

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**DIVISION OF FINANCIAL ASSISTANCE**

Infill Infrastructure Grant Program

Transit-Oriented Development Housing Program

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**DATE:** August 15, 2011**TO:** All Interested Parties**FROM:** Eugene Lee, Section Chief
Infill Infrastructure Grant and TOD Housing Programs**SUBJECT:** Amendment to IIG & TOD Program Guidelines – Disbursement Extensions

This memorandum announces amendments to the Infill Infrastructure Grant Program (IIG) Guidelines and the Transit-Oriented Development Housing Program (TOD) Guidelines to implement provisions of SB 870, Chapter 712, Statutes of 2010. The Department released the draft Guideline for public comment on May 31, 2011, held a public meeting on June 8, 2011, and invited written comments until June 20, 2011 to solicit input. After preparation of a revised draft, the Department again consulted with stakeholders that submitted written comments. After consideration of public comments, the Department established revised Performance Milestones to approve disbursement extensions.

Background

To ensure the expeditious use of public funds and the rapid creation of affordable housing, infrastructure, and jobs, timely expenditure of IIG and TOD awards is necessary. The Department also recognizes current unprecedented market conditions means the disposition of some TOD and IIG projects will require additional time to fully utilize program funds to finance and construct the proposed housing or infrastructure.

Pursuant to SB 870, the Department has amended the IIG and TOD Guidelines to allow these funds to be available for disbursement beyond Fiscal Year 2011-12 for Round 1 awards and Fiscal Year 2012-13 for Round 2 awards. SB 870 authorized the Department to disburse funds until June 30, 2015 (for Round 1 awards) and June 30, 2016 (for Round 2 awards).

Public Comments

The Department carefully considered the public comments received. Specific comments included: provide greater project-specific flexibility to obtain funding commitments for housing and infrastructure; clarify disbursement extension approvals

for projects that have already started construction with Department funds; extend proposed deadlines by an additional six months, utilize existing performance requirements in the program Guidelines; and require additional project readiness measurements to projects delayed 5-6 years from the award date.

To solicit further input and discussion before finalizing the amendments, the Department conducted follow-up phone calls with participants who provided written comments. Based on the additional public comments received during the Department's follow-up calls, the Department developed Guideline amendments that streamline and clarify the extension process and requirements. The amendments also allow for greater flexibility of project specific timelines within the maximum statutory disbursement deadlines. Commenters supported the Department's proposal to use existing performance requirements already achieved by awardees that demonstrate project progress. In addition, commenters agreed that their project schedules are viable within the timelines in the final revision considered by the Department.

IIG and TOD Guideline Amendments

The Department will evaluate performance-based milestones on a project by project basis to determine which projects should be granted time extensions authorized by SB 870. The goals of creating affordable housing, infrastructure, and jobs represented in the IIG and TOD Programs require the Department be diligent about timely expenditure and use of the funds. The Department will provide both: 1) conditional, and 2) date-specific disbursement extension approvals.

Final draw requests for IIG or TOD infrastructure grant funds, accompanied by invoices of costs incurred, shall be submitted by the Department-approved disbursement extension for the project, but no later than February 1, 2015 or 2016 as applicable, in order to allow sufficient time for the review, approval, and disbursement of funds by the Department and the State Controller's Office.

1. Conditional Approvals

The Department will provide conditional disbursement extensions in either of the following instances: (1) if the project is under construction using IIG or TOD funds; or (2) after the Recipient has satisfied the performance milestones set forth in Tables 1 or 2 (as applicable) below.

(A) For IIG and TOD Infrastructure Grant Awards:

Recipients must execute the State Standard Agreement (Std. 213) and the Department's Disbursement Agreement no later than the dates in Table 1. The Department will grant conditional approvals after the execution of both agreements.

Table 1

NOFA Date	Current Disbursement Deadline	PERFORMANCE MILESTONE DATES		Maximum Disbursement Extension Deadline
		Standard Agreement Executed	Disbursement Agreement Executed	
February 28, 2008	February 1, 2012	June 30, 2012	June 30, 2012	February 1, 2015
January 30, 2009	February 1, 2013	June 30, 2013	June 30, 2013	February 1, 2016

(B) For TOD Housing Loan Awards:

The Department disburses its TOD housing loans as permanent financing after the construction of the TOD housing development is completed. To be eligible for a disbursement extension, the Recipient must execute the State Standard Agreement by the applicable date set forth in Table 2 and provide the Department with a certificate of occupancy for the housing development no later than the dates specified in Table 2.

Table 2

NOFA Date	Current Disbursement Deadline	PERFORMANCE MILESTONE DATES		Maximum Disbursement Extension Deadline*
		Standard Agreement Executed	Certificate of Occupancy	
February 28, 2008	February 1, 2012	June 30, 2012	February 1, 2015	April 1, 2015
January 30, 2009	February 1, 2013	June 30, 2013	February 1, 2016	April 1, 2016

* The amount of the TOD Loan must be deposited into a project closing escrow account no later than the stated dates.

2. Date-specific approvals

The Department will provide date-specific disbursement extensions after review and approval of a revised disbursement schedule and the Recipient's satisfaction of the disbursement conditions (e.g. entitlements, funding commitments). To substantiate the amount of additional time requested by the Recipient, the Department may

require the Recipient to submit additional supporting documents to include but not limited to development agreements, construction contracts, and change orders, if necessary.

3. *Disencumberance of IIG or TOD Award*

Failure to meet the performance milestone deadlines for disbursement extensions shall result in the disencumberance of the IIG or TOD award. The Department shall revoke disbursement extensions if the project will not be completed.

4. *Other Performance Deadlines*

The Department's approval of disbursement extensions shall not amend housing construction and completion deadlines established in the current IIG and TOD Guidelines. In addition, disbursement condition requirements identified in the IIG and TOD grant and loan documents shall continue to apply.

If you have questions, you may email the IIG Program at infill@hcd.ca.gov and the TOD Program at tod@hcd.ca.gov or call (916) 324-1555 if you have any questions.

Attachments – Proposed Guidelines for TOD and IIG programs

IIG Guidelines: Disbursement Extensions

Objective: To ensure the expeditious use of funds and the rapid creation of affordable housing, infrastructure, and jobs from IIG awards, the Department is implementing provisions of SB 870, Chapter 712, Statutes of 2010. SB 870 recognized the unique market conditions that have impeded the progress of previously awarded projects. The Department is addressing the intent of SB 870 and the important goal of ensuring funds for the IIG program are expended in an effective and timely manner to achieve the intended program goals. The Department shall evaluate performance-based milestones on a project by project basis to determine which projects can be eligible for time extensions within the timeframe specified in SB 870.

IIG Program Guidelines (Rev. 9/1/10) Section 306(c)...

- c) Program funds must be disbursed in accordance with deadlines specified in the Standard Agreement, and in no event later than the following maximum disbursement deadlines. The Department may approve a disbursement extension deadline request up to the applicable Maximum Disbursement Extension Deadline (as shown below) if the Recipient demonstrates, to the satisfaction of the Department, that it has complied with the following performance milestones related to the Notice of Funding Availability (NOFA) round in which the Department made its award to the Recipient:

Table 1

NOFA Date	Current Disbursement Deadline	PERFORMANCE MILESTONE DATES		Maximum Disbursement Extension Deadline
		Standard Agreement Executed	Disbursement Agreement Executed	
February 28, 2008	February 1, 2012	June 30, 2012	June 30, 2012	February 1, 2015
January 30, 2009	February 1, 2013	June 30, 2013	June 30, 2013	February 1, 2016

TOD Guidelines: Housing Development Construction Deadlines and Disbursement Extensions

Objective: To ensure the expeditious use of funds and the rapid creation of affordable housing, infrastructure, and jobs from TOD awards, the Department is implementing provisions of SB 870, Chapter 712, Statutes of 2010. SB 870 recognized the unique market conditions that have impeded the progress of previously awarded projects. The Department is addressing the intent of SB 870 and the important goal of ensuring funds for the TOD program are expended in an effective and timely manner to achieve the intended program goals. The Department shall evaluate performance-based milestones on a project by project basis to determine which projects can be eligible for time extensions within the timeframe specified in SB 870.

TOD Program Guidelines (dated February 4, 2009, as amended March 31, 2009)

Section 105. Assistance Terms and Limits

(c) Construction of the Housing Development funded by a Program loan must commence within three years of the Program award date and must be completed within five years of the Program award date unless a disbursement deadline extension is granted by the Department pursuant to Subdivision (e) of this Section.

(d) Construction of the Housing Development associated with an Infrastructure Project funded by a Program grant must commence within the time set forth in the Standard Agreement but not more than 5 years from the date of the Program grant award.

(e) The Housing Development associated with an Infrastructure Project must be completed, as evidenced by receipt of a certificate of occupancy, within the period of time set forth in the Standard Agreement, but not more than eight years from the date of the award of the Program grant. This period may be extended by the period of any extension granted pursuant to Subdivision (f) of this Section.

(f) Recipients will be required to repay disbursed TOD infrastructure grant funds where construction of residential units used as the basis for calculating the grant amount pursuant to Subdivisions (k)(3) and (k)(4) of this Section have not received building permits within five years from the date of the Program grant award. The Department may provide one extension to these deadlines, for a term not to exceed five years, if the Recipient demonstrates that construction has not begun for reasons outside their control, such as deteriorating market conditions.

The amount to be repaid shall be the same proportion to the total grant amount as the number of residential units where construction has not timely commenced to the total number of designated residential units.

(g) The Department may approve a disbursement deadline extension request up to the applicable Maximum Disbursement Extension Deadline (as shown below) if the Recipient demonstrates, to the satisfaction of the Department, that it has complied with the following Performance Milestones related to the Notice of Funding Availability (NOFA) round in which the Department made its award to the Recipient. Program funds must be disbursed in accordance with deadlines specified in the Standard Agreement, and in no event later than the following dates:

TOD INFRASTRUCTURE GRANT

NOFA Date	Current Disbursement Deadline	PERFORMANCE MILESTONE DATES		Maximum Disbursement Extension Deadline
		Standard Agreement Executed	Disbursement Agreement Executed	
February 28, 2008	February 1, 2012	June 30, 2012	June 30, 2012	February 1, 2015
January 30, 2009	February 1, 2013	June 30, 2013	June 30, 2013	February 1, 2016

TOD RENTAL HOUSING LOAN

NOFA Date	Current Disbursement Deadline	PERFORMANCE MILESTONE DATES		Maximum Disbursement Extension Deadline*
		Standard Agreement Executed	Certificate of Occupancy	
February 28, 2008	February 1, 2012	June 30, 2012	February 1, 2015	April 1, 2015
January 30, 2009	February 1, 2013	June 30, 2013	February 1, 2016	April 1, 2016

* The amount of the TOD Loan must be deposited into a project closing escrow account no later than the stated dates.