

**Transit-Oriented Development Housing Program (TOD)
Guideline Amendment (Rev. 12/17/13)**



Section 105.10 Performance Based Disbursement Deadline Extensions

- (a) Notwithstanding anything to the contrary in the above Section 105, and subject to the threshold requirements set forth below, the Department shall have the discretion to extend the disbursement deadline date of an individual Recipient up to February 1, 2017. The actual extension period will be determined by the Department at its sole discretion and will be based upon documentation provided by the Recipient to the Department substantiating the need for additional time.
- (b) To be eligible for a disbursement deadline extension, the TOD Grant Recipient must as of December 31, 2014, have had award funds disbursed for eligible costs directly related to the actual physical construction of the Infrastructure Project. The Recipient must meet the disbursement conditions set forth in the Standard Agreement and Disbursement Agreement, which shall include by not be limited to the following:
 - (1) The Recipient must provide written documentation that it has obtained for the subject Infrastructure Project all necessary and discretionary public land use approvals and entitlements.
 - (2) The Recipient must provide written documentation that it has obtained for the subject Infrastructure Project all necessary environmental clearances.
 - (3) The Recipient must provide written documentation demonstrating project feasibility for Department approval, such as a current market study, a project pro-forma, sources and uses statement, or other feasibility documentation that is standard industry practice for the type of proposed housing development.
 - (4) The Recipient must demonstrate that it has obtained all their respective enforceable construction (or if applicable permanent) funding commitments, which shall include but not be limited to their tax credit reservations (if applicable), an executed construction contract for subject Infrastructure Project, and an executed construction contract for Housing Development(s).
- (c) To be eligible for a disbursement deadline extension, a TOD Loan Recipient must as of February 1, 2014, demonstrate to the Department's satisfaction that the Recipient has obtained all of its respective enforceable construction (or if applicable permanent) funding commitments, which shall include but not be limited to their tax credit reservations (if applicable), and an executed construction contract for the Housing Development. For project receiving 9% tax credits in 2014, said Projects must have started construction on the Housing Development no later than January 2, 2015.
- (d) The Recipient must not be in default of any provision of the Standard Agreement or Disbursement Agreement as notified by the Department.

- (e) If the Department does not grant an extension and/or if the Recipient fails to meet the performance-based milestones that are the basis to grant an extension, the existing disbursement deadlines stated in the Standard Agreement and Disbursement Agreement shall remain and the Department shall disencumber the Recipient's TOD Grant funds or TOD Loan funds if and when the Recipient fails to meet those established deadlines.
- (f) If an extension is granted pursuant to this section, the Department shall disencumber the Recipient's TOD Grant funds or TOD Loan funds if and when the Recipient fails to meet the extended timelines set forth in the Recipient's written extension.
- (g) For TOD Loan funds, if an extension is granted pursuant to this section, a Certificate of Occupancy must be issued by February 1, 2017, the TOD Loan funds must be deposited into a Project closing escrow account no later than April 1, 2017, and the TOD Loan must close no later than June 30, 2017.

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