

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Community Development Block Grant Program (CDBG) Title 25, California Code of Regulations

Proposed Amendments to: Sections 7054, 7056, 7058, 7060, 7062.1, 7072, 7076, 7078, and 7097

INTRODUCTION

On March 29, 2012 the Office of Administrative Law (OAL) disapproved the Department of Housing and Community Development's (Department or HCD) regulatory amendments for Title 25, sections 7050 through 7126. The disapproval was based on violations of the consistency, clarity, necessity and defective documents standards. This resubmission incorporates by reference the previously submitted rulemaking file, which accompanied #2012-0215-07S, and OAL's Decision of Disapproval for #2012-0215-07S.

In response to OAL's concerns the Department has modified sections 7054, 7056, 7058, 7060, 7062.1, 7072, 7076, 7078, and 7097.

This rulemaking action has been under discussion with CDBG Interested Parties since early 2011 when HCD held seven roundtable meetings regarding the changes to the CDBG regulations and updated method of distribution: in Coachella on February 22, Sacramento on February 24, Anderson on March 1, Fort Bragg on March 2, Crescent City on March 3, Tulare County (Visalia) on March 8 and Monterey County (Salinas) on March 9. Additionally, the State met several times, jointly, with the CDBG Community Development and Economic Development Advisory Committees in Sacramento at HCD headquarters on December 9, 2010, and on February 17, April 26, June 2, August 18 and November 8, 2011. An email with the proposed changes to the Method of Distribution went out via the Department's Listserv tool on November 2, 2011 to all the CDBG Interested Parties, with a summary of the NOFA and copies of the draft Scoring Sheets.

While there is additional language in section 7078(d) for the purpose of adding clarity pursuant to the Disapproval, all the language is derived from the Department's scoring sheets for the current Notice of Funding Availability (NOFA), released January 9, 2012, for which the Department has received 98 applications. To prepare applicants for this NOFA, in January 2012 the Department held six day-long training workshops around California and six webinars. Each webinar was devoted to one eligible activity, and discussed the scoring criteria and application requirements in depth. Recordings of the webinars were posted in their entirety on the Department's website shortly after they were held, and remain available at:

<http://www.hcd.ca.gov/fa/cdbg/funds/CurrentNOFAs.html> . Additionally, the NOFA

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

released in January committed the Department to write and notice for 30-day public comment a Substantial Amendment to the Annual Update to the Consolidated Plan that the Department must provide to HUD every year as a condition of receiving its annual funding. The public comment period ran from March 1 through March 30, 2012, and included three public hearings around the state: March 16, 2012 in Sacramento, March 20 in Visalia for Tulare County, and March 28, 2012 in Holtville for Imperial County. No comments were received.

Although the foregoing paragraphs were not mentioned in the Initial Statement of Reasons (ISOR), the information was available for public review, is not updated information, and no updated information was relied upon (Gov. Code, sec. 11346.9(a)(1).)

Given the breadth of this regulatory action, the Department would like to reiterate some important points regarding the federally required process, and circumstances that necessitate this rulemaking action:

A. Authority to Design the State's CDBG Program, CDBG Method of Distribution and Public Participation

The Department has the authority to design its State CDBG program as necessary per 24 CFR 570.482(a). "The choice of activities on which block grant funds are expended represents the determination by state and local participants, developed in accordance with the state's program design and procedures, as to which approach or approaches will best serve these interests. The eligible activities are listed at section 105(a) of the Act". (42 USC 5305)

Every year pursuant to 42 USC 5304, 42 USC 5306(d)(2)(C) and 24 CFR 91, and consistent with these regulations, the Department must review and revise as necessary its method of distribution and describe it in the Annual Plan. HUD's purpose behind this requirement is to ensure that states respond openly and flexibly to the changing needs and capacity of local communities.

Pursuant to 42 USC 5304, 42 USC 5306(d)(2)(C) and 24 CFR 91.115, the Annual Plan Update to the Consolidated Plan is subject to citizen participation requirements including a 30 day minimum public comment period. The Annual Plan, incorporating the method of distribution, must be submitted to HUD for review and approval, along with all public comments and responses.

B. Reduction in Federal and State General Funds Means Staff Reduction and Workload Realignment

In 2005 the State CDBG program made a calculation error in determining how much federal funding could be used for administration of the program. The

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

consequent reduction of the state's cash match to the program from the State's General Fund, and the reduction of federal administration funds allotted to the program, have resulted in total CDBG funding being reduced by about \$1,200,000 a year. The reduced funding equates to the program losing 10 CDBG staff positions (30% of staff). The program currently has 167 eligible jurisdictions, and must administer and manage approximately 120 new grant contracts a year under the current method of distribution, which necessitates multiple NOFAs every year. This rulemaking action is necessary to allow the program to release one NOFA per year that combines all eligible activities, to realign the Department's workload. The single annual NOFA will not reduce the funding being released, nor the activities being awarded; will it however, allow the Department to incorporate all activities into one contract per applicant, per year, which will require about 60 new contracts per year rather than the current average of 120.

Given the current scoring system used by CDBG, many of the same jurisdictions are funded each year due to outdated and inequitable weighting of certain scoring criteria, counter to the goal of reaching as many jurisdictions as possible. The new method of distribution, described in the latest Annual Plan Update of the Consolidated Plan and codified in this rulemaking action, is designed to update the scoring system to more equitably weight all scoring factors.

EXPLANATION OF CHANGES TO INDIVIDUAL SECTIONS

The following comments respond to the decision of disapproval by the Office of Administrative Law (OAL) dated April 3, 2012. These comments follow the format of that disapproval.

1. Regulation Text contains changes to the regulations that were not properly made available to the public for comment.

Amended Section 7058(a): OAL commented that the text of section 7058(a) made available to the public for 45 day comment contained changes from the current version of section 7058, and was not properly underlined or italicized, signifying new language being proposed, resulting in the public not reasonably knowing that new language was being proposed. In response, the Department has re-cited the proper federal regulatory authority in section 7058 and has made the character font red and double underlined, clearly showing where a change is proposed. Additionally, the Department is proposing to add language to make clear that the applicable eligible activities are derived from the federal State CDBG Program statutes and regulations.

2. Clarity

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

- a. **Proposed section 7056(b):** The clarity requirement was violated when new language proposed in section 7056(b) cited proposed section 7058(5)(ii) as a reference section, but that proposed section had been removed from the submitted regulation text. The Department's response is to correct the citation to 7058(a)(5)(A), the cash match requirement, pursuant to Health and Safety Code 50833(a).
- b. **Proposed section 7058(b)(1)(A):** The clarity requirement was violated when new language proposed in section 7058(b)(1)(A) incorrectly referenced Health and Safety Code 33032. The Department has added the correct citation, Health and Safety Code 33031, which pertains to the discussion of Blighted Areas in California. Further, the regulation text summarizes Health and Safety Code 33031. This summary has been nominally updated for clarity and completeness.
- c. **Amended proposed section 7062.1(b)(1):** The clarity requirement was violated when new language proposed in section 7062.1(b)(1) cited a federal statute 105(a)(17) twice in the same reference, and cited the Housing and Community Development Act of 1974 as the "...Act of 1947." The Department has amended the proposed language to properly cite HUD's Special Economic Development Activities under section 105(a)(14), (15), and (17) of the Housing and Community Development Act of 1974. Also, since other items in the proposed regulation changes will be added back in, the number sequence of some proposed sections has changed. The language proposed in 7062.1(b)(1) is now located at 7062.1(b)(2). The language now located at 7062.1(b)(1) will be discussed later in this document.
- d. **Amended section 7078(b):** The clarity requirement was violated when the language proposed in section 7078(b) incorrectly cited section 7078(C)(3), as there is no such subsection in the text. The Department has amended the proposed language to properly cite the PTA¹ Tie-Breaker language located in section 7078(d)(7), and to add clarifying language that 7078(d)(7) will be used to resolve a tie-breaker.
- e. **Proposed section 7076(d):** The clarity requirement was violated when the language proposed in section 7076(d) referenced the Colonia funding statute as the Housing and Community Development Act of 1990. The Department's response is to correct that language to cite the National Affordable Housing Act of 1990.
- f. **Amended section 7062.1(a)(6):** The clarity requirement was violated when the language proposed in section 7062.1(a)(6) incorrectly cited Health and Safety Code 50831(c), as there is no such statutory subdivision. The Department has

¹ PTA = Planning and Technical Assistance

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

amended the proposed language to cite the correct statute, Health and Safety Code 50834(c).

- g. **Amended Section 7054:** The clarity requirement was violated when the language proposed as the definition of “Targeted Income Group” or “TIG” incorrectly cited federal statute 42 USC 5032(a)(20) when the correct citation is 42 USC 5302(a)(20). The Department has corrected the citation.

To improve clarity in the general definition section 7054, the Department proposes to make the following amendments:

- Make clear what “CDBG” means
 - Amend the proposed definition of “Economic Development” to include the acronym “ED”, and to remove an incorrect federal regulation citation and add the correct federal citation.
 - Amend the proposed definition of “General” to remove the words “the Act” because it is redundant to the federal statute citation as proposed, and to remove an incorrect federal regulation citation.
 - Amend the proposed definition of “NOFA” to make clear that the funds being referenced are CDBG funds.
 - Add a definition for “Over-the-Counter” and “OTC” to make clear that this term and the acronym refer to certain Economic Development activities.
 - Add a definition for “OMB” to make clear this acronym refers to the federal Office of Management and Budget.
 - Add a cross-reference to the specific definitions of scoring criteria in Section 7078(d)(10), for clarity. The definition list includes: “3rd Party Documentation”, “Activity Specific Operator Experience”, “Age of Housing”, “All Funding in Place”, “Condition of Approval for PIHNC”, “Cooperation/Compliance in Clearing Audit or Monitoring Findings”, “Experienced In-House Staff and Ready to Start”, “Extent of the Solution”, “Homeownership Rate”, “In-House Organizational Capacity”, “Low-Mod Percentage”, “Market Analysis”, “Operator Experience / Program Readiness”, “Overcrowding”, “Poverty Percentage”, “Project Approval Status”, “Program Description”, “Program Guidelines”, “Program Operator Qualifications”, “Program Operator’s Status”, “Regional Housing Needs Assessment / RHNA Data”, “Rental Vacancy Rate”, “Reporting Points”, “Seriousness of Health and Safety Threat”, “Severity of the Problem”, “Site Control”, “Site Control of Facility for Program”, “Site Control of Land for Project”, “Timely Clearance of Special Conditions”, “Unemployment”, “Waiting List of Pre-Screened Applicants.” The regulation text is most user-friendly to an applicant if the actual definitions are located in Section 7078, but it is likely that a member of the general public would consult Section 7054 if researching the program and its definitions.
- h. In a number of sections in this regulatory action OAL commented, “If regulatory material is removed from the regulation text, the clarity standard of the APA

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

would be violated to the extent a person directly affected by the regulation would not easily understand regulatory requirements from the language used in the regulation text itself.” Further, OAL comments that subdivision (a) of Government Code section 11340 provides “No state agency shall issue, utilize, enforce or attempt to enforce **any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule** which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and files with the Secretary of State pursuant to this chapter. (Emphasis Added)”

The Department’s responses are broken out by section below as enumerated by OAL.

These revisions are the items listed by OAL that violate the clarity requirement due to the proposal to repeal the existing language and announce this action in either the annual NOFA or the grant agreement. Where the Department has decided to not repeal existing language, the sections have been renumbered to accommodate the language being left in the text.

- 7062.1(b)(1)-(3) - The Department has decided to leave all three of these subsections as they currently read in Title 25 California Code of Regulations (CCR). However, the numbering for 7062.1(b)(2) will be amended to 7062.1(b)(3) and the numbering for 7062.1(b)(3) will be amended to 7062.1(b)(4), since as discussed above, new language is proposed for 7062.1(b)(2).
- Proposed 7062.1(b)(2) is amended to be located at 7062.1(b)(5) to accommodate the re-insertion of subsections 1, 2 and 3.
- Text originally at Section 7062.1(b)(5) is relocated at Section 7062.1(b)(6) to accommodate other changes in this section.
- 7062.1(b)(5)(C) - The Department has decided to leave this language as it currently reads in Title 25 CCR, but relocate it to 7062.1(b)(6)(B) to accommodate other changes in this section.
- 7062.1(b)(5)(D) – The Department proposes to repeal this language since a new method of scoring has been designed as discussed in sections 1 and 2 of the original Initial Statement of Reasons (ISOR), and reiterated in the Introduction above. Pursuant to 24 CFR 570.482(a), the Department is authorized to design the method of scoring applications. The new scoring criteria for the Enterprise Fund are now in section 7078(d)(6)(A)-(D).

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

- 7062.1(b)(5)(E) - The Department proposes to repeal this language since all scoring regulations except for ED OTC (Over the Counter), have been moved to section 7078. ED OTC has its own application and contract, whereas the Enterprise Fund and Community Development awards will be included in a single contract, awarded under a single NOFA each year. A new method of scoring applications has been designed within these regulations with new definitions as well. Pursuant to 24 CFR 570.482(a), the Department is authorized to design the method of scoring applications. The new scoring criteria and definitions for the Enterprise Fund are located in section 7078(d)(10).
- 7062.1(b)(5)(F) - The Department has decided to leave this language as it currently reads in Title 25 CCR, with added clarifying language that Enterprise Fund application evaluation criteria are described in Section 7078(d)(6). Additionally, the numbering will be amended to 7062.1(b)(6)(C) to accommodate other changes in this section.
- 7062.1(b)(5)(G) - The Department has decided to leave this language as it currently reads in Title 25 CCR, but renumbered to 7062.1(b)(6)(D) to accommodate other changes in this section.
- 7062.1(b)(7) – The Department has decided to leave this language as it currently reads in Title 25 CCR, with the addition of clarifying language that Enterprise Fund contracts shall be disencumbered thirty-six months after grant agreement execution, rather than twenty-four months after grant execution. This is proposed to allow grantees more flexibility in meeting federal national objectives and public benefit requirements. In the current economic climate, twenty-four months is not a reasonable expectation. As noted previously in this document, the Department has the authority to design its State CDBG program as necessary per 24 CFR 570.482(a).
- 7062.1(c)(1) The Department has decided to leave this language as it currently reads in Title 25 CCR.
- 7062.1(c)(2) – The Department has decided to leave this language as it currently reads in Title 25 CCR, except for changing the maximum award amount to \$3,000,000, and removing a reference to an exception which pertained to maximum grant amounts under the Economic Development Allocation. With the changes proposed for section 7062.1(a)(6), the maximum grant amount in that subdivision will not pertain to Economic Development Over-the-Counter (ED OTC). This is necessary because ED OTC projects by nature are large public

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

infrastructure or business support projects, and require more funding for effective impact than the \$500,000 currently in regulation. The regulation still allows the Department to offer ED OTC funding below \$3,000,000 should that be deemed programmatically necessary. As noted previously in this document, the Department has the authority to design its State CDBG program as necessary per 24 CFR 570.482(a).

- 7062.1(c)(3) – The Department has decided to leave this language as it currently reads in Title 25 CCR, except to set the maximum award for joint applications to the same maximum as in section 7062.1(c)(2). This is what the original text language required; the amendment allows this regulation to remain as-is should the maximum amount allowed in 7062.1(c)(2) be changed at a later date.
- Proposed 7062.1(c)(1) is renumbered to be 7062.1(c)(4) to accommodate text originally proposed to be repealed, being restored.
- Proposed 7062.1(c)(2) is renumbered to be 7062.1(c)(5) to accommodate text originally proposed to be repealed, being restored.
- Original 7062.1(c)(4) which was proposed to be renumbered as 7062.1(c)(3) is instead renumbered 7062.1(c)(6) to accommodate text originally proposed to be repealed, being restored.
- Original 7062.1(c)(5) - The Department has decided to leave this language as it currently reads in Title 25 CCR, except renumbered as 7062.1(c)(7) to accommodate text originally proposed to be repealed, being restored.
- Original 7062.1(c)(7) which was proposed to be renumbered as 7062.1(c)(4) is instead renumbered 7062.1(c)(9) to accommodate text originally proposed to be repealed, being restored.
- Original 7062.1(c)(8) which was proposed to be renumbered as 7062.1(c)(5) is instead renumbered 7062.1(c)(10) to accommodate text originally proposed to be repealed, being restored.
- 7062.1(d) – The Department has decided to leave the existing language as it currently reads in Title 25 CCR, to be consistent with Health and Safety Code 50833, which states that only two PTA grants may be awarded to an applicant in a funding year, and that the maximum grant amounts shall be determined and announced in the NOFA. To extend this consistency, language is added to set the

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

maximum award for a joint application at the maximum grant amount set in the NOFA.

- 7062.1(d)(3)(A)-(C) - The Department has decided to leave this language as it currently reads in Title 25 CCR, except renumbered to 7062.1(d)(1)(A)-(C) to accommodate other changes in this section.
- 7072 – This language is amended to add the words “Community Development” and remove the word “General” to maintain consistency and make clear that the “General” allocation is now being identified as the “Community Development” allocation as discussed in section 7054.
- Proposed language at 7056(b) states what information can be found in the NOFA, including the requirement of cash match. However, the existing cash match definition at 7062.1(d)(2) is complicated and inequitable between cities and counties. The Department’s response is, as originally proposed, to repeal 7062.1(d)(2) and redefine cash match at 7058(a)(5)(A) as a straight five percent (5%) of the PTA award amount. This will be more equitable and easier to implement for all applicants. This is within our authority pursuant to Health and Safety Code 50833(a).

Additionally, the Department has addressed some sections that fall under Clarity item (h), above, though they were not specifically listed in the Disapproval Decision. These sections are:

- 7062.1(a)(6) – The Department has decided to leave the existing language as-is in Title 25 CCR, and add two items: the originally proposed amended text for 7062.1(a)(6), and language clarifying that this subsection only applies to the Enterprise Fund and Planning and Technical Assistance allocations. This is necessary because, as noted above in the discussion of 7062.1(c)(2), ED OTC funding levels must be addressed in another section because they are not effective at the lower levels stated in 7062.1(a)(6).
- 7062.1(b)(5)(A) – The Department has decided to leave this subdivision as it currently reads in Title 25 CCR, except renumbered to 7062.1(b)(6)(A) to accommodate text originally proposed to be repealed, that is being restored.
- 7062.1 (c)(1) - The Department has decided to leave this language in regulation as it currently reads in Title 25 CCR to accommodate text originally proposed to be repealed, that is being restored.

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

- 7062.1 (c)(6) - The Department has decided to leave this language in regulation as it currently reads in Title 25 CCR, but renumbered to 7062.1(C)(8) to accommodate text originally proposed to be repealed, that is being restored.
- 7060(a) as originally proposed for repeal, is actually being deleted and new language is added in Section 7060(a)(1)-(5) pursuant to 42 USC 5305 and 24 CFR 570.482(a). This is necessary to provide for a single application threshold review period, rather than two, as is currently in regulation. A single threshold review period is necessary because the Department has thirty percent less staff, but no reduction in the number of jurisdictions who may apply for grants each year. The Department has the authority to design its method of distribution, which includes application rating and ranking processes under 24 CFR 570.482(a).
- 7076(d) – This regulation discusses a second stage of eligibility review which took place just prior to awarding funds, in the old method of distribution. For example, prior to award the Department would check to see if the applicant was in compliance with the Housing Element requirement in Health and Safety Code 50829. In the new method of distribution, all eligibility requirements, including compliance with Health and Safety Code 50829, must be met at the time of application, as defined in Section 7060. The repeal of 7076(d) is therefore necessary to complete the redesign of the Department’s method of distribution, in furtherance of Health and Safety Code sections 50828, 50829, and 50830. Additionally, other subject matter being repealed in this subdivision will be administered pursuant to the Department’s authority under Health and Safety Code sections 50406(c), (n) and (h), which state the Department may administer its program by making and entering into agreements.

OAL also has concerns about possible underground regulation regarding the Department’s Application Evaluation regulations in section 7078(d)(A) 1-4, (d)(B) 1-3 and (d)(C). OAL’s concern implies that scoring details being removed are not being adequately replaced. In response, the Department has added more detail to the regulations than originally proposed. This language is derived from the current NOFA, the content of which was constructed pursuant to 42 USC 5304 and 24 CFR 91.320(k)(1). All the changes in this subsection constitute a newly designed application scoring system that is streamlined and relies heavily on objective rather than subjective indicators, and implements the use of a single grant agreement annually. The new scoring system and a single award contract are necessary because, as discussed in the original ISOR and earlier in this document, the Department has had a thirty percent staff reduction, and must create efficiencies. These efficiencies include the new, streamlined scoring system, and a single award contract annually. The Department has the

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

authority to design its State CDBG program as necessary per federal regulations 24 CFR 570.482(a) and 91.320(k)(1), and the authority to enter into Grant Agreements pursuant to 24 CFR 570.503 and Health and Safety Code sections 50406 (c),(h) and (n).

The Department added clarity to section 7078 as discussed on page 6 of the Disapproval Decision under “Clarity”(h)(1) by:

- Adding separate sections pertaining to the activity categories that an applicant may apply for. This creates new subdivisions within 7078 that make clear the scoring categories for each activity and the points available for those criteria. These scoring categories follow the discussion and language used during the workshops and webinars in January 2012.
- The explanations and definitions of the major categories were taken from existing regulation language where possible. This language was added in the description of “Need” in each of the scoring sections 7078(d)(1)-(6). The “Need” language was taken from section 7078.3. Existing language regarding “State Objectives” has been taken from section 7078.7.
- The numbering has been modified to match the rest of the text.
- A new section 7078(d)(10) has been added to define the scoring criteria listed for each scoring category in the section.

Individual section changes to 7078 under (h)(1) of the Disapproval Decision are as follows:

- **Proposed 7078(d)(A)** is revised to rename the section as Homeownership Assistance (HA) and Housing Rehabilitation (HR) and is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now numbered 7078(d)(1).
- **Proposed 7078(d)(1) – Need and Benefit** is revised to remove the originally proposed language; to add “and Benefit” to the title of the section to clarify that both scoring criteria are included in this section; to make clear how the scoring items in Need and Benefit will be applied; and to add the point criteria associated with scoring Need and Benefit as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. The language used to define how this section will be applied is the first paragraph of existing regulation section 7078.3. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(A). Additionally, the regulation is

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now numbered as 7078(d)(1)(A)(1)-(2).

- **Proposed 7078(d)(2) - Readiness** is revised to remove proposed language stating that the scoring criteria for Readiness will be established in the Annual Plan; to add the scoring criteria and applicable points for Readiness, and make clear that the Readiness points will be based on the items listed. The points criteria associated with scoring Readiness are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the points criteria are listed by subject matter in section 7078(d)(10)(B). Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(1)(B)(1)-(3).
- **Proposed 7078(d)(3)- Capacity** is revised to remove proposed language stating that the definition of Capacity "includes but is not limited to" the definition in regulation; to remove proposed language stating that the scoring criteria for Capacity will be established in the Annual Plan; to add the scoring criteria and applicable points for Capacity, and to make clear that the Capacity points will be based on the items listed. The point criteria associated with scoring Capacity are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed in section 7078(d)(10)(C). Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(1)(C)(1)-(4).
- **Proposed 7078(d)(4)- State Objectives** is revised to remove proposed language stating that the scoring criteria for State Objectives will be established in the Consolidated Plan or Annual Plan; and to add the scoring criteria and applicable points and definitions for State Objectives. The language added here has been moved from existing language regarding "State Objectives" in section 7078.7, in its entirety with the exception that the points available for award under State Objectives are now 100, rather than 50 under the original regulation. Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(1)(D)(1)-(2).
- **7078(d)(2) -** The Department is proposing to add section 7078(d)(2) – Multi-Family Housing Acquisition, Rehabilitation or Acquisition/Rehabilitation in order to create a regulatory section for clarification about scoring for this activity.

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

- **7078(d)(2)(A)(1)-(2) – Need and Benefit** is proposed to be amended to make clear how the scoring items in Need and Benefit will be applied; as well as to add the point criteria associated with scoring Need and Benefit, as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. The language used to define how this section will be applied, is the first paragraph of existing regulation section 7078.3. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(A).
- **7078(d)(2)(B)(1)-(3) - Readiness** is proposed to add the definition, scoring criteria and applicable points for Readiness, and make clear that the Readiness points will be based on the items listed. The point criteria associated with scoring Readiness are as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(B).
- **7078(d)(2)(C)(1)-(4)- Capacity** is proposed to add the definition, scoring criteria and applicable points for Capacity, and make clear that the Capacity points will be based on the items listed. The point criteria associated with scoring Capacity are as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed in section 7078(d)(10)(C).
- **7078(d)(2)(D)(1)-(2)- State Objectives** is proposed to add the scoring criteria and applicable points and definitions for State Objectives. The language added here is existing language regarding “State Objectives” in section 7078.7, in its entirety, with the exception that the points available for award under State Objectives are now 100, rather than 50 under the original regulation.
- **7078(d)(3) - Public Facilities** in order to create a regulatory section for clarification about scoring this activity category.
- **7078(d)(3)(A)(1)-(2) – Need and Benefit** is proposed to be amended to make clear how the scoring items in Need and Benefit will be applied; as well as to add the point criteria associated with scoring Need and Benefit, as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. The language used to define how this section will be applied is the first paragraph of existing regulation section 7078.3. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(A).

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

- **7078(d)(3)(B)(1)-(4) - Readiness** is proposed to be amended to add the definition, scoring criteria and applicable points for Readiness, and make clear that the Readiness points will be based on the items listed. The point criteria associated with scoring Readiness are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(B).
- **7078(d)(3)(C)(1)-(4)- Capacity** is proposed to be amended to add the definition, scoring criteria and applicable points for Capacity, and make clear that the Capacity points will be based on the items listed. The point criteria associated with scoring Capacity are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed in section 7078(d)(10)(C).
- **7078(d)(3)(D)(1)-(2)- State Objectives** is proposed to be amended to add the scoring criteria and applicable points and definitions for State Objectives. The language added here has been moved from existing section 7078.7, in its entirety; with the exception that the points available for award under State Objectives are now 100, rather than 50 under the original regulation.
- **7078(d)(4) -** The Department is proposing to add section 7078(d)(4) – Public Improvements (PI) and Public Improvements In Support of Housing New Construction (PIHNC) in order to create a regulatory section for clarification about scoring this activity category.
- **7078(d)(4)(A)(1)-(2) – Need and Benefit** is proposed to be amended to make clear how the scoring items in Need and Benefit will be applied; as well as to add the point criteria associated with scoring Need and Benefit, as defined in the Department's scoring sheets under the 2012 CDBG NOFA. The language used to define how this section will be applied, is the first paragraph of existing regulation section 7078.3. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(A).
- **7078(d)(4)(B)(1)-(4) - Readiness** is proposed to be amended to add the definition, scoring criteria and applicable points for Readiness, and make clear that the Readiness points will be based on the items listed. The point criteria associated with scoring Readiness are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(B).

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

- **7078(d)(4)(C)(1)-(4)- Capacity** is proposed to be amended to add the definition, scoring criteria and applicable points for Capacity, and make clear that the Capacity points will be based on the items listed. The point criteria associated with scoring Capacity are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed in section 7078(d)(10)(C).
- **7078(d)(4)(D)(1)-(2)- State Objectives** is proposed to be amended to add the scoring criteria and applicable points and definitions for State Objectives. The language added here has been moved from existing section 7078.7, in its entirety; with the exception that the points available for award under State Objectives are now 100, rather than 50 under the original regulation.
- **7078(d)(5)** - The Department is proposing to add section 7078(d)(5) – Public Services in order to create a regulatory section for clarification about scoring this activity category.
- **7078(d)(5)(A)(1)-(2) – Need and Benefit** is proposed to be amended to make clear how the scoring items in Need and Benefit will be applied; as well as to add the point criteria associated with scoring Need and Benefit, as defined in the Department's scoring sheets under the 2012 CDBG NOFA. The language used to define how this section will be applied, is the first paragraph of existing section 7078.3. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(A).
- **7078(d)(5)(B)(1)-(2) - Readiness** is proposed to be amended to add the definition, scoring criteria and applicable points for Readiness, and make clear that the Readiness points will be based on the items listed. The point criteria associated with scoring Readiness are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(B).
- **7078(d)(5)(C)(1)-(4)- Capacity** is proposed to be amended to add the definition, scoring criteria and applicable points for Capacity, and make clear that the Capacity points will be based on the items listed. The point criteria associated with scoring Capacity are as defined in the Department's scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed in section 7078(d)(10)(C).
- **7078(d)(5)(D)(1)-(2)- State Objectives** is proposed to be amended to add the scoring criteria and applicable points and definitions for State

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Objectives. The language added here has been moved from existing section 7078.7, in its entirety; with the exception that the points available for award under State Objectives are now 100, rather than 50 under the original regulation.

- **Proposed 7078(d)(B) – Enterprise Fund** is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(6).
- **Proposed 7078(d)(B)(1) – Need and Benefit** is revised to remove proposed language stating that the scoring criteria for Need will be established in the Annual Plan; to add “and Benefit” to the title of the section to clarify that both scoring criteria are included in this section; and to add the point criteria associated with scoring Need and Benefit as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed in section 7078(d)(10)(A). Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(6)(A)(1)-(2).
- **Proposed 7078(d)(B)(2) - Readiness** is revised to remove proposed language stating that the definition of Readiness “includes but is not limited to” the definition in regulation, and to remove proposed language stating that the scoring criteria for Readiness will be established in the Annual Plan. It is further revised to add the scoring criteria and applicable points for Readiness, and make clear that the Readiness points will be based on the items listed. The point criteria associated with scoring Readiness are as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed by subject matter in section 7078(d)(10)(B). Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(6)(B)(1)-(3).
- **Proposed 7078(d)(B)(3)- Capacity** is revised to remove proposed language stating that the definition of Capacity “includes but is not limited to” the definition in regulation; to remove proposed language stating that the scoring criteria for Capacity will be established in the Annual Plan; to add the scoring criteria and applicable points for Capacity, and to make clear that the Capacity points will be based on the items listed. The point criteria associated with scoring Capacity are as defined in the Department’s scoring sheets under the 2012 CDBG NOFA. Further, definitions for each of the point criteria are listed in section 7078(d)(10)(C). Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 -

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Conclusions, item 3. This language is now cited as 7078(d)(6)(C)(1)-(4).

- **Proposed 7078(d)(B)(4)- State Objectives** is revised to remove proposed language stating that the scoring criteria for State Objectives will be established in the Consolidated Plan or Annual Plan; and to add the scoring criteria and applicable points and definitions for State Objectives. The language added here has been moved from existing section 7078.7, in its entirety, except that the points available for award under State Objectives are now 100, rather than 50 under the original regulation. Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(6)(D)(1)-(2).
- **Proposed 7078(d)(C) – Planning and Technical Assistance (PTA)** is revised to remove language stating that the scoring criteria for PTA will be established in the Annual Plan and, in furtherance of applicable law, add Health and Safety Code 50832(b), as well as add a ‘tie-breaker’ process for instances when the PTA allocation is oversubscribed. Additionally, the regulation is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(7).
- **Proposed 7078(d)(D) – Un-scored Set-Aside** is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(8).
- **Proposed 7078(d)(E) – Economic Development Over-the-Counter (ED OTC)** is renumbered to align with standard formatting as discussed below in Section 5 - Conclusions, item 3. This language is now cited as 7078(d)(9)(A)-(C).
- **7078(d)(10)(A)-(D)** is proposed to be added to provide clarity of terms used to refer to scoring criteria.
 - Subdivisions 7078(d)(10)(A)(1)-(14) are proposed to make clear all terms associated with Need and Benefit scoring as defined in the Department’s scoring sheets under the 2012 CDBG NOFA.
 - Subdivisions 7078(d)(10)(B)(1)-(13) are proposed to make clear all terms associated with Readiness scoring as defined in the Department’s scoring sheets under the 2012 CDBG NOFA.
 - Subdivisions 7078(d)(10)(C)(1)-(4) are proposed to make clear all terms associated with Capacity scoring as defined in the Department’s scoring sheets under the 2012 CDBG NOFA.

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

- Subdivision 7078(d)(10)(D)(1) is proposed to refer readers to the individual sections containing the definitions pertaining to State Objective scoring as defined in the original regulation text at 7078.7.
- **Section: 7078.1 Poverty Index (100) Points** - The Department proposes to delete this section and replace it with the scoring mechanism outlined above in Section 7078, per authority provided in 24 CFR 570.482(a), and continues to allow implementation and furtherance of all federal and state CDBG statutes and regulations as set forth in 42 USC 5301 – 5321; 24 CFR 570; California Health and Safety Code 50406 (h) and (n), 50407 and 50825 – 50834; and 24 CCR 7050 – 7126.
- **Section: 7078.2 Targeted Income Group Benefit (300) Points** - The Department proposes to delete this section and replace it with the scoring mechanism outlined above in Section 7078, per authority provided in 24 CFR 570.482(a), and continues to allow implementation and furtherance of all federal and state CDBG statutes and regulations as set forth in 42 USC 5301 – 5321; 24 CFR 570; California Health and Safety Code 50406 (h) and (n), 50407 and 50825 – 50834; and 24 CCR 7050 – 7126.
- **Section: 7078.3 Need for Activity (200) Points** - The Department proposes to move the first paragraph of this section to sections 7078(d)(1)(A); (d)(2)(A); (d)(3)(A); (d)(4)(A); (d)(5)(A); and (d)(6)(A); and to delete the rest of the section and replace it with the scoring mechanism outlined above in Section 7078, per authority provided in 24 CFR 570.482(a), and continues to allow implementation and furtherance of all federal and state CDBG statutes and regulations as set forth in 42 USC 5301 – 5321; 24 CFR 570; California Health and Safety Code 50406 (h) and (n), 50407 and 50825 – 50834; and 24 CCR 7050 – 7126.
- **Section: 7078.4 Prior Performance Operating CDBG Grants (150) Points** - The Department proposes to delete this section and replace it with the scoring mechanism outlined above in Section 7078, per authority provided in 24 CFR 570.482(a), and continues to allow implementation and furtherance of all federal and state CDBG statutes and regulations as set forth in 42 USC 5301 – 5321; 24 CFR 570;

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

California Health and Safety Code 50406 (h) and (n), 50407 and 50825 – 50834; and 24 CCR 7050 – 7126.

- **Section: 7078.5 Capacity (150) Points** - The Department proposes to delete this section and replace it with the scoring mechanism outlined above in Section 7078, per authority provided in 24 CFR 570.482(a), and continues to allow implementation and furtherance of all federal and state CDBG statutes and regulations as set forth in 42 USC 5301 – 5321; 24 CFR 570; California Health and Safety Code 50406 (h) and (n), 50407 and 50825 – 50834; and 24 CCR 7050 – 7126.
- **Section: 7078.6 Leverage (50) Points** - The Department proposes to delete this section and replace it with the scoring mechanism outlined above in Section 7078, per authority provided in 24 CFR 570.482(a), and continues to allow implementation and furtherance of all federal and state CDBG statutes and regulations as set forth in 42 USC 5301 – 5321; 24 CFR 570; California Health and Safety Code 50406 (h) and (n), 50407 and 50825 – 50834; and 24 CCR 7050 – 7126.
- **Section: 7078.6 State Objectives (50) Points** - The Department proposes to move the language from this section, in its entirety; with the single exception being that the points available for award under State Objectives is now 100, rather than the 50 available under the original regulation to sections 7078(d)(1)(D); (d)(2)(D); (d)(3)(D); (d)(4)(D); (d)(5)(D) and (d)(6)(D).

Lastly, OAL has concerns with possible underground regulation regarding proposed section 7097 – Grant Agreements, as discussed on page 6, (h)(2) of the Disapproval Decision. In response, the Department has amended this section to cite the governing federal regulations and Federal Office of Management and Budget (OMB) Circulars, and section 7076 which regulates the program’s award of funds per state and federal statute and regulation, as applicable to the proposed subsections of 7097 (a), (b), and (c). Per these statutes, regulations, and circulars, the Department is required to create a contract including the information cited in these governing documents, in order to meet required federal program compliance standards. As noted above, the Department has the authority and is federally required to make and enter into grant agreements pursuant to 24 CFR 570.503 and Health and Safety Code sections 50406(c), (h) and (n).

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

3. NECESSITY/DEFECTIVE INITIAL STATEMENT OF REASONS

In the Disapproval Decision, OAL stated that Government Code section 11349.1(a)(1) requires that OAL review all regulations for compliance with the “necessity” standard, which means that the rulemaking preceding demonstrates by substantial evidence the need for a regulation in the Initial Statement of Reasons (ISOR). Per OAL, the Department’s ISOR was defective in this area in four places. OAL asserts that the ISOR stated what the result of the rulemaking action would be, but did not clearly state “why” the regulatory actions listed below were necessary. The Department’s responses to the items listed by OAL are below:

Amended section 7054: Definitions - Overpaying – The Department is proposing to change the standard used to define “overpayment” of housing from 25 percent of gross monthly income to 30 percent, to be consistent with the nationally recognized definition of “overpayment” as used in federal programs across the country. The U.S. Department of Housing and Urban Development (HUD) has guidance on their website under “Affordable Housing” for developing an effective Housing Element for federal programs (as required in California for CDBG under Health and Safety Code 50829) which states, “the generally accepted definition of affordability is for a household to pay no more than 30 percent of its annual income on housing. Families who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care” - <http://www.hud.gov/offices/cpd/affordablehousing/>.

Proposed section 7058(a)(1) and (a)(3) – The federal statute citation for 7058(a)(1) is 42 USC 5305(a), (f), (g), (t), and (x), and the citation for 7058(a)(3) is 42 USC 5305(b).

Eligible activities under the State CDBG Program can be found in federal statute 42 USC 5305, also known as Section 105 of The Housing and Community Development Act of 1974 (The Act). Generally, if an activity does not fall within a category of explicitly authorized activities in the statute, the activity is considered ineligible. In this regulatory action, listing the CDBG eligible activities as proposed is necessary to provide the users of the program with a listing of activities and activity subject matters that follow the nationally recognized common theme and purpose of the program rather than simply citing the applicable federal statute, as is the case in regulation now; and to provide consistency with activities spelled out in section 7078.

The activity categories in section 7058(a) “Housing Assistance, Public Facilities, Infrastructure...etc” are established titles across the program nationally. The activities listed are not California specific activities or activity names; the list here is merely enumerating the existing eligible activities as discussed in federal statute to provide clarity for the public using these regulations and for programmatic consistency. Further, the naming convention for the categories has been used in all previous NOFAs since

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

the program's inception, and codifying the eligible activities across both Community Development and Economic Development substantially assists the Department to effectively combine all program activity allocations into one NOFA for the reasons described at the front of this document and in the original ISOR. Moreover, the activity titles as listed in the proposed regulation follow a formatting code required by HUD for reporting awarded activities into their electronic accounting and grant tracking software, the Integrated Disbursement & Information System (IDIS). For uniformity throughout the program and for ease of communicating with grantees, the Department uses these names (e.g., 03 = Infrastructure; 03J = Infrastructure: sidewalks) as a standard practice throughout its communication, both verbal and written, with interested parties, applicants, and grantees.

Proposed section 7078(b) – This regulation is necessary to make specific the parameters under which Planning and Technical Assistance grants may be applied for and how the Department will award them. In designing the regulation the Department was careful to include the statutory requirements in Health and Safety Codes 50832 and 50833, where state statute is clear that: PTA grants are to be awarded on a first come/first served basis (i.e. they cannot be scored); there is a limit of two PTA awards in any given year per jurisdiction; and that the maximum grant amount will be decided by the Department and announced in the NOFA. Further, 50833 (c) allows the Department to manage the percentage of funds available for PTA grants if federal law defines PTA funding as General Administration funding, since federal law limits the amount of General Administration that the Department may spend or award to 20% of our annual award. Indeed, Section 105(a)(12) and (a)(13) of the Act and regulations at 24 CFR 570.489(a)(3) hold the State to a 20% cap of the annual grant, program income and reallocated funds for use in planning, management and administrative activities by both states and their grantees. Thus, the Department's General Administration funds must be allotted so that the 20% covers all Administration costs for the program at the state and local level, as well as for Planning and Technical Assistance (PTA) grant funding.

As discussed above, the Department is prohibited from scoring PTA applications by Health and Safety Code 50832(b), so the Department must work an eligible non-scored activity with a limited amount of funding, which must be awarded to "areas of greatest need," into a competitive application process in the annual NOFA. To this end, the Department has written the regulation to match its CDBG Method of Distribution (MOD) which, as discussed above, is subject to public comment and requirements that the Department consult with local jurisdictions in the design of the MOD per 42 USC 5306(d)(2)(C)(iv), and 24 CFR 91.115. (Per Federal requirements, the State Noticed and opened the MOD for public comment March 1 – March 30, 2012. The comment period included three public hearings. No comments were received.)

Within the new scoring system in this rulemaking action, the Department has developed a system that will equitably divide the PTA allocation within the state statutory requirement of first in/first served, and within the federal mandate of 'greatest need',

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

while maintaining the workload reduction requirement that necessitate a single NOFA and a single contract per jurisdiction per year. The regulation allows for jurisdictional flexibility in that applications for PTA grants may be submitted within an application for other activities, or as a stand-alone activity.

Further, the Department seeks to make clear that PTA applications submitted with other activities will only be funded if at least one other activity in the application is also funded, to maintain the necessary limit of one contract per jurisdiction, per year under the annual NOFA methodology. PTA applications submitted with other activities or on a stand-alone basis will be funded on a first-come first-served basis, and when the total PTA allocation receives more applications than can be funded, a tiebreaker system developed through the HUD Annual Plan process, as discussed in the Initial Statement of Reasons, announced in the NOFA, and stated in 7078(d)(7) will be used.

The Department, its stakeholders and customers believe that this method of distribution will, as much as possible, ensure equitable sharing of PTA funds, as well as streamline the Department's application review workload given the staffing reduction discussed in the Initial Statement of Reasons and earlier in this document.

Proposed section 7097 - Under Health and Safety Code sections 50406(c), (h) and (n) the Department has authority to make contracts and execute contracts for the exercise of its powers and functions. Pursuant to 24 CFR 570.503 and 24 CFR 85 et seq., the Department is required to issue and execute contractual agreements with grantees before any funds may be drawn from the Department's allocation from HUD. Thus, adding new Section 7097 is necessary to make clear the federal requirement for a Grant Agreement between the State "recipient" and the Grantee "subrecipient". The federal regulations at 24 CFR 570.503 enumerate what must, at a minimum, be included within the contract.

The absence of this section concerns the Department since HUD considers the Program's regulations to be an enforcement tool for federal requirements. For example, on February 13, HUD released its Audit of the State CDBG program. Finding number 4 states in part:

The State has not complied with the requirements of 24 CFR 570.489(d) as the State of California has not developed all required policies and procedures for the units of general local government (UGLG) that receive State CDBG funds. The State's policies and procedures are not adequate enough in terms of ensuring that CDBG funds are used in compliance with the Office of Management and Budget's (OMB) Circular A-87 "Cost Principles for State, Local, and Indian Tribal Governments," as codified at 2 CFR Part 225.

HUD goes on to state:

The following areas were specifically examined and compliance instructions for OMB Circular A-87 were not found.

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

HUD included a list of areas examined which they found to be lacking on this topic. That list included *Title 25 of the California Code of Regulations — Housing and Community Development.*

4. REQUIRED DOCUMENTS INCLUDED IN THE FILE WERE DEFECTIVE

OAL's Disapproval Decision stated that "OAL is mandated to review each regulation adopted pursuant to the APA to determine whether the regulations complies with the 'authority' and 'reference' standards." Further, OAL commented that "The regulation text of the proposed regulations adopted by the Department and submitted to OAL for review and filing with the Secretary of State in this regulatory action did not contain any 'authority' and 'reference' citations as required by Government Code section 11346.2(a)(2)." The Department acknowledges that the "authority" and "reference" citations were left off of the proposed regulation text originally submitted, and has added them to the revised text.

5. CONCLUSIONS

In its Disapproval Decision OAL also noted:

1. Extraneous regulation sections included in submitted regulation text.

In response, the Department has removed all regulatory sections that are not being added, amended or repealed.

2. A minor text discrepancy at 7062.1(c)(6)(D). Discussion with OAL established that the discrepancy is actually at 7062.1(c)(5)(D). The current regulation shows the language starting with "In analyzing..." and ending with "...other funding sources," to be in parenthesis.

In response, the Department has added the parentheses to the regulation text for resubmission.

3. Incorrect use of parenthesis 7062.1(b)(1) and (4) varying subdivision designation methods.

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

In response, the parenthesis in the citations of The Act within 7062.1(b)(1) have been corrected per OAL's instruction, and in section 7078, the subdivision method has been revised to the standard regulatory subdivision format of "(a),(1),(A),1., and a."

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY REPORTS, OR DOCUMENTS

The Department did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of these regulation changes.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES

Make no Changes: If these changes are not made, the Department will not save staff time now committed to application review of multiple NOFAs and thus will not be able to spend the staff time needed to meet monitoring and grantee technical assistance obligations.

Make Non-Regulatory Changes to the Program: This would not sufficiently streamline the method of distribution, and since the current method of distribution is in regulations, changes to this system cannot be made without amending the regulations.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

There is no adverse impact on Small Business since participation in this program is voluntary.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

There is no adverse impact on Small Business since participation in the program is voluntary.