, but we could face suspension or debarment as an institution from all further federal funding, which equates to an estimated \$11 to \$13 million in annual federal grant funds that the City currently receives.

The current program director announced her plan to retire at the end of this year; however, she has graciously agreed to stay until June of 2024 to assist with this transition. Twenty percent of our annual CDBG allocation can be used for program administration expenses; so, for example, for fiscal year 2022, Cheyenne received \$469,606 which means that only \$93,921 can be used for program administration. To hire a new employee with family health coverage, the total payroll cost is \$100,914.50. Administrative expenses are also budgeted at \$5,000 so there will be an annual budget shortage of almost \$12,000 that becomes the City's responsibility.

Our nonprofit partners will not be deprived of CDBG funds as they are available through the Wyoming Community Development Authority. We are very committed to helping them package and apply for state HUD funds. Affordability housing has and will continue to be a top priority of this administration and we will be continuing to seek other sources of funding and building partnerships.

Robin Lockman, City Treasurer, Deanne Widauf, CDBG program director, and I are here to answer any questions.

May 11, 2018

MEMO TO: J. Carter Napier *JCN*

FROM: Liz Becher, Community Development Director *LB*  
Joy Clark, Community Development Technician, CDBG Program *JC*

SUBJECT: Community Development Block Grant (CDBG) Funding for Housing and Urban Development's (HUD) Program Year 2018 (City FY19)

Informational Update

Summary:

As was discussed in the Budget Meeting for the CDBG Program, and further in the phone call with Mr. Aaron Gagné, Director for the Region VIII HUD office, the time expenditure of City staff meeting the extreme amounts of HUD reporting requirements are not balanced with the results that are realized by the City's citizens.

Mr. Gagné shared with us that Douglas County, Colorado had declined accepting further CDBG HUD funds last year. Douglas County's allocation for the last year it was accepted was \$889,370. Douglas County, with a population of 285,465, has been a CDBG Entitlement Grant community for thirteen (13 years). The allocation amounts for Wyoming were recently announced, and Casper would receive \$368,809 with Cheyenne receiving \$433,947 and the State \$3,016,828.

The article regarding Douglas County's decision is attached herewith and we concur with their statement on page 2, paragraph 2 which reads, "This decision comes after years of [HUD] fighting for Congressional action in Washington, D.C., as well as meeting with and submitting formal comments to HUD regarding what the Board of County Commissioners refer to as "unreasonable, unachievable, ill-conceived, rules attached to CDBG funding." In similar fashion, the reporting requirements and attempts to satisfy the Denver HUD Staff have become exhaustive and City staff efforts can be utilized in a more efficient and productive manner to connect Casper's citizens with local resources, and to pursue other sources of funding to benefit our low-income population.



PRIORITIES/)

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COMMUNITY DEVELOPMENT BLOCK G...

# Community Development Block Grant



(http://www.douglas.co.us/wp-content/uploads/2014/12/CDBG\_logo\_JPG.jpg)

## Commissioners vote to deny 2016 federal block-grant action plan

*June 29, 2016 – The Board also requested a work session to evaluate projects and determine if the County can identify alternative funding approaches.*

Citing concerns with pending Federal Department of Housing and Urban Development (HUD) rules tied to the Community Development Block Grant (CDBG) program, the Board of Douglas County Commissioners voted to end a 13-year run as a CDBG entitlement community effective with the 2016 program year.

This decision comes after years of fighting for Congressional action in Washington, D.C., as well as meeting with and submitting formal comments to HUD regarding what the Board of County Commissioners refer to as “unreasonable, unachievable, ill-conceived, rules attached to CDBG funding.”

“For years we’ve been fighting along-side like-minded members of our Colorado Congressional delegation, as well as other members of Congress nationwide on this over-reach by the Federal Government,” said County Commissioner and Board Chair David Weaver. “We articulated our concerns directly with HUD officials, fought to be heard on the record and as part of Congressional testimony..... and could not change the course,” stated Weaver.

“We heard from and worked with members of our community concerning the potential impact of receiving these federal dollars from HUD and we share their concerns,” stated Roger Partridge. “Douglas County is wholeheartedly committed to meeting the full intent of the Fair Housing Act. My principal concern moving forward is with the assertiveness of the present rule and the potential that it can prevent us from being compliant with the Fair Housing Act regardless of our desired intent,” said Partridge.

“This federal agency is practically reinterpreting and changing the intent of the Fair Housing Act,” stated Commissioner Jill Repella. “I have significant concern with the new assessment tool that is in play right now. We need to continue to work with our Congressional delegation and fight this battle, said Repella.”

Recognizing the impact of the Board’s decision on applicants for the CDBG funds, Commissioner Jill Repella offered a motion requesting a work session with staff aimed at evaluating grant applicants’ 2016 CDBG funding requests and exploring alternative funding approaches. “This County has been very proactive and creative in partnering with community organizations consistent with furthering our Community Services Board Goal,” said Repella.

This Board Goal requires that the County ensure conditions exist so that county programs and public/private partnerships foster an effective safety net for the basic needs of qualified residents, and that basic and essential services exist that provide people the opportunity to be self-sufficient.

## Douglas County CDBG Program Overview

The Community Services section of the Department of Community Development is the lead agency for the Douglas County Community Development Block Grant (CDBG) activities. The program provides funding in support of community needs throughout Douglas County. The grant amount received by the County is based on population size and the number of low- to moderate-income persons residing in the County.

The CDBG program is funded by the U.S. Department of Housing and Urban Development (HUD), and was created to improve the physical, economic and social conditions for low- and moderate-income residents or assist in low-income areas. Non-profits, governmental or quasi-governmental agencies are eligible to apply for grants that can be used for:

- Affordable housing development
- Public facilities improvements
- Economic development
- Public services
- Homeownership
- Housing services

Any project or program funded with these federal dollars must meet specific eligibility criteria set by HUD, address local priorities and goals, and meet a national objective of the program. The national objectives of the CDBG program are to:

- Benefit low- to moderate-income persons;
- Prevent or eliminate slum and blight conditions; or
- Address an urgent community need.



Activities funded with this grant must meet one of the local objectives identified in the County's 2014-2018 Consolidated Plan (<http://www.douglas.co.us/documents/2014-2018-consolidated-plan.pdf>), which is the long-range planning document that identifies local priority needs and goals.

**Interpreters or Special Accommodations:**

Any information pertaining to the CDBG program can be translated into another language and every effort will be made to meet other special needs accommodations. To request an interpreter or special needs accommodations, please contact Tina Dill, in advance, at 303-814-4380. Persons in need of information for the hearing impaired may call the TTY number at 303-663-7791.

**Intérpretes o alojamientos especiales:**

Cualquier información referente al programa CDBG puede ser traducido a otro idioma y se hará todo lo posible para satisfacer otras necesidades especiales alojamientos. Para solicitar un intérprete o necesidades especiales de alojamiento, por favor póngase en contacto con Tina de eneldo, por adelantado, al 303-814-4380. Las personas que necesitan la información para las personas con problemas auditivos pueden llamar al número TTY al 303-663-7791.



Health & Human  
Services

(<https://www.douglas.co.us/government/commissioners/board-priorities/partnering-to-make-sure-no-one-falls-through-the-cracks/>)

June 13, 2018

MEMO TO: J. Carter Napier, City Manager *JCN*

FROM: Liz Becher, Community Development Director *LB*  
Joy Clark, Community Development Technician *JC*

SUBJECT: Denial of future CDBG Entitlement Funding

Meeting Type & Date:

Regular Council Meeting, July 3, 2018.

Action type:

Resolution.

Recommendation:

That Council, by resolution, authorize the City to disengage from, and decline further Community Development Block Grant (CDBG) Entitlement Grant funds, from the U.S. Department of Housing and Urban Development (HUD).

Summary:

According to the Federal Fiscal Budget for HUD, the CDBG program has been eliminated beginning with Fiscal Year 2019 and is no longer being funded. The time requirements for City staff to complete the onerous requirements to qualify projects and the increasing quantity of HUD reporting requirements are not balanced with the results that are realized by the City's low-income citizens. In the past year, situations have occurred that fundamentally alter the expectations of the parties or make the purposes for the Grant, infeasible or impractical.

Residual CDBG funds exist which will be expended over the next year observing all rules and regulations required by HUD. The reporting requirements will continue to be met in an efficient and timely manner as they have been for the past five (5) years until the funds are depleted.

The City of Casper will deny CDBG Entitlement funds beginning with HUD's Program Year 2018 which is the City's Fiscal Year 2019.

Financial Considerations

No effect on the City's General Fund.

Oversight/Project Responsibility

Joy Clark, CDBG Program Coordinator, will be responsible for overseeing the expenditures and reporting for the residual CDBG Entitlement funds and grant.

Attachments

Resolution

RESOLUTION NO.18-141

A RESOLUTION DENYING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT GRANT BETWEEN THE CITY OF CASPER AND THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

WHEREAS, the City of Casper determined that the time expenditure of City Staff completing the onerous requirements to qualify projects and the amount of U.S. Department of Housing and Urban Development (HUD) reporting requirements which are not balanced with the results that are realized by the City's citizens; and,

WHEREAS, the City of Casper supports the rejection of the funds due to situations which have occurred that fundamentally alter the expectations of the parties or make the purposes for the Grant, infeasible or impractical; and,

WHEREAS, the City of Casper has been notified by HUD that beginning with Fiscal Year 2019 the Community Development Block Grant (CDBG) program is no longer funded in the National Budget and will be eliminated.

WHEREAS, it is in the best interest of the City of Casper to disengage from and decline further CDBG Entitlement Grant funds from the HUD as stated herein; and,

WHEREAS, the City of Casper supports expending the residual funds allocated in prior years to the CDBG Entitlement Grant Program prior to concluding its relationship with HUD; and,

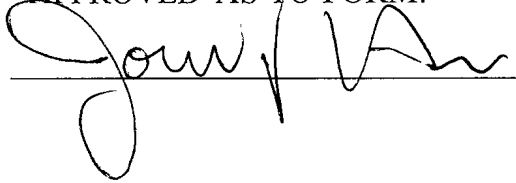
WHEREAS, the City of Casper declines accepting HUD funds beginning with HUD's Program Year 2018 which is the City's Fiscal Year 2019;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING: That the Mayor is hereby authorized to execute and the City Clerk to attest this Resolution authorizing the denial of future CDBG funding beginning with HUD's Program Year 2018 which is the City's Fiscal Year 2019 between the City of Casper and HUD.

This Resolution shall be effective upon the Mayor's signature and the Clerk's attestation.

PASSED, APPROVED, AND ADOPTED THIS \_\_\_\_\_ day \_\_\_\_\_ 2018.

APPROVED AS TO FORM:



A handwritten signature in black ink, appearing to read 'Fleur D. Tremel', is written over a horizontal line.

CITY OF CASPER, WYOMING

ATTEST:

A Municipal Corporation

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Fleur D. Tremel  
City Clerk

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Ray Pacheco  
Mayor