

CHAPTER 8 – PROGRAM INCOME

Program income for the State's 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.

Current guidance on CDBG program income can be found in the current Annual Action Plan that the State submits to HUD on an annual basis.

Program income is defined as gross income received by a State, a unit of general local government, or a subgrantee of the unit of general local government that was 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 may use up to 3% of the amount recaptured and reportable to HUD each year for administrative expenses under the Nebraska Community Development Block Grant (CDBG) Program, including amounts recaptured and reported to HUD from and during all open grant years.

USES OF PROGRAM INCOME

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.” [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 or subgrantee of the unit of general local government 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 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, toward a loan from the local government 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 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.
- 12) 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 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. The State is permitted to define “continuing the same project activity.”

For the purposes of program income, “continuing the same project activity” will be defined as:

- For local governments with existing program income in an existing Local ED Revolving Loan Fund, or who are currently utilizing the NDO process, continuing the same project activity will include providing assistance for the same CDBG eligible activities as defined in the grantee’s new Department-approved Local Program Income Reuse Plan (also known as a Local Reuse Plan).
- For newly awarded economic development grantees (including those units of general local government awarded new CDBG funds during the current Program Year for new CDBG eligible activities), program income that was generated from the use of CDBG funds for the above mentioned newly awarded activities may be deposited into an existing Local ED Revolving Loan Fund or a new Local ED Revolving Loan Fund. Any program income that is deposited in this manner, continuing the same project activity will include providing assistance to the same business for the same activity for which it was originally funded.
- For newly awarded economic development grantees (including those units of general local government awarded new CDBG funds during the current Program Year for new CDBG eligible activities), program income that was generated from the use of CDBG funds for the above mentioned newly awarded activities may utilize the NDO process. In the instance where the NDO process is utilized, continuing the same project activity will include providing assistance for the same CDBG eligible activities as defined in the grantee’s Department-approved Local Program Income Reuse Plan (also known as a Local Reuse Plan).
- For grantees with eligible housing activities under Title I of the Housing and Community Development Act of 1974 (as amended), continuing the same project activity will include activities for owner occupied rehabilitation, homeownership assistance, and rental rehabilitation that will meet a national CDBG objective.

The following information pertains specifically to Economic Development Program Income, Housing Program Income, and Other CDBG Program Income.

ECONOMIC DEVELOPMENT PROGRAM INCOME AND THE STATE'S REVOLVING LOAN FUND

CDBG program income may be retained by local governments, utilized through the NDO process, or returned to the Department of Economic Development. Any CDBG program income that has been returned to the Department is utilized within the State's program income Revolving Loan Fund (also known as the State RLF). The State provides CDBG funds to local governments (in the form of new CDBG projects) for specific eligible CDBG activities that would meet the necessary criteria under the Economic Development Program category. Funds are awarded to each local government for a specific identified purpose to then either grant funds to a Community-based Development Organization (also known as a NDO) to undertake a project that utilizes a business loan consistent with the Community Development Act Section 105(a)(15) requirements or for a community to provide a loan to a business.

In both instances mentioned above, projects funded within the State RLF must meet CDBG requirements that include meeting the CDBG National Objective of low to moderate income jobs for the purposes of job creation or job retention.

When a community applies for ED resources, the Department will determine whether or not CDBG funds from the Annual Allocation or the State RLF are appropriate for the project.

In general, when the community is requesting ED resources for the purposes of infrastructure development then those projects would be funded through the Annual Allocation. Projects for infrastructure development include both public infrastructure (i.e. activities for community owned or controlled infrastructure) and also for private infrastructure (i.e. streets, and other infrastructure improvements located on privately owned property). Infrastructure projects provide resources utilizing performance based loans which may include forgivable loans that are not paid back if a business complies with a CDBG National Objective and other CDBG requirements and also grants to communities where no CDBG funds are paid back. Other non-infrastructure related projects are funded through the State RLF.

Overall, when an Economic Development project includes non-infrastructure related activities that utilize a business loan consistent with the Community Development Act (as mentioned above), or a direct loan to a business by a community, then the State RLF will be used. When an ED project includes infrastructure related activities that do not utilize business loans consistent with the Community Development Act (as mentioned above), or use direct loan to businesses by a community, then the Annual Allocation will be used. The above mentioned process is consistent with the CDBG requirements of 24 CFR 570.489(f)(2).

The following general rules apply to CDBG Economic Development Program Income Revolving Loan Funds (or "CDBG ED RLF"s) (discussed below in detail):

- All CDBG ED RLF Program Income must be kept in a separate bank account (preferably interest-bearing).
- All CDBG ED RLF Program Income RLF must utilize a Certified Administrator.
- Administrative costs taken from the CDBG ED RLF cannot exceed 5% of the Program Income received during a time period.

ECONOMIC DEVELOPMENT PROGRAM INCOME AND UNITS OF GENERAL LOCAL GOVERNMENT

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

- Returning the program income funds to the Department;
- Using the program income within an existing Local ED Revolving Loan Fund;
- Establishing a Local ED Revolving Loan Fund; 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 the program income funds to the Department**

Units of general local government may return the program income they receive to the Department. The process for returning program income funds includes: 1) 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 2) sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG funds that the community is returning. Any future program income payments a community may receive, and will be returning to the Department, should be collected by the unit of local government and those funds should be returned to the Department once there is a reasonable balance (i.e. returned every six months, or every year, depending on whether or not there is a reasonable balance).

If a unit of local government wishes to return program income that is in an Existing Local ED Revolving Loan Fund, and wishes to discontinue the Local ED Revolving Loan Fund, then the process for returning program income funds includes:

- 1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local ED Revolving Loan Fund and that the local government is discontinuing the Local ED RLF;
- 2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
- 3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is returning; and
- 4) Any subsequent program income payments that the local government may receive that were intended to be deposited would also be returned to the Department.

If a unit of local government wishes to return program income that is in an Existing Local ED Revolving Loan Fund, but wishes to continue to operate the Local ED Revolving Loan Fund, then the process for returning program income funds includes:

- 1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local ED Revolving Loan Fund;
- 2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
- 3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is

returning; and

- 4) Any subsequent program income payments that the local government may receive would be deposited in the Existing Local ED Revolving Loan Fund.

▪ **Using the Program Income within an 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 unit of local government must provide the Department 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 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 the Department must approve this Local Reuse Plan.
- 4) The Local Reuse Plan must be approved by the Department and, upon approval, the

Department will enter into a contract with each local government to operate the Local ED Revolving Loan Fund. The contract will include a process for compliance monitoring and closeout of the Local ED Revolving Loan Fund. Monitoring will occur at least one time during the contract period. Closeout of the contract will require the local government to clear any monitoring findings and submit final reports, including, but not limited to, job creation information and final financial reports.

At any time during the contract period, local governments will have the option to discontinue operating the Local ED Revolving Loan Fund and return the program income funds to the Department. The Department will apply the funds to the State CDBG Revolving Loan Fund.

Funds in a Local ED Revolving Loan Fund are federal and are subject to all applicable CDBG rules and regulations.

In no case shall a Local ED RLF have a balance that exceeds \$750,000. Any amount in excess of \$750,000 shall be returned to the State.

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 Revised Local Reuse Plan that must be approved by the Department prior to the local government approving any new 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 the Department. 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 the Department.
- 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 the Department by following the requirements for “Returning the program income funds to the Department” as noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to operate a Local ED Revolving Loan Fund. 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.

▪ **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 unit of local government must provide the Department 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 the Department must approve this Local Reuse Plan.
- 4) The Local Reuse Plan must be approved by the Department. This Local Reuse Plan must be made using a Department-approved form within 90 calendar days from the date of the local government's Notice of Approval letter. If the local government's Local Reuse Plan is not submitted to the Department within the 90-day period, the Department will require all program income be returned to the State.

The Department must approve this Local Reuse Plan and, upon approval, will enter into a contract with each local government to operate the Local ED Revolving Loan Fund. The contract will include a process for compliance monitoring and closeout of the Local ED Revolving Loan Fund. Monitoring will occur at least one time during the contract period. Closeout of the contract will require the local government to clear any monitoring findings and submit final reports, including, but not limited to, job creation information and final financial reports.

At any time during the contract period, local governments will have the option to discontinue operating the Local ED Revolving Loan Fund and return the program income funds to the Department. The Department will apply the funds to the State CDBG Revolving Loan Fund.

Funds in a Local ED Revolving Loan Fund are federal and are subject to all applicable CDBG rules and regulations.

In no case shall a Local ED RLF have a balance that exceeds \$750,000. Any amount in excess of \$750,000 shall be returned to the State.

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 the Department 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 the Department. 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 the Department.

- 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 the Department by following the above requirements for “Returning the program income funds to the Department” noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to operate a Local ED Revolving Loan Fund. 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.

- **Utilizing the NDO Process**

A unit of general local government may seek to form a sub-grantee 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), such as 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 carry out funded activities through a contract with the local government grantee 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 State CDBG funds, makes 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 the Department 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 grantee and the NDO would 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 the Department and will have an approved NDO Reuse Plan in place.

As an example of this process, 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's RLF would not be considered program income. Subsequent loans by the NDO using those funds repaid to the RLF would only have to meet those requirements in the Department approved NDO Reuse Plan established by the NDO. Funds would be reinvested in broad based economic development activities.

Local governments currently operating a Local ED Revolving Loan Fund (RLF) may choose to enter into an agreement with a designated NDO to carry out activities with the Local ED Revolving Loan Fund. The NDO must be designated by the Department with a Department-approved NDO Reuse Plan. The NDO must also include the local government in its service area. Once the funds are repaid to the NDO, the funds would no longer be subject to the CDBG federal rules and regulations, 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 grantee are two separate activities.

HOUSING PROGRAM INCOME

The unit of general local government 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 the Department;
- 2) Retaining the program income and using it for CDBG eligible housing related activities;

- 3) Using the program income within an existing Local Housing Revolving Loan Fund; or
- 4) Establishing a Local Housing Revolving Loan Fund.

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 the program income funds to the Department**

Units of general local government may return the program income they receive to the Department. The process for returning program income funds includes: 1) 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 2) sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG funds that the community is returning. Any future program income payments a community may receive, and will be returning to the Department, should be collected by the unit of local government and those funds should be returned to the Department once there is a reasonable balance (i.e. returned every six months, or every year, depending on whether or not there is a reasonable balance).

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

- 1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local Housing Revolving Loan Fund and that the local government is discontinuing the Local Housing RLF;
- 2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
- 3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is returning; and
- 4) Any subsequent program income payments that the local government may receive that were intended to be deposited would also be returned to the Department.

If a unit of local government wishes to return program income that is in an Existing Local Housing Revolving Loan Fund, but wishes to continue to operate the Local Housing Revolving Loan Fund, then the process for returning program income funds includes:

- 1) Sending a cover letter that clearly notes that the funds being returned are from the community’s Local Housing Revolving Loan Fund;
- 2) Information on any outstanding loans (including the amounts of those loans, copies of the amortizations schedules, etc.);
- 3) Sending a check payable to the “Nebraska Department of Economic Development” to the Department for the amount of CDBG program income funds that the community is returning; and
- 4) Any subsequent program income payments that the local government may receive would be deposited in the Existing Local Housing Revolving Loan Fund.

Retaining the program income and using it for CDBG eligible housing related activities

In order to retain CDBG program income that is not in an existing Local Housing RLF, 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 Department-approved Local Reuse Plan, as part of the local government’s contractual requirements with the Department.

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

Local program income funds are federal and are subject to all applicable CDBG rules and regulations.

In no case shall a local government’s program income account have a balance that exceeds \$750,000. Any amount in excess of \$750,000 shall be returned to the State.

The local government will be responsible for reporting housing program income to the Department twice a year (July and December) and these reports will be reviewed by Department staff.

If at the end of the calendar year in which the unit of local government has reported, the total balance of the Local CDBG Program Income Account is \$35,000 or less, these funds will no longer be considered program income, and will no longer require any additional reporting to the Department.

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 the Department prior to the local government approving any new applications for activities.
- 4) All program income within the Local CDBG Program Income Account must be locally monitored and the amount of program income within that account must be reported to the Department. 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, loans made, payments received, housing activities, and amendments to the original loans, as required by the Department.

- 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 CDBG Program Income 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 CDBG Program Income Account.
- 6) Local governments that are currently utilizing a Local CDBG Program Income Account and choose to discontinue the operation of that Local Account can return the funds to the Department by following the above requirements for “Returning the program income funds to the Department” noted above.

In addition, the State will schedule monitoring visits with all local governments who have operated or continue to utilize a Local CDBG Program Income 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 the program income within an 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 the Department 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 the Department 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 the Department must approve this Local Reuse Plan.
 - 4) The Local Reuse Plan must be approved by the Department and, upon approval, will enter into a contract with each local government to operate the Local Housing Revolving Loan Fund. The contract will include: a requirement for the local government to develop program guidelines specific to the CDBG eligible activities that will be undertaken with the program income funds; and a process for compliance monitoring and closeout of the Local Housing RLF. Monitoring will occur at least one time during the contract period. Closeout of the contract will require the local government to clear any monitoring findings and submit final reports, including, but not limited to, housing activity information and final financial reports.

At any time during the contract period, local governments will have the option to discontinue operating the Local Housing Revolving Loan Fund and return the program income funds to the Department. The Department will apply the funds to the State CDBG Economic Development Revolving Loan Fund (also known as the State Revolving Loan Fund).

Funds in a Local Housing Revolving Loan Fund are federal and are subject to all applicable CDBG rules and regulations.

In no case shall a Local Housing RLF have a balance that exceeds \$750,000. Any amount in excess of \$750,000 shall be returned to the State.

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 from the Local Housing Revolving Loan Fund must be consistent with the requirements of Revised Local Reuse Plan that must be approved by the Department 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 the Department. 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, activities completed, and amendments to the original loan, as required by the Department.
- 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 the Department by following the above requirements for “Returning the program income funds to the Department” noted above.

In addition, the State will schedule monitoring visits with all local governments 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.

- **Establishing a Local Housing Revolving Loan Fund**

In order to retain CDBG program income, the local government may choose to establish a 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 the Department 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 establish a Local Housing RLF it will do so by completing the following steps:

- 1) The unit of local government must provide the Department 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 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 the Department must approve this Local Reuse Plan.
- 4) The Local Reuse Plan must be approved by the Department and must be made using a Department approved form within 90 calendar days from the date of the local government's Notice of Approval letter. If the local government's Local Reuse Plan is not submitted to the Department within the 90-day period, the Department will require all program income be returned to the State.

Upon approval of the Local Reuse Plan, the Department will enter into a contract with each local government to operate the Local Housing Revolving Loan Fund. The contract will include: a requirement for the local government to develop program guidelines specific to the CDBG eligible activities that will be undertaken with the program income funds and will

include a process for compliance monitoring and closeout of the Local Housing RLF. Monitoring will occur at least one time during the contract period.

Closeout of the contract will require the local government to clear any monitoring findings and submit final reports, including, but not limited to, housing activity information and final financial reports.

At any time during the contract period, local governments will have the option to discontinue operating the Local Housing Revolving Loan Fund and return the program income funds to the Department. The Department will apply the funds to the State CDBG Economic Development Revolving Loan Fund (also known as the State Revolving Loan Fund).

DISCONTINUATION OF REGIONAL CDBG HOUSING REVOLVING LOAN FUNDS

Due to the changes within the CDBG regulations, current Regional CDBG Housing Revolving Loan Funds will no longer be permitted to assist communities throughout a given region. This information was provided within the 2013 Annual Action Plan (See Section 2-18 of 2013 AAP) and continues to be applicable within the 2015 Annual Action Plan.

The CDBG Housing RLF Administrators who are currently operating these Regional Housing Revolving Loan Funds must work directly with the units of general local government who have previous Housing program income within these Regional RLFs to evaluate the best option for each community on what to do with the community's previous Housing program income that can no longer be utilized through a regional approach.

There are two options available for funds within these Regional Housing RLFs. These include:

- 1) Returning the funds to the Department. Program income returned to the State will be committed to the State Revolving Loan Fund and shall be distributed according to the requirements of Title I of the Community and Development Act of 1974 (as amended). For more information see "Returning the program income funds to the Department" above.
- 2) Depositing local funds into a Local Housing Revolving Loan Fund. The Regional RLF Administrator would be required to determine the amount of funds available to each unit of general local government from the Regional RLF in order for each community to be able to determine whether or not program income funds should be returned to the State or whether those program income funds should be deposited into an existing or newly created Local Housing RLF or whether other options, as noted above, are chosen by the local government. For more information on the choices for local governments' use of their program income see above.

OTHER CDBG PROGRAM INCOME

Program income generated from other CDBG activities including those under the Community Development Priority, including Comprehensive Revitalization, CIS, Public Works, Water/Wastewater, Planning, and Downtown Revitalization would follow the above mentioned steps with the need for any necessary adjustments related to non-economic development or non-housing activities.

REPORTING ON PROGRAM INCOME

Local governments are required to report on program income earned from all CDBG projects on a semi-annual basis (report periods ending June 30th and December 31st). The June 30th Program Income Report is due July 30th and provides program income reporting for the preceding period between January 1st through June 30th. The December 31st Program Income Report is due January 30 and provides program income reporting for the preceding period between July 1st through December 31st.

Economic Development (ED) program income is reported separately by using the form titled "Program Income Report for Economic Development Projects".

Housing program income is reported separately by using the form titled "Program Income Report for Housing Projects".

In order to report other program income from non-ED or non-housing projects, please contact your Program Representative.

Mail Program Income Reports to the Department at:

Department of Economic Development
Housing and Community Development Division
P.O. Box 94666
Lincoln, NE 68509.

Grantees must retain a copy of each Program Income Report in their files.

Grantees must use the current forms for reporting by obtaining them from the Department's website, <http://opportunity.nebraska.gov/CDBG>.