

Date	Description of Change	Section

CHAPTER 8 – PROGRAM INCOME

Program income for the CDBG program is regulated by the provisions of 24 CFR 570.489(e). This regulation should be consulted for definitions and for other guidance concerning program income.

Broadly, program income is defined as gross income received by a State, or a subrecipient, generated from the use of CDBG funds regardless of when the CDBG funds were appropriated and whether the activity has been closed out, except in limited circumstances [See also 24 CFR 570.489(e)(2)]. When program income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used.

The State CDBG objective for program income is to provide adequate financing for local development to ensure Nebraska's economic prosperity and to use all resources in a timely manner. The State is seeking to provide a policy for use of program income that coordinates local and State resources to the fullest extent possible. The State is responsible for ensuring that program income at the State and local levels is used in accordance with applicable federal laws and regulations.

PROGRAM INCOME FURTHER DEFINED

Per 24 CFR 570.489(e), program income includes, but is not limited to, the following:

- 1) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds except in instances where the proceeds are received more than 5 years after expiration of the grant agreement between the state and the unit of general local government (subrecipient). [See also 24 CFR 570.489(e)(2)(v)];
- 2) Proceeds from the disposition of equipment purchased with CDBG funds;
- 3) Gross income from the use or rental of real or personal property acquired by the unit of general local government (subrecipient) or subgrantee of the unit of general local government (subrecipient) with CDBG funds, less the costs incidental to the generation of the income;
- 4) Gross income from the use or rental of real property, owned by the unit of general local government (subrecipient) or other entity carrying out a CDBG activity that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;
- 5) Payments of principal and interest on loans made using CDBG funds, except in instances where "Payments of principal and interest made by a subgrantee carrying out a CDBG activity for a unit of general local government (subrecipient), toward a loan from the local government (subrecipient) to the subgrantee, to the extent that program income received by the subgrantee is used for such payments;" [See also 24 CFR 570.489(e)(2)(iii)];
- 6) Proceeds from the sale of loans made with CDBG funds, less reasonable legal and other costs incurred in the course of such sale that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of Title I of the Housing and Community Development Act of 1974 (as amended);
- 7) 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 that are not otherwise eligible costs under sections 105(a)(13) or 106(d)(3)(A) of Title I of the Housing and Community Development Act of 1974 (as amended);
- 8) Interest earned on funds held in a revolving fund account;

- 9) Interest earned on program income pending disposition of the income;
- 10) Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not of low- and moderate-income, if the special assessments are used to recover all or part of the CDBG portion of a public improvement; and
- 11) Gross income paid to a unit of general local government (subrecipient) or subgrantee of the unit of general local government from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

REVOLVING LOAN FUNDS DEFINED

Per 24 CFR 570.489(f), A revolving loan fund (RLF), for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. These payments to the RLF are program income and must be substantially disbursed from the RLF before additional grant funds are drawn from the U.S. Treasury for RLF activities.

CDBG STATE REVOLVING LOAN FUND (STATE RLF)

CDBG program income returned to DED is deposited within the State RLF. The State awards funding from the State RLF through the CDBG Economic Development (ED) Category. Following a successful application, these funds are awarded to subrecipients to provide a direct loan to a business either through the NDO process (described in detail below) or direct loan from the subrecipient.

Projects funded with the State RLF must meet CDBG requirements, including meeting a CDBG National Objective through Benefitting Low- and Moderate-Income Persons through the subcategory of job creation/job retention (LMJ).

CDBG Allocation vs CDBG State RLF

When a community applies through the CDBG Economic Development (ED) category, DED determines whether CDBG funds from the Annual Allocation or the State RLF based on funding available as appropriate for the project.

PROGRAM INCOME – IDLE ACCOUNTS MUST BE RETURNED

Program Income, including those funds held in an RLF and/or reuse account, cannot be held in perpetuity. Where a subrecipient has Program Income within such an account, if funds are not actively revolving, it may meet the definition of an Idle Account. Funds that are held for 12 months or more without accomplishment or beneficiaries is considered an “idle” account.

PI/RLF accounts are defined as “idle” if one or more of the following is true:

- Local government (subrecipient), or its agent(s), did not identify an eligible project during a 12-month period.
- Local government (subrecipient) has funds obligated/awarded but not disbursed within 12 months of the date of the commitment and/or award (i.e., “failed project”).

Active accounts have active projects with a letter of commitment/award that is dated and signed by an authorized official (i.e., the chief elected official). Account activity for determining an “idle” status does not include “non-project” activities such as transferring (or repurposing) funds, charging administrative costs or collecting program income from past transactions (e.g., interest, loan repayments, etc.), etc.

DED will determine if the local unit of government program income account is idle. DED will evaluate the local program income account semi-annually. Local unit of government program income accounts that are deemed “idle” may require the balance and all future funds be returned to DED. Local government must return Idle Account funds to DED, and annually thereafter. Returned funds will be deposited into the State’s RLF. Funds held in an Idle Account must be returned in a timely manner (i.e., 60 days of the state’s fiscal yearend) or the local government will not be considered in “good standing” and additional sanctions may apply, including de-obligation/termination of existing open grants and/or ineligibility to apply for DED resources. This includes CDBG, HOME, HTF and state programs such as CCCFF and NAHTF. For additional information about “good standing”, please see Chapter 2 – Administrative Overview.

HOW TO REPURPOSE LOCAL PROGRAM INCOME

On August 15, 2019, Policy Memo 19-03 was issued by DED allowing local governments to amend their Reuse Plans/RLFs, including making amendments due to Emergency/ Disaster Declarations. Communities have the option to repurpose their local program income with written approval from DED. As community needs change, program income reuse plan activities may be expanded to include eligible CDBG activities and must meet the low-and moderate income (LMI) national objective. Below is additional guidance:

Eligible CDBG Activities

Refer to the CDBG Administration Manual, Chapter 3 for the list of eligible CDBG Activities that Nebraska has identified as priority activities.

Eligible National Objective

Benefit low- and moderate-income (LMI) persons within the subcategories of

- Area Benefit (LMA)
- Limited Clientele (LMC)
- Housing (LMH)
- Job Creation/Retention (LMJ)

NOTE: local PI/RLF must use the LMI national objective; therefore, are **not allowed** to use the national objectives of 1) aid in the prevention of slums or blight nor 2) urgent need. At the discretion of DED and in very limited circumstances, waivers may be granted. HUD regulations require a majority of program income funds – including those held by local governments – to meet the National Objective of benefitting LMI persons.

Amending Reuse Plan

If Local Government determines a need to amend their Reuse plan, they need to contact the Department regarding the process and proposed changes. To amend the Reuse Plan, the Local Government must submit the following items to DED:

Letter from the Chief Elected Official identifying:

- Reason for the change of the Reuse plan,
- Certification of approval by the local governing body (meeting minutes)
- Copy of the proposed Reuse plan

DED will notify the local government of the results of their review for the proposed amended Reuse Plan. **DED must approve the proposed amended Reuse Plan prior to implementation.**

LOCAL ECONOMIC DEVELOPMENT (ED) PROGRAM INCOME

PROGRAM INCOME AND “CONTINUING THE SAME ACTIVITY”

The local government may retain program income if used to continue the activity from which it was derived, per Federal regulations; otherwise, the State may require the return of program income. The State is permitted to define “continuing the same project activity.”

For the purposes of program income, the State defines “continuing the same project activity” as:

- **Existing Local ED Revolving Loan Fund:** For local governments with existing program income in an existing Local ED Revolving Loan Fund, or who are currently utilizing the NDO (Nonprofit Development Organization) process, continuing the same project activity will include providing assistance for the same CDBG eligible activities as defined in the subrecipient’s DED-approved Local Program Income Reuse Plan (also known as a Local Reuse Plan).
- **No Existing Local ED Revolving Loan Fund (e.g., local unit of government has not established a local ED Revolving Loan Fund):**
 - For ED subrecipients, program income that was generated from the use of CDBG funds for the awarded activities may utilize the NDO process. In the instance where the NDO process is utilized, continuing the same project activity is defined as providing assistance for the same CDBG eligible activities as defined in the subrecipient’s DED-approved Local Program Income Reuse Plan (also known as a Local Reuse Plan).
 - For ED subrecipients, program income generated from the use of CDBG funds awarded activities may be deposited into a newly created Local ED Revolving Loan Fund account. Any program income that is deposited through this process, continuing the same project activity is defined as providing assistance to the same business for the same activity for which it was originally funded.

Local Economic Development Program Income Revolving Loan Funds (Local ED RLF) Policy

The following rules apply to Local Economic Development Program Income Revolving Loan Funds (RLFs):

- All Local ED RLF must be kept in a separate bank account (interest-bearing).
- All Local ED RLF must employ or contractually retain a CDBG Certified Administrator.
- Administrative costs taken from the Local ED RLF cannot exceed 5% of the Program Income received during the semi-annual reporting period.
- Each Local Reuse Plan (including amendments) must be approved by DED.
- Funds in a Local ED RLF are federal and are subject to all applicable CDBG rules and regulations.
- Funds held in a Local ED RLF, shall in no case, have a balance that exceeds \$500,000. Any amounts in excess of \$500,000 shall be returned to the State.
- Re-purposing of Idle RLF funds is generally no longer allowed except for those repurposing projects currently in process.
- DED requires funds held in an Idle Account to be returned.
- New ED RLFs will generally not be approved by DED.

Local Economic Development Program Income and Units of General Local Government

The unit of general local government (UGLG) has the following options for utilizing CDBG program income, including:

- Returning the program income funds to DED;
- Using the program income within an existing Local ED RLF;
- Establishing a Local ED RLF; or
- Utilizing the NDO process.

Below are the specific requirements that relate to the options each unit of general local government have for their use of program income.

RETURNING PROGRAM INCOME FUNDS TO DED

The local government may return program income to DED using one of the three processes described below.

1. Where **no Local RLF exists**, the process for returning program income funds includes:
 - a. Sending a cover letter that clearly notes the previous CDBG grant number where the funds originated and that these CDBG program income funds are being returned and
 - b. Sending a check payable to the “Nebraska Department of Economic Development” to DED for the amount of CDBG funds that the community is returning. (check identifies CDBG grant origination)
 - c. Any future program income payments a community may receive, and will be returning to DED, should be collected by the local government and those funds should be returned to DED once there is a reasonable balance (e.g., returned every six months, or every year, depending on whether or not there is a reasonable balance).

2. Where there is an existing Local RLF, **if a local government wishes to return program income and to discontinue the Local RLF**, the process for returning program income funds includes:
 - a. Sending a cover letter that clearly notes that the funds being returned are from the community’s Local ED RLF and that the local government is discontinuing the Local ED RLF;
 - b. Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.); and
 - c. Sending a check payable to the “Nebraska Department of Economic Development” to DED for the amount of CDBG program income funds that the community is returning.

Any subsequent program income payments that the local government may receive would also be returned to DED.

3. Where a local government wishes to **return program income that is in an Existing Local ED RLF and continue to operate the Local ED RLF**, the process for returning program income funds includes:
 - a. Sending a cover letter that clearly notes that the funds being returned are from the community’s Local ED RLF;
 - b. Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.); and
 - c. Sending a check payable to the “Nebraska Department of Economic Development” to DED for the amount of CDBG program income funds that the community is returning.

Any subsequent program income payments that the local government may receive would be deposited in the Existing Local ED RLF.

Use of Program Income – Existing Local ED Revolving Loan Fund

In order to retain CDBG program income, and the local government chooses to utilize an existing Local ED RLF, the local government will do so by completing the following steps:

- 1) The local government must provide DED with a written Notice of Intent to use a Local Economic Development Revolving Loan Fund (Local ED RLF) in order to reuse program income for CDBG eligible activities which are consistent with the definition of “continuing the same project activity” as defined above.
- 2) The local government must administer the Local ED RLF locally and employ the services of a Nebraska CDBG Certified Administrator to administer the Fund.

- 3) The local government will develop and adopt a Revised Local Reuse Plan. The Local Reuse Plan must include:
 - a. A detailed description of the unit of local government;
 - b. A description of who will administer the Local ED RLF, and certify that the entity administering the Local ED RLF has CDBG Certified Administrators.
 - c. A description of the priorities of the program income projects that may be approved by the unit of local government which will be consistent with the definitions of “continuing the same project activity”;
 - d. A Certification that the local government will comply with the Local Reuse Plan that must include, but will not be limited to, the following:
 - i. The local government who is retaining the CDBG program income within a Local ED RLF will comply with all applicable CDBG rules and regulations;
 - ii. The local government understands that the Local ED RLF funds are federal and subject to all applicable CDBG rules and regulations;
 - iii. The local government must complete the proper resolution, public hearings, and environmental review for each additional project funded through the Local ED RLF;
 - iv. The local government understands that funds must be used to significantly benefit the residents of the community that previously received the initial CDBG grant;
 - v. The local government understands that Local ED RLF funds from a community are solely for the benefit of the community that established the Local ED RLF and that these funds cannot be provided to any regional ED program that would assist other communities;
 - vi. The local government understands that all projects will consist of ED activities that benefit low-to-moderate income persons, specifically meeting the national objectives through LMJ, LMC, or LMA.
 - vii. The local government understands that DED must approve their Local Reuse Plan.

At any time, local governments will have the option to discontinue operating the Local ED RLF and return the program income funds to DED. DED will apply the funds to the State CDBG RLF.

The local government will also be required to comply with the following CDBG requirements that include:

- 1) If the initial activity, which generated the program income and is defined as “continuing the same project activity”, has not been completed prior to the first receipt of program income, all program income received must be applied to the current grant activity prior to requesting additional CDBG funds.
- 2) Miscellaneous program income, generated by activities that are not defined as “continuing the same project activity”, must be applied to an open CDBG ED grant prior to requesting additional CDBG funds, or returned to the State.
- 3) Program income funds used from the Local ED RLF must be consistent with the requirements of Revised Local Reuse Plan that must be approved by DED prior to the local government approving any new applications for activities.
- 4) All program income within the Local ED RLF must be locally monitored and the amount of program income within the Local ED RLF must be reported to DED. Status updates concerning the outstanding loans or leases shall be submitted on a semi-annual basis. This semi-annual reporting includes, but is not limited to, loans made, payments received, proposed and actual jobs created (or retained) beneficiary data, and amendments to the original loan or lease agreement, as required by DED.
- 5) All program income earned, as a result of CDBG grant activities, is subject to all requirements of Title I of the Community Development Act of 1974 (as amended) regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local ED RLF is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local ED RLF.
- 6) Local governments that are currently operating a Local ED RLF and choose to discontinue the operation

of the Local ED RLF can return the funds to DED by following the requirements for “Returning the program income funds to DED” as noted above.

In addition, the State schedules monitoring with all local governments who have operated or continue to operate a Local ED RLF. At its discretion, **DED will conduct monitoring.** The State will review loans from previous Program Years. The monitoring will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions for the specific compliance issues discovered.

DED enters into a CDBG Agreement with the local government for each new (original, State-funded) CDBG Project. The Agreement includes a process for handling program income generated by the project. The Agreement details the procedures for the expected Program Income that is unique to that project.

Establishing a Local ED Revolving Loan Fund

In order to retain CDBG program income, and the local government chooses to establish a Local ED RLF it will do so by completing the following steps:

- 1) The local government must provide DED with a written Notice of Intent to use a Local Economic Development Revolving Loan Fund (Local ED RLF) in order to reuse program income for CDBG eligible activities which are consistent with the definition of “continuing the same project activity” that is defined for new ED projects as noted above and includes “providing assistance to the same business for the same activity for which it was originally funded.”
- 2) The local government must administer the Local ED RLF locally and employ the services of a Nebraska CDBG Certified Administrator to administer the Fund.
- 3) The local government will develop and adopt a Local Reuse Plan. The Local Reuse Plan must include:
 - a. A detailed description of the unit of local government;
 - b. A description of who will administer the Local ED RLF, and certify that the entity administering the Local ED RLF has CDBG Certified Administrators;
 - c. A description of the priorities of the program income projects that may be approved by the unit of local government which will be consistent with the definitions of “continuing the same project activity”;
 - d. A Certification that the local government will comply with the Local Reuse Plan that must include, but will not be limited to, the following:
 - i. The local government who is retaining the CDBG program income within a Local ED RLF will comply with all applicable CDBG rules and regulations;
 - ii. The local government understands that the Local ED RLF funds are federal and subject to all applicable CDBG rules and regulations;
 - iii. The local government must complete the proper resolution, public hearings, and environmental review for each additional project funded through the Local ED RLF;
 - iv. The local government understands that funds must be used to significantly benefit the residents of the community that previously received the initial CDBG grant;
 - v. The local government understands that Local ED RLF funds from a community are solely for the benefit of the community that established the Local ED RLF and that these funds cannot be provided to any regional ED program that would assist other communities;
 - vi. The local government understands that all projects will consist of ED activities that benefit low-to-moderate income persons, specifically low- to- moderate jobs.
 - vii. The local government understands that all projects funded through the Local ED RLF must meet a CDBG National Objective; and
 - viii. The local government understands that DED must approve this Local Reuse Plan.

- 4) DED must approve Local Reuse Plan. If the Local Reuse Plan is not submitted to DED as stated within the CDBG Agreement, DED will require all program income be returned to the State.

At any time, local governments will have the option to discontinue operating the Local ED RLF and return the program income funds to DED. DED will apply the funds to the State CDBG Revolving Loan Fund.

The local government will also be required to comply with the following CDBG requirements that include:

- 1) If the initial activity, which generated the program income and is defined as “continuing the same project activity”, has not been completed prior to the first receipt of program income, all program income received must be applied to the current grant activity prior to requesting additional CDBG funds.
- 2) Miscellaneous program income, generated by activities that are not defined as “continuing the same project activity”, must be applied to an open CDBG ED grant prior to requesting additional CDBG funds, or returned to the State.
- 3) Program income funds used from the Local ED Revolving Loan Fund must be consistent with the requirements of the Local Reuse Plan that must be approved by DED prior to the local government approving any applications for activities.
- 4) All program income within the Local ED Revolving Loan Fund must be locally monitored and the amount of program income within the Local ED RLF must be reported to DED. Status updates concerning the outstanding loans or leases shall be submitted on a semi-annual basis. This semi-annual reporting includes, but is not limited to, loans made, payments received, proposed and actual jobs created, and amendments to the original loan or lease agreement, as required by DED.
- 5) All program income earned, as a result of CDBG grant activities, is subject to all requirements of Title I of the Community Development Act of 1974 (as amended) regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local ED Revolving Loan Fund is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local ED RLF.
- 6) Local governments that are currently operating a Local ED Revolving Loan Fund and choose to discontinue the operation of the Local ED Revolving Loan Fund can return the funds to DED by following the above requirements for “Returning the program income funds to DED” noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to operate a Local ED RLF. The State will review loans from previous Program Years. The monitoring visits will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions appropriate for the specific compliance issues discovered, including returning of funds to the State.

Utilizing the NDO Process

A local government may seek to form a subgrantee relationship with a local nonprofit organization to carry out the CDBG activities on behalf of the local government. The local government funded by the State for an ED project, or a local government with an existing Local ED RLF, would grant the CDBG funds awarded to a Nonprofit Development Organization (NDO), is a community development organization or a local economic development corporation. The NDO must be recognized (through an application process) by the State according to the requirements of 24 CFR 570.204 to carryout funded activities through a contract with the local government (subrecipient)for activities in which it retains a direct and controlling involvement and responsibilities for the provision of financial assistance to the community’s ED project.

The activity carried out by the NDO must meet the requirements of Section 105 (a)(15) of the Housing and Community Development Act (HCDA). Section 105 (a)(15) provides the provision, which allows as eligible assistance to neighborhood based nonprofit organizations, local development corporations, and nonprofit organizations serving the development needs of communities in non-entitlement areas to carry out neighborhood revitalization and community economic development projects.

The NDO process includes, but is not limited to, the following:

- The local government, which is a recipient of CDBG Allocation, wishes to make a loan to a for-profit business for economic development activities in accordance with the State's program requirements.
- The local government executes an agreement with the NDO, which executes the loan agreement for the CDBG funds loaned to the for-profit business. The NDO, the local nonprofit organization, would use the repayment of the funds from the for-profit business to make additional loans, such as for economic development activities.
- The repayment of the CDBG loan is made to the NDO, and not to the local government, and the NDO retains the payments for future use through a Revolving Loan Fund (RLF), which includes a NDO Reuse Plan approved by DED through the NDO designation application process. The approved NDO Reuse Plan must ensure that activities funded by the RLF meet broad based economic development investments. The funds repaid to the NDO to continue economic development activities would not be considered program income.
- The NDO reinvests in the community through its established RLF, which can fund additional loans in the service area of the NDO.

For new CDBG Economic Development grants, the local government (subrecipient) and the NDO must submit a proposal to the State authorizing the approval of an arrangement between the local government and the NDO for the NDO to carry out the funded activities on behalf of the local government and for repayments to go to the NDO's RLF. The designated NDO must have already received approval from DED and will have an approved NDO Reuse Plan in place.

Overall, the NDO would carry out the activities of the grant awarded to the local government for assistance to the for-profit business. During this period, the local government would ensure that all CDBG rules and regulations were followed for this initial loan. The repayments from the business to the NDO would not be considered program income, provided that a National Objective has been achieved. Subsequent loans by the NDO using those funds repaid to the RLF would only have to meet those requirements in DED approved NDO Reuse Plan established by the NDO. The NDO would reinvest funds in broad-based economic development activities.

Local governments currently operating a Local ED RLF may choose to enter into an agreement with a designated NDO to carry out activities with the Local ED RLF. The NDO must be designated by DED and operate the RLF with a DED-approved NDO Reuse Plan. The NDO must also include the local government in its service area. Once the funds are repaid to the NDO, provided that a national objective has been achieved, the funds would no longer be subject to the CDBG federal rules and regulations, thus providing a pool of Revolving Loan Fund dollars subject only to the requirements of the NDO Reuse Plan.

It will be the responsibility of the local government, in coordination with the NDO, to determine the entity responsible for carrying out the activities of the ED project and the entity who will be responsible for administering the project. In some instances there may be one entity carrying out the project activities and a separate entity administering the grant. Grant administration and carrying out CDBG activities on behalf of the local government (subrecipient) are two separate activities.

LOCAL HOUSING PROGRAM INCOME

The unit of general local government (UGLG) has the following options for utilizing CDBG housing program income that unit of local government may receive. These options include:

- 1) Returning the program income funds to DED;
- 2) Retaining the program income and using it to continue the same CDBG eligible housing activities; or
- 3) Using the program income within an existing Local Housing Revolving Loan Fund (RLF) on CDBG eligible housing or repurposing activities.

Program Income and “Continuing the Same Activity”

Federal regulations also allow the State to require the return of program income provided the local government has an opportunity to retain the program income if the program income will be used to continue the activity from which it was derived. For the purposes of program income, the State defines “continuing the same project activity” as owner occupied rehabilitation and homeownership assistance.

Local Housing Revolving Loan Fund Vs. Reuse Account

Per 24 CFR 570.489(f), a **Revolving Loan Fund (RLF)**, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. These payments to the RLF are program income and must be substantially disbursed from the RLF before additional grant funds are drawn from the Treasury for RLF activities. Such program income is not required to be disbursed for non-revolving fund activities. **As of June 30, 2020, generally no new Housing RLFs will be approved by DED.**

A **Reuse Account** is a separate fund established to carry out specific activities that do not generate payments to the account. Per 24 CFR 570.489(e)(3)(ii)(B), if the grant between the State and the unit of local government that generated the program income is still open when it is generated, it will be considered part of the unit of local government’s grant that generated it and must be disbursed before additional grant funds are drawn down from the Treasury for grant activities. If the grant is closed out, the program income will be considered to be part of the unit of general local government’s most recently awarded open grant, regardless of activity.

Housing Program Income Funds Policy

The following rules apply to CDBG Housing Program Income Reuse Accounts and Revolving Loan Funds (RLFs):

- All housing program income must be kept in a separate bank account (interest-bearing).
- All housing program income accounts must employ or contractually retain a CDBG Certified Administrator.
- Certain administrative costs, including those associated with general administrative and housing management, taken from the housing program income account cannot exceed the limits set forth in the grant specific program guidelines, approved by DED, and based on the income received. See Chapter 4 for details.
- Each Local Reuse Plan (including amendments) must be approved by DED.
- Funds in a housing program income account are federal and are subject to all applicable CDBG rules and regulations.
- Funds held in a housing program income account, shall in no case, have a balance that exceeds \$500,000. Any amounts in excess of \$500,000 shall be returned to the State.
- DED requires funds held in an **Idle Account** be returned.

Below are the specific requirements that relate to the option that the unit of general local government has chosen for its use of program income.

Returning Program Income Funds to DED

The local government may return program income to DED using one of the three processes described below.

1. *No Local Housing RLF exists*

Where **no Local Housing RLF exists**, the process for returning program income funds includes:

- a. Sending a cover letter that clearly notes the previous CDBG grant number where the funds originated and that these CDBG program income funds are being returned; and
- b. Sending a check payable to the “Nebraska Department of Economic Development” to DED for the amount of CDBG funds that the community is returning. (check identifies CDBG grant origination)

Any future program income payments a community may receive, and will be returning to DED, should be collected by the unit of local government and those funds should be returned to DED once there is a reasonable balance (e.g., returned every six months, or every year, depending on whether or not there is a reasonable balance).

2. *Existing Local Housing RLF and Discontinuing Operation*

If a unit of local government wishes to **return program income that is in an Existing Local Housing RLF and discontinue the Local Housing RLF**, the process for returning program income funds includes:

- a. Sending a cover letter that clearly notes that the funds being returned are from the community’s Local Housing RLF and that the local government is discontinuing the Local Housing RLF;
- b. Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.); and
- c. Sending a check payable to the “Nebraska Department of Economic Development” to DED for the amount of CDBG program income funds the community is returning.

Any subsequent program income payments that the local government may receive that were intended to be deposited would also be returned to DED.

3. *Existing Local Housing RLF and Continuing Operation*

If a unit of local government wishes to **return program income that is in an Existing Local Housing RLF and continue to operate the Local Housing RLF**, the process for returning program income funds includes:

- a. Sending a cover letter that clearly notes that the funds being returned are from the community’s Local Housing RLF;
- b. Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.); and
- c. Sending a check payable to the “Nebraska Department of Economic Development” to DED for the amount of CDBG program income funds that the community is returning.

Any subsequent program income payments that the local government may receive would be deposited in the Existing Local Housing RLF.

Retaining the Program Income in a Reuse Account and Using it to Continue the Same CDBG Eligible Housing Related Activities

In order to retain CDBG program income, the unit of local government will maintain their program income in a Local CDBG Program Income Account and adopt a Local Reuse Plan that includes a detailed description of the local government and includes administration and priorities of the program income projects to be approved by the local government which are consistent with the definition of “continuing the same project activity” as described above.

A local government's Local Reuse Plan must state that all projects will consist of activities that benefit low-to-moderate income persons, specifically low-to-moderate income housing as defined within the local government's DED-approved Local Reuse Plan, as part of the local government's contractual requirements with DED.

At any time, a local government will have the option to discontinue utilizing the housing program income and return it to DED. DED will apply the funds to the State CDBG Revolving Loan Fund (also known as the State Revolving Loan Fund).

At the end of the calendar year, if the total amount **received** in a Reuse Account by the unit of local government is less than \$35,000 (24 CFR 570.489(e)), that amount should be removed from the Local CDBG Program Income Reuse Account and de-obligated to the unit of local government. That amount is no longer reported as program income. This applies to Reuse Accounts only. All program income received within a Local Housing Revolving Loan Fund never loses its identity as program income and should be reported to DED.

The local government will also be required to comply with the following CDBG requirements that include:

- 1) If the initial activity, which generated the program income and is defined as "continuing the same project activity", has not been completed prior to the first receipt of program income, all program income received must be applied to the current grant activity prior to requesting additional CDBG funds.
- 2) Miscellaneous program income, generated by activities that are not defined as "continuing the same project activity", must be applied to an open CDBG housing grant prior to requesting additional CDBG funds, or returned to the State.
- 3) Program income funds used for additional activities must be consistent with the requirements of the Local Reuse Plan that must be approved by DED prior to the local government approving any new applications for activities.
- 4) All program income within the Local Housing RLF or Local Housing Reuse Account must be locally monitored and the amount of program income within that account must be reported to DED. Status updates concerning the program income funds shall be submitted on a semi-annual basis. This semi-annual reporting includes, but is not limited to, grants/loans made, payments received, housing activities, beneficiary data, and amendments to the original loans, as required by DED.
- 5) All program income **earned**, as a result of CDBG grant activities, is subject to all requirements of Title I of the Community Development Act of 1974 (as amended) regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local Housing RLF or Local Housing Reuse Account is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local Housing RLF or Local Housing Reuse Account.
- 6) Local governments that are currently utilizing a Local Housing RLF or Local Housing Reuse Account and choose to discontinue the operation of that Local Account must return the funds to DED by following the above requirements for "Returning the program income funds to DED" noted above.

In addition, the State will schedule monitoring visits with all subrecipients who have operated or continue to utilize a Local Housing RLF or Local Housing Reuse Account. The State will review project activities from previous Program Years. The monitoring visits will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions appropriate for the specific compliance issues discovered.

Using Program Income – Existing Local Housing Revolving Loan Fund

In order to retain CDBG program income that is in an existing Local Housing RLF, the unit of local government will have to certify and ensure that the Local Housing RLF is properly established in order to meet DED requirements. This Local Housing RLF would be utilized for the purposes of retaining CDBG program income, and reusing that program income, for the purposes of carrying out specific housing activities, which in turn, generate payments to the RLF for use in carrying out additional housing activities.

If the local government chooses to utilize an existing Local Housing RLF it will do so by completing the following steps:

- 1) The unit of local government must provide DED with a written Notice of Intent to use a Local Housing Revolving Loan Fund (Local Housing RLF) in order to reuse program income for CDBG eligible activities which are consistent with the definition of “continuing the same project activity” as defined above.
- 2) The local government must administer the Local Housing RLF locally and employ the services of a Nebraska CDBG Certified Administrator to administer the Fund.
- 3) The local government will develop and adopt a Revised Local Reuse Plan. The Local Reuse Plan must include:
 - a. A detailed description of the unit of local government;
 - b. A description of who will administer the Local Housing RLF, and certify that the entity administering the Local Housing RLF has CDBG Certified Administrators.
 - c. A description of the priorities of the program income projects that may be approved by the unit of local government which will be consistent with the definitions of “continuing the same project activity”;
 - d. A Certification that the local government will comply with the Local Reuse Plan that must include, but will not be limited to, the following:
 - i) The local government who is retaining the CDBG program income within a Local Housing RLF will comply with all applicable CDBG rules and regulations;
 - ii) The local government understands that the Local Housing RLF funds are federal and subject to all applicable CDBG rules and regulations;
 - iii) The local government must complete the proper resolution, public hearings, and environmental review for each additional project funded through the Local Housing RLF;
 - iv) The local government understands that funds must be used to significantly benefit the residents of the community that previously received the initial CDBG grant;
 - v) The local government understands that Local Housing RLF funds from a community are solely for the benefit of the community that established the Local Housing RLF and that these funds cannot be provided to any regional housing program that would assist other communities;
 - vi) The local government understands that all projects will consist of housing activities that benefit low-to-moderate income persons;
 - vii) The local government understands that all projects funded through the Local Housing RLF must meet a CDBG National Objective; and
 - viii) The local government understands that DED must approve this Local Reuse Plan.
- 4) DED must approve Local Reuse Plan. If the Local Reuse Plan is not submitted to DED as stated within the CDBG agreement, DED will require all program income be returned to the State.

At any time, local governments will have the option to discontinue operating the Local Housing Revolving Loan Fund and return the program income funds to DED. DED will apply the funds to the State RLF.

All program income received in a Local Housing Revolving Loan Fund account never loses its identity as program income and must be reported to DED.

- 1) The local government will also be required to comply with the following CDBG requirements that include: If the initial activity, which generated the program income and is defined as “continuing the same project activity”, has not been completed prior to the first receipt of program income, all program income received must be applied to the current grant activity prior to requesting additional CDBG funds.

- 2) Miscellaneous program income, generated by activities that are not defined as “continuing the same project activity”, must be applied to an open CDBG housing grant prior to requesting additional CDBG funds, or returned to the State.
- 3) Program income funds used from the Local Housing Revolving Loan Fund must be consistent with the requirements of Revised Local Reuse Plan that must be approved by DED prior to the local government approving any new applications for activities.
- 4) All program income within the Local Housing Revolving Loan Fund must be locally monitored and the amount of program income within the Local Housing RLF must be reported to DED. Status updates concerning the outstanding loans shall be submitted on a semi-annual basis. This semi-annual reporting includes, but is not limited to, loans made, payments received, housing activities, beneficiary data, and amendments to the original loan, as required by DED.
- 5) All program income earned, as a result of CDBG grant activities, is subject to all requirements of Title I of the Community Development Act of 1974 (as amended) regardless of whether the original grant is open or closed when the program income is received. In addition, all program income expended from the Local Housing Revolving Loan Fund is subject to all requirements of Title I of the Housing and Community Development Act. This includes all second and subsequent generation loans made from the Local Housing RLF.
- 6) Local governments that are currently operating a Local Housing Revolving Loan Fund and choose to discontinue the operation of the Local Housing Revolving Loan Fund can return the funds to DED by following the above requirements for “Returning the program income funds to DED” noted above.

In addition, the State will schedule monitoring visits with all subrecipients who have operated or continue to operate a Local Housing Revolving Loan Fund. The State will review project activities from previous Program Years. The monitoring visits will be conducted either via desktop monitoring or onsite monitoring. The State will review local projects for compliance with all CDBG rules and regulations. Findings of non-compliance will result in the State taking appropriate corrective actions appropriate for the specific compliance issues discovered.

OTHER CDBG PROGRAM INCOME

Program income generated from other CDBG activities would follow the above-mentioned steps with the need for any necessary adjustments related to non-economic development or non-housing activities.

REPORTING PROGRAM INCOME

Local governments are required to report program income from all CDBG projects on a semi-annual basis. Reporting periods are:

- July 1 – December 31: **Report due January 30**
- January 1 – June 30: **Report due July 30**

Separate reporting forms are available for Local ED Program Income and Local Housing Program Income on DED’s website, <https://opportunity.nebraska.gov/CDBG>. In order to report other program income from non-ED or non-housing projects, please contact your Program Representative.

Program Income Reports can be submitted to DED via email. Follow the Instructions for each type of report for guidance on reporting and timely submissions. Subrecipients must retain a copy of each Program Income Report in their files.

ATTACHMENT: PROGRAM INCOME GUIDANCE

The following are three planning tools for local governments pursuing use or re-purposing of program income based on activity type. Each tool provides a basic framework, details are found within the relevant sections of the CDBG Manual. Address your specific questions to your DED CDBG Program Representative.

Reuse Plan for Community Development Activities

The following outline is a planning tool for local governments pursuing use or re-purposing of program income for **community development activities**. This is effectively a one-time use of funds as there is no revolving loan component.

Part I: Type of Plan (Geographic area where funds can be used)

Projects must be located within community's limits or zoning jurisdiction ("service area").

Part II: Goals and Objectives of the Plan

- A. National Objective Compliance: Local governments must document that each project meets the National Objective of benefit to low- and moderate-income (LMI) persons within the subcategories of:
 - 1. Area Benefit (LMA). Beneficiaries must be LMI residents within the defined service area that is at least 51% LMI according to census or income survey data.
 - 2. Limited Clientele (LMC). Beneficiaries must be those classified as LMC, see CDBG Manual for definition.
- B. Local Objectives (examples). Based on the local needs assessment (formal or informal), identify priorities.
 - 1. Example LMA objectives:
 - a) To cost-share CDBG-eligible priorities identified within the local capital improvement plan, including public infrastructure and facilities.
 - 2. Example LMC objectives:
 - a) Removal of architectural barriers in public facilities, including outdoor public spaces, sidewalks, and municipal buildings.
 - b) Improvements or new construction of senior centers.
 - c) Improvements or new construction of daycare centers.
 - d) Improvements or new construction of homeless facilities.

Part III: Elements of the Plan

- A. Eligible Activities (examples): public infrastructure (e.g., streets, roads, water wells, storage and distribution systems, storm sewers, sanitary sewer and treatment systems), public facilities, daycare centers, etc.

B. Guidelines for Assistance:

- a) Minimum and maximum dollar amounts
- b) Matching funds are not required for program income projects, as determined by the local government.

NOTE: if the local unit of government is funding public infrastructure and/or facilities, this section may be limited to items “a” through “b”. If providing assistance to a non-profit (e.g., offering grants to daycare centers or medical clinics), the reuse plan must include these additional items:

- c) Types of assistance
- d) Terms of assistance (must comply with change in use requirements)
- e) Amounts of assistance

Part IV: Administration of the Plan (Describe operating procedures)

Implementation of plan requires a certified administrator. See Chapter 8 for more information, including maximum allowable costs associated with general administration and, where applicable, supporting project costs.

- A. Administration procedures, i.e., identify internal controls for payment to vendors.
- B. Recordkeeping and reporting procedures, i.e., identify who is responsible for reporting required semi-annual reporting to DED.
- C. CDBG compliance process (e.g., procurement, environmental review, DBRA, civil rights, etc.).
 1. How are contractors selected, agreements signed between the selected contractor(s) and local government, and payments approved and disbursed to those contractor(s)?
 2. Who is responsible for monitoring requirements?
 3. Who is responsible for CDBG compliance process (e.g., procurement, environmental review, civil rights, etc.)?
- D. Amendment procedures (must include provision for DED approval).
- E. Verification of the project’s approval by the local government and DED (see part V).

Part V: Reporting to DED

Where a new or existing RLF account is being tapped for community development activities, DED must approve of the Re-Use Plan and Project prior to implementation. Use of CDBG program income requires progress reporting on the proposed and actual beneficiaries. Be sure to identify the principal local contact for matters related to program income; typically, this person is responsible for submitting:

- Semi-annual Program Income reports,
- Annual public benefits report,
- Notification of Annual Audit, etc.

Reuse Plan for Economic Development Activities

The following outline is a planning tool for local governments pursuing use or re-purposing of program income for **economic development activities**. See the CDBG Economic Development Application Guidelines for definitions of terms.

Part I: Type of Plan (Geographic area where funds can be used)

Project's service area must be located within community's limits or zoning jurisdiction.

Part II: Goals and Objectives of the Plan

- A. National Objective Compliance: Local governments must document that each project meets the National Objective of benefit to low- and moderate-income (LMI) persons within the subcategories of:
 - 1. Job Creation/Retention (LMJ). At least 51% of the jobs created or retained must be held by or available to LMI persons.
 - 2. Area Benefit (LMA). Beneficiary must be a for-profit business that provides essential goods and services to LMI residents within the defined service area that is at least 51% LMI according to census or income survey data.
 - 3. Limited Clientele (LMC). Beneficiaries must be those classified as LMC, see CDBG Manual for definition.
- B. Local Objectives (examples)
 - 1. Example LMJ objectives:
 - a) To provide financing for start-up and existing "for-profit" businesses.
 - b) To create and retain jobs principally for low-moderate income persons.
 - c) To provide necessary public infrastructure to businesses.
 - 2. Example LMA objectives:
 - a) To provide financing for start-up and existing businesses that provide essential goods and services, including succession of ownership and/or management.
 - b) To provide financing for improvements addressing ADA-accessibility where the proposed property for improvements is owned by an eligible business. Under LMA, an eligible business is one that provides essential goods or services.

Part III: Elements of the Plan

Several options are described below; give careful consideration when determining capacity to operate. For example, some eligible activities and types of assistance are challenging in terms of compliance with CDBG regulations. Local governments are responsible for compliance.

- A. Eligible Businesses (examples): Industrial, manufacturing, food processing, agricultural processing, commercial, service, telecommunication, transportation, retail, tourism, etc. Non-profit businesses are not eligible. Retail businesses are acceptable with Program Income.
- B. Eligible Activities (examples): Acquisition of real estate, land and buildings, fixed assets, machinery and equipment, renovations, remodeling, site preparation, working capital, and public infrastructure that benefits an

eligible business (e.g., streets, roads, water wells, storage and distribution systems, storm sewers, sanitary sewer and treatment systems) and the business creates or retains jobs.

- C. Types of Assistance (examples): Grants; direct loans; deferred loans; performance-based, forgivable loans; etc.
- D. Guidelines for Assistance (examples):
 1. Minimum or maximum dollar amounts
 2. What percentage of total project cost will community finance?
 3. What percentage of equity injections is required from owners or business?
 4. Interest rate of loans
 5. Loan terms (must not exceed useful life of assets financed); the following are maximum-term limits by type:
 - a) Working capital 1-3 years,
 - b) Machinery and equipment 3-7 years,
 - c) Land and buildings up to 15 years.

Part IV: Administration of the Plan (Describe operating procedures)

RLF accounts require a certified administrator. See Chapter 8 for more information, including maximum allowable costs associated with general administration and, where applicable, supporting project costs.

- A. Application Process
 1. Where can businesses get an application?
 2. Who is on the application review committee?
 3. Who makes the final determination on an application (e.g., review committee, village or county board, city council, etc.)?
- B. Project Implementation, Loan Closing, and Project Monitoring
 1. Who prepares the legal documents and security instruments (e.g., loan agreements, promissory notes, guarantees, contracts, deed of trust, mortgage, financing statement, U.C.C. form, etc.)?
 2. How are funds disbursed to the business?
 3. Who is responsible for loan servicing and monitoring job creation/retention requirements?
 4. Who is responsible for CDBG compliance such as the environmental review for each project and Labor Standards-Davis Bacon compliance if applicable?
- C. Describe amendment procedures (must include provision for DED approval of any changes to the plan/program guidelines).
- D. Verification of the plan's approval by the local government and DED.

Part V: Reporting to DED

Use of CDBG program income requires progress reporting on the proposed and actual beneficiaries. Be sure to identify the principal local contact for matters related to program income; typically, this person is responsible for submitting:

- Semi-annual Program Income reports,
- Annual public benefits report,
- Notification of Annual Audit, etc.

Reuse Plan for Housing Activities

The following outline is a planning tool for local governments pursuing use or re-purposing of program income for *housing activities*.

Part I: Type of Plan (Geographic area where funds can be used)

Projects must be located within community's limits or zoning jurisdiction ("service area").

Part II: Goals and Objectives of the Plan

- A. National Objective Compliance: Local governments must document that each project meets the National Objective of benefit to low- and moderate-income (LMI) persons within the subcategory of Housing (LMH). Beneficiaries must be those classified as LMI, see CDBG Manual for definition.
- B. Local Objectives, example LMH objectives:
 - 1. Provide decent housing
 - 2. Provide a suitable living environment
 - 3. Expand economic opportunity
 - 4. Improve availability/accessibility
 - 5. Improve affordability
 - 6. Improve sustainability

Part III: Elements of the Plan

Several options are described below; give careful consideration when determining capacity to operate. For example, some eligible activities and types of assistance are challenging in terms of compliance with CDBG regulations. Local governments are responsible for compliance.

- A. Eligible Applicants: Homeowners and Homebuyers at 80% AMI or less.
- B. Eligible Activities:
 - 1. Owner Occupied Rehabilitation.
 - 2. Homeownership Assistance, which may include one or more of the following:
 - a) Down Payment Assistance (maximum 50% of required);
 - b) Closing Costs;
 - c) Mortgage Insurance; etc.
- C. Types of Assistance (examples): Grants, direct loans, deferred loans, or forgivable loans.
- D. Guidelines for Assistance (examples):
 - 1. Minimum or maximum dollar amounts;
 - 2. Affordability Period (minimum of five (5) years) and methods of ensuring compliance thereof;
 - 3. Interest rate of loans;
 - 4. Loan terms;
 - 5. Standards for assistance; etc.

Part IV: Administration of the Plan (Describe operating procedures)

RLF accounts require a certified administrator. See Chapter 8 for more information, including maximum allowable costs associated with general administration and, where applicable, supporting project costs.

A. Application Process/Selection Criteria

1. Where can a homeowner get an application?
2. Who makes the final determination on an application (e.g., review committee, village or county board, city council, etc.)?
3. Is there a priority ranking system? (If applicable, such ranking system cannot contain discriminatory criteria.)
4. What is the notification process for approval, notice to proceed, acceptance of work, etc.?

B. Project Implementation and Monitoring

1. Who prepares the legal documents and security instruments (e.g., loan agreements, promissory notes, guarantees, contracts, deed of trust, mortgage, financing statement, etc.)?
2. How are contractors selected, agreements signed between the selected contractor(s) and homeowner(s), and payments approved and disbursed to those contractor(s)?
3. Who is responsible for loan servicing and monitoring requirements under the program?
4. Who is responsible for CDBG compliance process (e.g., procurement, environmental review, civil rights, etc.)?
5. Who is responsible for recordkeeping?

C. Describe amendment procedures (must include provision for DED approval of any changes to the plan/program guidelines).

D. Verification of the Housing Re-Use Plan and Housing Guidelines approval by the local government and DED.

Part V: Reporting to DED

Use of CDBG program income requires progress reporting on the proposed and actual beneficiaries. Be sure to identify the principal local contact for matters related to program income; typically, this person is responsible for submitting:

- Semi-annual Program Income reports,
- Annual public benefits report,
- Notification of Annual Audit, etc.

REVOLVING LOAN FUND FREQUENTLY ASKED QUESTIONS

What is “re-purposing” of CDBG Program Income Revolving Loan Funds?

Your community (e.g., local government -- county, city or village) has Community Development Block Grant (“CDBG”) Program Income funds that could be “re-purposed”. See *DED’s Policy Memo 19-03* for re-purposing details and an outline of a Re-Use Plan. Funds previously held for Housing or Economic Development Revolving Loan Funds (RLF) and/or Housing Reuse Accounts can be “re-purposed” and used for other CDBG eligible activities, such as Public Works type projects, or funds can be moved from one funding category to another with this process.

Re-purposing applies to all CDBG program income accounts. For purposes in this document, “Housing Reuse” and “RLF” are used interchangeably, as both types of accounts are CDBG program income.

To begin the re-purposed project, what do we need to have completed?

A number of steps in the re-purposing process require DED’s approval before proceeding with your re-purposing project. Your file must include the following items:

1. Project description.
2. Public hearing documentation, including:
 - a. Copy of public hearing notice,
 - b. Proof of publication, and
 - c. Meeting minutes, including public comments, if any.
3. Amended Re-Use Plan, if applicable.
4. Amended Housing Program Guidelines, if applicable.
5. Environmental Review Record.

Are we required to utilize a Certified Administrator to administer an RLF?

A Certified Administrator is required to administer an RLF. If hiring a Certified Administrator (CA), regulations require a Professional Services Contract (which supports paying CDBG administration costs). Be sure your CA billings are not a flat amount or percentage (i.e., follow 2 CFR 200, which by today’s standards requires billing to show hours worked and what actions were taken). A sample Professional Services contract can be found within the *CDBG Manual*. Additionally, the Monitoring Checklist, available on DED’s website, includes all the required items to be included in the Professional Services contract.

What are the local government options with this re-purposing effort?

The following options are open to the local government for its CDBG RLF Program Income:

1. Retain the RLF (actively) and update the existing Re-Use Plan(s).
2. Discontinue the RLF, but continue servicing the existing loan portfolio, and making periodic remittances to DED.
3. Re-purpose the RLF fund to eventually conduct other CDBG-eligible activities.

What types of CDBG project categories are best for RLF use?

DED encourages projects which involve Public Works or Economic Development. In contrast, DED discourages consideration of using the RLF for Housing PRR (Purchase/Rehab/Resell), Tourism, Downtown Revitalization, Disaster Recovery, Emergent Threat, or Planning.

What is the status of my RLF?

The status of your RLF depends on several factors, most notably recent activity. There are three basic types of accounts:

1. **Idle.** Idle accounts are those having been inactive for 12 months or more.
2. **Discontinued.** Discontinued accounts are those that are “closed” to new activity.
3. **Active.** Active accounts are those consistently dispensing and receiving funds for approved activities. For additional definition and discussion of “idle account”, how to discontinue an account, and how to maintain an active account refer to *CDBG Manual Chapter 8 – Program Income*.

We have idle funds. Can we keep them and decide what to do later?

No. With *Policy Memo 19-03*, DED is requiring funds in Idle Accounts be returned to DED by June 30, 2020 and annually thereafter. To activate your idle accounts, projects need to be committed well before that date. DED shall not grant extensions where activity underway cannot be demonstrated.

We have idle funds. Can we return them now?

Yes. It is OK and preferred to return balances promptly. Many accounts may hold small balances thus it may be impractical to use the funds responsibly, efficiently, and/or without incurring an inordinate amount of costs.

If we decide to discontinue our program income account, what are the steps?

To discontinue our program income account, the *CDBG Manual Chapter 8 – Program Income* details the steps, which are summarized here:

1. Hold a public hearing to amend and “discontinue” the current (CDBG RLF) Re-Use Plan and return the funds to Nebraska Department of Economic Development (DED).
2. Send a copy of the (local government hearing) certified minutes and a letter from the Chief Elected Official stating that the funds are being returned due to discontinuance.
3. Write a check for the balance payable to DED.
4. Continue to report and periodically send the accumulated balance to DED (if loan repayments will occur in the future), until the fund and future repayments are exhausted.

If a community discontinues their program income RLF account, returns the balance to DED, but still has accounts receivable, how should we handle scheduled repayments from beneficiaries?

Accounts receivable include loans being repaid or other program income. Repayments are considered program income. The program income account and the ED or Housing program is officially “closed” (i.e., discontinued). The grantee must continue servicing the loans and collecting payments. As a best practice, the community makes periodic payments to DED, corresponding with the submission of semi-annual program income reports. Ideally this involves returning the funds on a semi-annual basis. For planning purposes, future repayments can be applied to the proposed project(s) and included in planned expenditures.

NOTE: You must keep reporting program income until all outstanding repayment balances are exhausted.

How do we begin the re-purposing process?

1. **Review existing plans** for Capital Improvements or Housing, making a list of viable projects.
2. **Discuss with DED or your Certified Administrator** -- CDBG eligibility of your project.
3. **Develop a project description** -- subject to approval by DED.
4. **Draft a Re-Use Plan, and Housing Program Guidelines, if applicable**– consult with DED who must approve your Plan.
5. **Develop a publication notice for the public hearing** -- include the project description and notice of re-purposing in the public notice.
6. **Conduct a public hearing** -- ratification by local government (with certified minutes).
7. **Create the Environmental Review Record**– subject to approval by DED before beginning.
8. **Begin the project**– with the goal of using the funds within two years.

What are some re-purposing critical considerations?

DED Policy Memo 19-03 details critical considerations. A brief summary is included below:

- **Funds held in an Idle Account** will be required to be returned to DED by June 30.
- Re-purposed funds are federal and must follow all CDBG regulations, including:
 - Creating an Environmental Review Record
 - Following Davis-Bacon and Related Acts and using a procurement process

Be an eligible CDBG activity

- **Meet the LMI National Objective** benefiting low- and moderate-income (LMI) persons, subcategories include:
 - LMC (Limited Clientele considered to be LMI persons)
 - LMA (LMI on an area basis with 51%+ LMI)
 - LMJ (LMI jobs creation or retention)
- LMH (LMI Housing)
 - Not all National Objectives are allowed. **NOT allowable** are the following:
 - SBA (Slum/Blight Area Basis)
 - SBS (Slum/Blight Spot Basis)
 - UN (Urgent Need)

What is involved with amending or updating our RLF's Re-Use Plan?

Review the existing Re-Use Plan, and, in many cases, little will need to be done to update the old plan. By having a “re-purposing” and “discontinuance” hearing, that is often all that is needed. The old Re-Use Plan will continue to operate and apply to existing projects (as amended for discontinuance or re-purposing).

- If you are **discontinuing** the RLF, conduct a public hearing that covers an “amendment” to the existing plan to “discontinue” the plan (provide certified minutes of the hearing). No additional work is required.
- If you **re-purpose** your RLF program income (e.g., from Housing or ED to a Public Works project, and discontinue the old), then the public hearing would cover the “re-purposing” and can be combined with the new project’s public hearing (for your Public Works or other eligible project/program).
- If you **continue** your existing RLF, then an updated Re-Use Plan will be needed to reflect all current CDBG rules and State policies, and to show its approval by DED. Housing RLFs will likely need to provide an update to the Housing Program Guidelines. You must submit your modified Re-Use Plan and/or Housing Program Guidelines for DED approval. See *CDBG Manual Chapter 4- Developing Program Guidelines*.

What is the difference between a Housing Reuse Account and a Housing Revolving Loan Fund?

A **Reuse Account** is a separate fund established to carry out specific activities that do not generate payments to the account. For example, a community's OOR program's terms of assistance is a forgivable loan after a 5-year affordability period is fulfilled. That community was not intending on receiving any CDBG dollars back from the project. However, if a beneficiary does not maintain primary residence of the assisted house for the full affordability period/terms of the grant, the CDBG money is returned to the grantee as recaptured funds off the sale of the house. At the end of the calendar year, if the recaptured funds received within the year is less than

\$35,000, those funds are deobligated to the unit of local government. NOTE: The \$35,000 threshold applies to the program income *received* in the calendar year, not the total balance of the account.

A **Revolving Loan Fund (RLF)** is a separate fund – with a set of accounts that are *separate* from other program accounts – established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. For example, a community's OOR program's terms of assistance is a 10-year fifty percent forgivable loan, fifty percent repayable loan at 1% interest. The community's Housing RLF will be *receiving monthly principal and interest payments* from the homeowner with the intention of growing the RLF and completing more OORs in the future. Affordability period and recapture would still apply. All funds received in an RLF account is considered "program income" and is **never deobligated**.

Re-purposing applies to both Housing Reuse and Housing RLF program income accounts.

If re-purposing to a Housing activity, are Revolving Loan Fund (RLF) accounts permitted?

A community should assess the total dollar amount available for the program, terms of the program, and if a RLF would be sustainable without becoming an idle account in the future.

Are matching funds required for projects funded by Program Income?

Local governments can decide match requirements, if any. While the CDBG State Program overseen by DED requires match, when re-purposing program income, local governments can determine the match percentage, if any. The local government may opt for no matching requirement when projects are funded via locally held program income.

Can we re-purpose the RLF and move dollars into an existing/ongoing or new CDBG project/grant?

While it is difficult to apply CDBG funds to an existing project, it may be allowed in certain instances. It is better to begin a new project and go from there. Generally, if the local government has a (pending or newer) project that the funds could be re-purposed to, then that project may qualify and should be considered strongly as a candidate activity for the funds.

For More Information

What if we have more questions about re-purposing?

Re-purposing is a nuanced effort. If you have questions, contact Tom Stephens at 402-471-6587, tom.stephens@nebraska.gov.