

Introduction

Under the CDBG program, there are specific rules and requirements associated with the management and use of income received by recipients and subrecipients that is related to CDBG-funded activities.

This Chapter defines what program income is, explains the required *Program Income Plan*, and describes requirements for managing, using, and reporting program income to Grants Administration. This Chapter also includes forms for preparing a *Program Income Plan* and a *Program Income Annual Report*.

Section 1 – Definition and Eligible Uses of Program Income

Program income is defined as gross income received by a unit of general local government or a subrecipient of a unit of general local government that was generated from the use of CDBG funds, regardless of when CDBG funds were awarded and whether the activity has been closed out.

Inclusions

Program income includes, but is not limited to the following:

- ◆ Proceeds from the disposition by sale or long term lease of real property purchased or improved with CDBG funds.
- ◆ Proceeds from the disposition of equipment purchased with CDBG funds.
- ◆ Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient of a unit of general local government with CDBG funds, less the costs incidental to the generation of the income.
- ◆ Gross income from the use or rental of real property owned by the unit of general local government, or a subrecipient of a unit of general local government, that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income.
- ◆ Payments of principal and interest on loans made using CDBG funds.
- ◆ Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale.
- ◆ Proceeds from the sale of obligations secured by loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale.

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- ◆ Interest earned on funds held in a revolving fund (RF) account.
- ◆ Interest earned on program income pending disposition of the income.
- ◆ Funds collected through special assessments made against properties owned and occupied by households that are not low and moderate income, where the special assessments are used to recover all or part of the CDBG portion of public improvements.
- ◆ Gross income paid to a unit of general local government or subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

Program income that is received by the unit of general local government or subrecipient, before close-out of the grant that generated the program income, is treated as additional CDBG funds and is subject to all applicable Title I and other Federal regulations and State policies governing the CDBG program regardless of whether the grant that generated the activity has been closed.

See *Chapter 16: Program Close-Out* for more information on CDBG close-out requirements.

Program income received before full programmatic close-out must be expended to the maximum extent feasible before drawing additional CDBG funds from the State for any activity in any CDBG project that the unit of local government has open; except that if such program income is used to establish a Revolving Fund (RF) in accordance with an approved *Program Income Plan (PIP)*.

Exclusions

Program income does not include:

- ◆ Total funds of less than \$35,000 received in a single year (January 1 to December 31), from activities other than revolving funds.
Amounts generated by activities eligible under 105 (a) 15 of Title I. This refers to activities undertaken by a certified Community Based Development Organization (CBDO) in carrying out a neighborhood revitalization, community economic development, or energy conservation project.
- ◆ Proceeds from the sale of real property purchased or improved with CDBG funds, if the proceeds are received more than 5 years after final close out.
- ◆ Payments of principal and interest, made by a subrecipient carrying out a CDBG activity, toward a loan from the grantee to the extent that program income received by the subrecipient is used for such payments. NOTE: Some earned interest must be returned to HUD (see Chapter 3: Financial Management).

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If program income is being generated from a grant that was awarded prior to October 1992, please contact Grants Administration for additional information.

Pro-Ration

When income is generated by an activity that is only partially assisted with CDBG funds, the income shall be pro-rated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds or a single parcel of land purchased with CDBG funds and other funds).

Eligible Uses of Program Income

Program income may be used for any eligible CDBG activities as listed in Title I, Section 105(a), in a manner that is consistent with the approved PIP (see below) and the other provisions of this Chapter. After a grant is closed out, program income may be used as local match for another CDBG grant, if such use is consistent with the approved PIP.

Section 2 - Program Income Plan

Each CDBG grant must contain a *Program Income Plan (PIP)*, whether income will be received or not. The State will normally require that all program income derived from CDBG funds be returned to the State unless the recipient requests to retain program income to be used for the same activity that generated the program income. An example of this would be retaining income received from a housing rehabilitation grant to rehabilitate additional houses. Grants Administration will determine when an activity is considered to be a continuation of the same activity that generated the income.

Program income may not be expended until a PIP has been approved by Grants Administration and any applicable Federal requirements, such as environmental review, have been met.

Approval

If the PIP submitted with the application is acceptable, the grant award constitutes approval of the PIP. If the PIP is incomplete, unacceptable or not included, the Grant Award will be conditioned to require submission of an acceptable PIP before any grant funds will be released. The Release of Funds constitutes approval of a Program Income Plan submitted as a grant condition. Approval of any PIP not submitted with the grant application will be acknowledged by letter from Grants Administration to the unit of local government.

The PIP will establish a contractual relationship with the grantee, regardless of whether the grant that generated the income is closed, for as long as there is program income.

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Requirements

At a minimum, the PIP must include the following items:

- ◆ Identification of the recipient, grant or application number, and title.
- ◆ The amount of CDBG program income funds on hand and the source of these funds. The recipient must also identify whether the program income funds on hand are in a Grants Administration approved Revolving Fund (RF) and indicate the purpose of the funds and the amount in the RF.
- ◆ A statement indicating whether or not the recipient expects this project, in combination with income from other CDBG projects, to generate more than \$35,000 in a single year (not including income from Revolving Funds):
 - If income is anticipated, the recipient must indicate whether the recipient is requesting program income be retained or returned to the State; or
 - If no program income is expected, the recipient must state that if any income should be received prior to programmatic closeout the recipient will use such income to defray CDBG project costs of this grant or any other open grant, or if not so used, returned to the State. The recipient also agrees to notify Grants Administration immediately upon receipt of such unanticipated income.
- ◆ After programmatic closeout, if unexpected program income in excess of \$35,000 per year is received (from activities other than Revolving Funds), the recipient agrees to return the funds to Grants Administration.
- ◆ If the recipient anticipates program income and wishes to retain that income to continue the same activity which generated the income, then the following information must be provided:
 - Need: An explanation of the need for continuing the same activity that generated the program income and how the proposed use of income will serve to alleviate the need.
 - Administration: The PIP should identify the entity that will be administering the program income. Explain the administrative procedures for the collecting, distributing, reporting and accounting of program income.

If a Revolving Fund is proposed to be established, the recipient must develop RF guidelines in accordance with the provisions in this Chapter prior to income being received and prior to programmatic close-out.

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This should include a statement that financial accounting will comply with 24 CFR Part 85 and other applicable State and Federal Guidelines.

- Compliance: An explanation of how the recipient will ensure that activities undertaken with program income will meet a National Objective and will comply with applicable requirements of Title I and other Federal regulations such as citizens participation, environmental review, acquisition, relocation, labor requirements, etc.
- Time Frame: Provide an anticipated time frame for program income expenditures. Income received should be distributed within eighteen months of collection or the State may require it to be returned.
- Return of Funds: Provide an assurance that the recipient will return all unexpended funds and collectable accounts to the State in the event the State finds evidence of fraud, waste, mismanagement and/or substantial non-compliance with the PIP.
- Approval: Evidence must be included that the governing body of the unit of local government has approved the PIP in a manner that will legally bind the community to follow the guidelines of the PIP. Each page must be initialed and dated by the recipient's authorized official.

Subrecipients

If program income is to be retained by a subrecipient, the above information must identify and describe the role of the subrecipient, as appropriate. Additionally, the subrecipient's governing board must approve the PIP and the subrecipient's participation.

Such approval must legally bind the subrecipient to perform in accordance with the provisions of the PIP and be submitted in writing to Grants Administration along with the PIP. It is a Federal requirement that a subrecipient be governed by the CDBG regulations in the same manner and to the same extent as the recipient. In any case, the unit of general local government remains responsible for ensuring compliance with the PIP and is liable for any misuse of program income funds.

Waivers

The State may waive or modify the requirements of this chapter when it determines that allowing the program income to be retained will promote the more efficient administration of the State's CDBG program and/or further the accomplishment of the State's objectives. However, the State cannot waive HUD or other Federal regulatory requirements concerning the use of program income.

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Length of Applicability

The accounting provisions and "use of funds" described in an approved *Program Income Plan* continue to be applicable as long as program income funds are received and/or distributed, whether the grant is open or closed. Appropriate documentation regarding the "use of funds" must be maintained along with the appropriate accounting documents for this period as well.

Section 3 - Accounting and Documentation

A program income accounting system should:

- ◆ Record program income in the recipient accounting records,
- ◆ Assure that all program income is collected and properly classified, and
- ◆ Assure that the handling of program income complies with Federal and State requirements.

Accounting Systems

The method of accounting to be used for tracking program income shall meet Generally Accepted Accounting Principles (GAAP). Any accounting system used must be detailed enough to provide the necessary information for completing Grants Administration's *Program Income Annual Report* and comply with the requirements of 24 CFR Part 85.

The recipient must have available in its file information that accurately accounts for all funds received and disbursed. This documentation must include bank statements and canceled checks (copies are acceptable if both sides of canceled checks are copied).

Note that a separate interest-bearing account must be maintained for each Revolving Fund – see Section 6 of this chapter for more information.

Regulatory Compliance

The recipient must also maintain documentation that shows program income was spent in compliance with Title I requirements.

This includes documentation that the funds were spent on eligible activities and that a National Objective was met. For example, funding of certain economic development activities that assist for-profit businesses requires that necessary "appropriateness" documentation be maintained to justify the funding decision.

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In addition, all other applicable requirements including environmental, procurement, citizen participation, acquisition, relocation, labor, fair housing and equal opportunity, Section 504, etc. must be followed and properly documented.

Monitoring

Grants Administration may conduct on-site monitoring of the use of program income and recordkeeping. The monitoring will ensure that program income is being reported accurately and will determine that all Federal and State requirements have been met. This monitoring may take place as part of other programmatic and financial monitorings, or may be conducted separately.

Section 4 - Reporting Requirements

Annual Reports

A *Program Income Annual Report* is required for reporting program income to Grants Administration. A copy of this form is included in the attachments to this chapter.

- 1) A *Program Income Annual Report* must be submitted if any program income is received or expended for the year (January 1 to December 31).
- 2) The *Program Income Annual Report* is due to Grants Administration each January 5.
- 3) The report contains information required by HUD on the amount of income received and expended. It identifies the activities generating the income and provides an explanation of how program income funds are spent in compliance with a CDBG National Objective. If the total program income for the year is more than \$35,000, excluding Revolving Funds, additional details are required to be provided on the annual report.

Although the task of reporting program income may be delegated to a responsible administering agency, the unit of local government is responsible for ensuring proper and timely use and reporting of program income.

Non-compliance with these reporting requirements by a unit of local government may result in a stop payment being issued on grant funds until an acceptable *Program Income Annual Report* is submitted or may result in the State recapturing the program income funds.

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Program Income Balance Reported on Requests for Payment

When program income is available at the local level, that program income must be utilized prior to any additional draws of CDBG funds unless such funds are protected in an RF (see Section 6) and the draw is for funds to carry-out a non-RF activity. The amount of program income on-hand before a grant is closed must be reported on the *Request for Payment/Cash Balance Report* when a draw down is made. (See Chapter 3: Financial Management for the *Request for Payment/Cash Balance Report*.)

Section 5 - Return of Program Income to the State

Program income is to be returned to the South Carolina Department of Commerce unless the program income is a result of a loan made by JEDA under the CDBG Revolving Loan fund, or unless otherwise designated by the South Carolina Department of Commerce. Any program income that is returned to the State by the recipient or subrecipient must be transmitted by a check made payable to the SC Department of Commerce as appropriate.

The check must be annotated with the grant number of the source of funds generating the income and accompanied by a transmittal letter identifying:

1. The recipient (and subrecipient, if applicable),
2. The grant number,
3. The amount of funds being returned,
4. The activity which generated the funds, and
5. The total funds generated by that activity returned to date.

The check and the transmittal letter should be sent to:

SC Department of Commerce
1201 Main Street
Suite 1600
Columbia, SC 29201

NOTE: These procedures do not apply when a business is repaying a CDBG loan by making payments directly to JEDA pursuant to a collateral assignment of loan documents.

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Section 6 - Revolving Funds

A Revolving Fund (RF) is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities that, in turn, generate payments to the fund for use in carrying out such activities. Under limited circumstances, Grants Administration may approve the use of CDBG program income for the purpose of capitalizing a Revolving Fund for specific, identified activities. RFs are typically established to continue housing rehabilitation or economic development activities.

The establishment of a RF must be proposed in a *Program Income Plan* and approved by Grants Administration.

Payments to a RF are program income and must be substantially disbursed from the Revolving Fund before additional grant funds are drawn from the State for Revolving Fund activities. Such program income is not required to be disbursed for non-RF activities.

Applicable Requirements

If the RF is established to continue the activities of the grant which generated the program income, the RF is subject to all the requirements of this chapter (i.e., Title I, State policies, etc.) and the PIP, regardless of whether the grant was open or closed at the time the funds are received.

Written Guidelines

Grants Administration requires that written guidelines and procedures be developed for the administration of a Revolving Fund.

RF guidelines must be prepared and submitted to Grants Administration for approval prior to any income being expended and prior to full programmatic close-out of the grant which generated the program income and capitalized the RF.

The local governing body must approve the written RF guidelines. In addition, any substantive changes to local RF guidelines must be submitted to Grants Administration prior to implementation.

Failure to submit local RF policies and procedures in a timely manner could result in the recapture of program income by the State and may delay the approval of PIPs submitted which request retention of program income at the local level.

Minimum Requirements

Administration of a local RF involves three primary areas of responsibility:

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- ◆ Loan review, selection and approval,
- ◆ Maintaining a financial management system, and
- ◆ Loan servicing and monitoring.

At a minimum, the written RF guidelines should include the following elements that address the primary areas of responsibility:

- ◆ Establishment of RF goals and objectives
- ◆ Eligibility requirements
 - Eligible applicants
 - Eligible and ineligible activities
 - Eligible types of loans
- ◆ Loan Review, Selection and Approval
 - Loan Review Committee
 - ◇ Members and terms
 - ◇ Procedures and by-laws
- ◆ Application Requirements
 - ◇ Justification of need
 - ◇ Beneficiaries
 - ◇ Appropriateness documentation
 - ◇ Certifications
- ◆ RF Operating and Management Procedures
 - Accounting system
 - Reporting and recordkeeping
 - Loan Approval, documentation, disbursement and servicing
 - Title I compliance and monitoring
 - Administrative staffing, costs and fees
 - Audits
 - Conflict of interest

Monitoring

Revolving Funds will be monitored periodically by Grants Administration to ensure compliance with all Federal and State requirements. When establishing a RF, a unit of local government must agree to return all unexpended funds and collectable accounts to the State in the event of fraud, waste, or mismanagement and/or substantial non-compliance with the local RF guidelines.

Chapter 4: Program Income Attachments

Program Income Plan **(Revised 10/2013)**

Program Income Annual Report

Program Income Annual Report Instructions