

# Chapter 4

## Program Income





# Chapter Four: Program Income

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## Introduction

Chapter 4: Program Income provides an overview of the requirements applicable to the financial management of the Community Development Block Grant (CDBG) Program specifically related to Program Income derived through the use of CDBG funds.

**Program Income** is defined in 24 CFR 570.489(e) as gross income received by a unit of local government that was generated from the use of CDBG-Small Cities and Neighborhood Stabilization Program (NSP) funds. **All CDBG-Small Cities Program Income must be reported to the WVDO on an annual basis.**

## Definitions

*Program Income (PI)* is the gross income received by a Grantee that was generated from use of CDBG funds.

[Specific regulations regarding program income can be found in the Electronic Code of Federal Regulations under Title 24](#)

24 CFR Part 570.489(e)(1)  
Part 570.489(e)(2)(i)  
Part 570.489(e)(2)(ii)  
Part 570.504

*Miscellaneous Revenue* is revenue that may have been received after a contractual break or, under some circumstances, when a sub-recipient received funds that are not subject to federal requirements.

## Program Income Potential

24 CFR Part 570.489(3)(ii)

A Grantee must determine whether the funds generated are Program Income or Miscellaneous Revenue before proceeding. Requirements of Title I of the Housing and Community Development Act of 1974, as amended, include appropriate regulations, addressing a national objective, compliance with procurement, equal opportunity, environmental, labor standards regulations, and the Uniform Act. Miscellaneous Revenue is not subject to federal regulations but may be subject to certain state restrictions and requirements. All recovered funds must be used to further activities as defined in the grant agreement (i.e., economic development or housing-related activities) and be reported upon annually.

Program Income/Miscellaneous Revenue may be generated from the following activities and is not limited to the following activities:

- 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 sub-recipient of a unit of general local government with CDBG funds, less than 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;
- Proceeds from the sale of obligations secured by loans made with CDBG funds;
- Interest earned on funds held in a revolving fund account;
- Interest earned on program income pending disposition of the income;
- Funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where the special assessments are used to recover all or part of the CDBG portion of public improvements; and
- Gross income paid to a unit of general/local government or sub-recipient from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

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 or a single parcel of land purchased with CDBG funds and other funds).

#### **Program Income Received Before Full Project Closeout**

24 CFR Part 570.489(e)(3)(ii)

Program Income received by the Grantee or sub-recipient before closeout 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. (Note: The \$25,000 threshold does not apply to Program Income received if the grant is not fully programmatically closed out and there are further grant costs to be paid.)

Program Income received before full project closeout must be substantially expended to the extent practical before drawing additional CDBG funds from the West Virginia Development Office (WVDO) for the project from which the program income was generated. An exception is that if Program Income is used to establish a Revolving Loan Fund (RLF), it is not required to be expended for non-revolving fund.

#### **Program Income Received After Full Project Closeout**

24 CFR Part 570.489(e)(3)(iii)

Provisions of this section are primarily related to Program Income generated from housing projects. Program Income that is received after full project closeout of the grant that generated the Program Income is not subject to the requirements in this chapter, except:

1. If the Grantee has another ongoing CDBG project at the time of closeout, the Program Income continues to be subject to the requirements of this chapter (i.e., until there is a contractual break with the WVDO, defined as full project closeout of all open grants). Note that the provisions of the following item (2) may be triggered at any time during the ongoing grant relationship.
2. If Program Income is used to continue the activity that generated the funds, the requirements of this chapter apply as long as the Grantee uses the Program Income to continue the activity.

A Grantee cannot give Program Income to an agency for use in other cities or counties while the Grantee is still participating in the CDBG program. If the WVDO decides that Program Income received after closeout should go to an agency or to a local government other than the locality that realized the Program Income, CDBG requirements would continue to apply. This prohibition is based on statutory language mandating that CDBG funds must benefit the eligible Grantee that received the original funds.

#### Revolving Loan Fund Policy

##### **24 CFR Part 570.489(f)**

The WVDO may approve the use of CDBG recovered funds for the purpose of capitalizing a Revolving Loan Fund (RLF) for specific, identified activities. RLFs are typically established to continue housing rehabilitation or economic development activities. The establishment of an RLF must be in the grant application and approved by the WVDO.

An RLF, for this purpose, is a separate fund (with a set of accounts independent of other program accounts) established to carry out specific activities which then generate payments for use in carrying out such activities. These payments to the RLF are Program Income/Miscellaneous Revenue and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the WVDO.

If the RLF is established to continue the activities of the grant which generated the Program Income, the RLF is subject to all the requirements of this chapter (i.e., Title I, state policies, etc.) regardless of whether the grant was open or closed at the time the funds were received.

The WVDO requires that written guidelines and procedures be developed for the administration of the RLF. These guidelines must be prepared and submitted to the WVDO for approval. This must be prior to any program income being expended and prior to the release of funds of the grant that generated the program income and capitalized the RLF.

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

Failure to submit local RLF policies and procedures in a timely manner could result in the recovery of Program Income by the WVDO. If recovered funds will not be retained by a sub-recipient, the above information must identify and describe the role of the sub-recipient, as appropriate. (The sub-recipient's governing board must approve the Revolving Loan Fund and the sub-recipient's participation prior to Release of Funds.)

Such approval must legally bind the sub-recipient to perform in accordance with the provisions of the Revolving Loan Fund and be submitted, in writing, to the WVDO. It is a federal requirement that a sub-recipient be governed by the CDBG regulations in the same manner and to the same extent as the Grantee. In any case, the Grantee remains responsible for ensuring compliance with the RLF and is liable for any misuse of Program Income funds.

The WVDO may waive or modify the requirements of this chapter when it determines that, in so doing, it will promote the more efficient administration of the program and/or further the accomplishment of objectives. However, the WVDO cannot waive HUD or other federal regulatory requirements concerning the use of recovered funds. Program Income may not be expended until a Revolving Loan Fund has been approved by the WVDO and any applicable federal requirements, such as environmental review requirements, have been met.

Revolving Loan Funds will be monitored periodically by the WVDO to ensure compliance with all federal and state requirements. A Grantee must agree to return all unexpended funds and collectable accounts to the WVDO in the event of fraud, waste or mismanagement and/or substantial non-compliance with the local RLF guidelines.

#### Program Income Accounting System

A Program Income accounting system should:

- Record Program Income in the Grantee's accounting records;
- Ensure that all Program Income is collected and properly classified; and
- Ensure that the handling of Program Income complies with federal and state requirements.

The method of accounting to be used for tracking Program Income shall meet Generally Accepted Accounting Principles (GAAP). Any accounting system used must provide the necessary information for completing the WVDO's Annual Program Income/Miscellaneous Revenue Report (PI/MR) and comply with the requirements of 24 CFR Part 85 (Interest bearing accounts are not allowed for anything other than program income.).

The Grantee must maintain files that accurately account 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).

The Grantee must also maintain documentation that shows recovered funds were spent in compliance with Title I requirements. This includes documentation that the funds were spent on eligible activities, documentation that a National Objective was met, and any materials used in a funding decision. In addition, the requirements pertaining to environmental, citizen participation, acquisition, relocation, labor, fair housing and equal opportunity, Section 504, etc., must be followed and properly documented.

### Request for Program Income Expenditure Authorization

In order to expend Program Income funds, a Grantee must request approval from the WVDO. WVDO staff will review the request to determine compliance with eligibility and national objective requirements. With WVDO approval, a Grantee may also use Program Income on a newly proposed project. This would be included in the CDBG application. As a condition to grants currently being funded, the WVDO now requires Program Income to be used before requesting additional CDBG funds. If approved, the transaction is reported on the subsequent PI/MR Report.

### Complete Annual Reporting Requirements

HUD requires vigorous state oversight of recovered funds retained at the local level. The WVDO has the ultimate responsibility for the proper use of these funds and must ensure that Program Income is used in a manner consistent with CDBG requirements. For this reason, annual Program Income Revenue Reports are required (**see Attachment 4-1**). A Grantee with the potential of generating recapture funds must submit a report for the fiscal year ending June 30.

Since the Grantee is ultimately responsible for grant PI/MR compliance, it is responsible for the completion and submission of the report. Should the Grantee utilize a nonprofit sub-recipient organization to manage the RLF that entity is responsible for providing the Grantee the necessary program and financial information required for reporting to the WVDO.

The Grantee can expend up to a maximum of 10 percent of the total Program Income/Miscellaneous Receipts received to date for administration. Review of PI/MR may be included as part of a normal project monitoring. Any deficiency that is noted and appears as a finding in the monitoring letter must be resolved the same as any other.