



# COUNTY OF MENDOCINO

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### MEMORANDUM

DATE: FEBRUARY 27, 2024

TO: HONORABLE BOARD OF SUPERVISORS

FROM: EXECUTIVE OFFICE

RE: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM, CDBG APPLICATION FOR THE 2023 NOTICE OF FUNDING AVAILABILITY (NOFA) & USE OF CDBG PROGRAM INCOME (PI)

#### CDBG Background

The Community Development Block Grant (CDBG) Program is designed to assist rural cities and counties in improving economic opportunities and meeting community revitalization needs. The CDBG program has been funded through the State since 1982 by the US Department of Housing and Urban Development (HUD) under the Housing and Community Development Act 1974, as amended (Title I).

The CDBG program's primary objective is to develop viable communities by assisting in the provision of decent housing and quality living environments and expanding economic opportunities for persons of low and moderate-income. Only cities with populations under 50,000 and counties with populations under 200,000 are eligible for non-entitlement CDBG funds.

CDBG funds are provided as grants to non-entitlement jurisdictions and cannot be used to supplant general fund dollars. HUD envisions CDBG funds to be used as gap financing to add the final necessary funds for a project to be successful. Grants vary based on annual allocations and activity limits.<sup>1</sup>

#### CDBG Project Criteria

Every project, program, or activity, including Program Income projects, that receives CDBG funds through HCD must meet two criteria: the project must meet a national objective and it must also be an eligible activity.

- National objective: benefit to low-to moderate income persons, elimination of blight, urgent need.

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<sup>1</sup> CDBG Grants Management Manual – Chapter 1 Program Overview

- Eligible activities: acquisition of real property, public facilities and improvements, code enforcement, clearance, rehabilitation, reconstruction and construction of buildings, architectural barrier removal, loss of rental income, disposition of real property, public services, payment of non-federal share, relocation, planning and capacity building, program administration, economic assistance to for profit businesses, housing services, microenterprise assistance, homeownership assistance, lead based paint hazard evaluation and reduction.

Any activity not explicitly authorized under CDBG statute or regulations is ineligible for CDBG funds. In addition, the statute specifically stipulates that the following activities may not be assisted with CDBG funds:

- Buildings for the general conduct of government, except to create accessibility for disabled population (e.g., city hall),
- General government expenses,
- Political activities,
- Purchase of equipment or furnishings for a property: this excludes certain types of manufacturing equipment connected with economic development activities and the purchase of fire trucks as firefighting equipment,
- New housing construction and income payments (income payments are defined as direct payments to subsidize rent and/or utilities),
- Operating and maintenance expenses for public facilities, improvements, and services,
- Lobbying activities.<sup>2</sup>

### Program Income (PI)

Some CDBG activities, such as first-time homebuyer programs, home rehabilitation loans, or business assistance loans, generate program income (PI), extending CDBG dollars further. Program income is defined as gross income generated from CDBG funds. PI perpetually retains its federal identity and must be used for CDBG-eligible activities that meet a national objective. Grantees must track and report the receipt of all funds generated from CDBG assistance throughout the year. As PI accumulates, HCD requires these funds to be utilized for eligible CDBG activities. Grantees must create a plan for PI to be used in open or future awards. A grantee can expend up to seventeen percent of annual PI receipts for the most recently completed fiscal year on general administration expenses. Like regular CDBG funds, grantees are not allowed to use PI or general administration funds for maintenance or repair of facilities or for the general conduct of government.<sup>3</sup>

PI should not be banked, and there should be a plan in place to use existing PI funds before applying for further CDBG funding. Any grantee with PI on hand or anticipates having PI on hand that does not have an agreement in place with HCD and does not have an open Standard Agreement with a commitment to expend the PI funds on an activity identified in a Standard Agreement could be required to remit the PI (the amount on hand and any future receipts) to HCD.<sup>4</sup>

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<sup>2</sup> CDBG Grants Management Manual – Chapter 2 National Objectives & Eligible Activities

<sup>3</sup> HCD Office Hours 10/18/23

<sup>4</sup> Community Development Block Grant Final Guidelines 2019

## Allowed Uses of PI Funds

Program income (PI) can be allocated in three different ways:

1. Including PI in the application budget when applying for an over the counter (OTC) or competitive award.
2. Submitting a PI-only application for a CDBG-eligible activity (which can be submitted at any time).
3. Adding PI to an existing award.

Program income is treated like CDBG grant funds and may only be used for eligible CDBG projects or programs that comply with federal requirements. To note again, every project, program, or activity that receives CDBG funds must meet two criteria: the project must meet a national objective and be an eligible activity. Of special note, planning activities and service delivery are not allowable activities for PI.

Past County projects that utilized program income include:

- Business Assistance Revolving Loan Program
- Microenterprise Business Technical Assistance
- Town of Mendocino ADA Ramp
- Homeless Shelter Property Acquisition & Rehabilitation
- Pelicans Bluff ADA Coastal Trail
- Mill Creek Park Fishing Platform ADA Improvement
- Sun House Senior Housing

## PI & Mendocino County's Business Assistance Loan Program

Mendocino County has run PI programs historically, first through the CEO's office and then after 2014 through the Planning and Building Services Department (PBS). In 2021, the County launched its most recent business assistance revolving loan program. It allocated \$500,000 in PI funds to provide flexible low-interest (1%) loans to small and medium-sized businesses in the County's unincorporated areas. Loans were required to meet CDBG public benefit standards<sup>5</sup> and HUD's six CDBG underwriting standards, per federal regulation 24 CFR Part 570.483(e). These underwriting standards were required to document a minimum due diligence of the County and ensure that projects were financially sound enough to meet public benefit and national objective job retention standards.<sup>6</sup> Mendocino County receives PI repayments from these loans and incurs ongoing expenses, to service these loans.

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<sup>5</sup> "Projects normally meet a national objective standard when they create or retain jobs and provide over half; at least fifty one percent (51%), of the new job positions or retained positions to low/moderate income (LMI) qualified persons. For projects meeting national objective via jobs provided to LMI persons, the Public Benefit standard is jobs, and the maximum CDBG loan funding available is limited to \$35,000 per job." (Mendocino County 2020 CDBG COVID-19 Business Assistance and Recovery Loan Fund Program Manual).

<sup>6</sup> The Six Underwriting Standards are: project costs are documented as reasonable (typically, third party cost estimates), all sources of funding for the project are documented with final commitments, to the extent practicable, CDBG funds are not substituted for private (non-federal) funds, documentation that project is financially feasible (based on cash flow projections to support jobs and debt service, etc.), to the extent practicable, the return of the owner's equity investment is not unreasonable (based on level of equity and proposed CDBG loan terms), to the extent practicable, CDBG funds are disbursed on a pro-rata basis with other financing provided for the project. (Mendocino County 2020 CDBG COVID-19 Business Assistance and Recovery Loan Fund Program Manual).

## Utilization of CDBG PI Funds Going Forward

During the board meeting held on December 5, 2023, the Board of Supervisors discussed allocating CDBG Program Income funds for FY 2023-2024. The board also reviewed the eligible projects for the 2023 Notice of Funding Availability (NOFA) based on the presentation by staff. After providing direction to staff, the board adopted resolution 23-191, which authorized the submission of an amendment to Mendocino County's current CDBG Program Income Standard Agreement (20-CDBG-PI012010, Business Assistance Loan Program) with HCD. The amendment seeks an additional \$263,278.05, increasing the total contract amount to \$763,278.05.

The Board of Supervisors provided additional direction regarding the future use of the remaining PI (\$594,947.29) in the December meeting to support the ability of the County to provide in-house economic development and business technical assistance to the public as well as the use of funds to complete a much-needed facilities energy efficiency upgrade to the social services building and supplement future CDBG NOFA application budgets.

On February 27, 2024, staff members will return to the Board of Supervisors to comply with the HCD requirement of a public hearing and resolutions authorizing the use of PI funds for the items discussed in December. During the presentation, staff will propose a modest increase in the requested funds for the CDBG Economic Development Technical Assistance & Micro-Enterprise Assistance application. This increase is necessary to ensure full cost recovery for the program.

### FY23-24 PI Funded CDBG Projects

\$263,278.05	Business Assistance Loan Program Amendment
\$163,195.33	Economic Development Technical Assistance & Micro-Enterprise Assistance
\$300,000.00	Yokayo Center Interior Lighting Upgrade & LCP
\$131,751.96	<i>(PI available for additional projects or to be put towards the 2023 NOFA)</i>

## 2023 Notice of Funding Availability (NOFA)

With the understanding that projects funded in whole or in part with CDBG funds not only have to qualify as eligible under HUD regulations but must also meet at least one of the three national objectives, staff evaluated a preliminary list of proposed projects in the Fall of 2023 for eligibility and viability for the CDBG program. This list was compiled from departmental requests and community listening sessions conducted this fall (Prepare CA Jumpstart Grant). Further community input was solicited via two public hearing held January 8<sup>th</sup>, 2024<sup>7</sup>. These hearings were an opportunity to educate and inform residents regarding the CDBG program, provide a forum for community input, and obtain housing, economic and community development needs. Identified needs and eligible project ideas were investigated and any found to meet eligibility requirements of the NOFA were added to the proposed project list.

### Project Ideas from County Requests

- Mill Creek Park ADA bathroom (\$317,608) (LMC qualification)<sup>8</sup>

<sup>7</sup> CDBG Grants Management Manual – Chapter 4 Additional Grantee Requirements

<sup>8</sup> Mendocino County General Services Agency FY23-24 Recommended Critical Projects

- Sheriff's Office utility & ADA corridor (\$3,500,000) (LMC qualification)
- County library & museum feasibility studies
- ADA transition plan update (\$60,000)

#### Project Ideas from Prepare CA Jumpstart Community Listening Sessions<sup>9</sup>

- Affordable & workforce housing development projects
- Broadband expansion
- Water & sewer expansion
- Sidewalk repairs & beautification projects in unincorporated areas
- Microgrids/solar/energy projects
- Regional community resiliency/disaster centers
- Food security & distribution

#### Project Ideas from 1/8 Public Hearings<sup>10</sup>

- Covelo
  - Skatepark development
  - Further vehicle abatement
  - Community park development
  - Reliable transportation
  - Fire hydrant and water systems
  - Home improvement program for seniors
  - Emergency housing
- Laytonville
  - Resource center support
  - Transportation planning
  - Address food desert/Food access
- Redwood Valley
  - Water system development and security
  - School redevelopment for housing
  - Downtown development/beautification
  - Sidewalks, bike & pedestrian trails (school-park)
  - Developing the Grange as a disaster relief & community resource center
- Hopland ADA road project & water system
- Support of apprenticeships, schools, and training programs.
- Community Resiliency Center (NCO, RCHDC, Ukiah Senior Center)
- Down payment assistance for first time homebuyers

On December 13th, HCD unexpectedly announced that the upcoming NOFA scheduled for January would be rescoped. As HCD would be transitioning to a new, department-wide grants management system in mid-2024, the 2024 NOFA would be delayed until the summer or fall of 2024. The NOFA scheduled for January would be for the remaining \$19 million balance of 2023 funds via the current eCivis system and limited to a smaller scope of eligible shovel-ready construction projects. HCD defines shovel-ready projects with the following documentation of readiness at the time of application: independent cost estimate, completed NEPA environmental review record for the project, bid-ready plans and specs, certification from an engineer that plans and specs are bid-ready, certification that bid documents are ready, detailed construction timeline, demonstration and certification that a jurisdiction has the capacity and knowledge to

<sup>9</sup> Prepare CA Jumpstart Grant Community Listening Sessions

<sup>10</sup> Prepare CA Jumpstart Grant Community Listening Sessions

manage the project and demonstration and certification of the experience of a developer. HCD also announced that jurisdictions would be limited to one over-the-counter (OTC) application with a total award limit of \$3.25 million<sup>11</sup>.

Due to this sudden shift in the size and scope of the January NOFA, staff was forced to rethink their approach to the NOFA as plans were in place to prepare two applications, one planning and one OTC project. After much research and discussion between staff, project sponsors, and HCD regarding the list of possible projects, it was determined that there was one eligible project. During technical assistance sessions, HCD felt that the Mill Creek Park ADA bathroom upgrade was the only eligible project as it had an eligible activity that met a national objective (LMC<sup>12</sup>) and, most importantly, was a shovel-ready project.

The **Mill Creek Park ADA bathroom upgrade** project currently has primary funding through a grant from the California Department of Parks and Recreation. However, due to cost increases between the time of grant submission, award, and project bid, costs have increased over the original budgeted amount, and the parks grant can now only cover the cost of one of the planned two ADA bathroom remodels. CDBG funds would be used for phase two of this project, which would be the replacement of one of the existing portable plastic toilets located at the northwest end of Mill Creek Park and the establishment of an ADA-accessible parking space at the restroom. The proposed replacement toilet would be an accessible 96 sq. ft., self-contained vault toilet that provides an estimated 4,500 uses between services. The structure would utilize solar power to power the LED lights inside and out and control door locks to mitigate vandalism. The vault includes concrete holding tanks with wastewater and flush water indicators to minimize the risk of contamination of area ecosystems<sup>13</sup>.

The 2023 Notice of Funding Availability (NOFA) Amendment #1 was released on January 31, 2024. The NOFA has \$19 million in 2023 CDBG funds for new over-the-counter housing, community development, or economic development shovel-ready projects. Jurisdictions are limited to one application and a total award limit of \$3.25 million<sup>14</sup>. Applications for new projects will open on March 1, and applications will be accepted for sixty days or until funds are exhausted, whichever comes first.

## Conclusions

Staff will return to the Board of Supervisors on February 27th to request final direction and approval on the project to be submitted to HCD for the 2023 NOFA and to fulfill HCD's requirement of a posted public hearing and resolutions authorizing the use of PI funds. With the Board's direction, staff will develop and submit the county's application to HCD for the 2023 NOFA by HCD deadlines. Staff will also develop and submit PI-only applications and amendments for PI projects per board direction.

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<sup>11</sup> HCD Office Hours Newsletter 12/13/23

<sup>12</sup> Under the Low/Mod Limited Clientele (LMC) objective, benefits are provided to a specific group of eligible persons rather than every person in a defined service area. The activity may benefit particular persons without regard to the area in which they reside, or it may provide benefit on an area basis but only to a specific group of persons who reside in the area. In either case, at least 51 percent of the beneficiaries of the activity must be Low/Mod To qualify under this subcategory, an LMC activity must meet ONE of the following tests: 1. Exclusively benefit clientele who are generally presumed by HUD to be principally Low/Mod income persons. The following groups are currently presumed by HUD to be comprised principally of LMI persons: Abused children, Elderly persons, Survivors of domestic violence, Persons experiencing homelessness, Adults who meet the Bureau of Census' definition of severely disabled adults, Adults with functional illiteracy, Persons living with AIDS, and Migrant farm workers. (CDBG Grants Management Manual, Chapter 2: National Objectives and Eligible Activities)

<sup>13</sup> See next page

<sup>14</sup> HCD 2023 Community Development Block Grant Program Notice of Funding Availability – Amendment #1 (1/31/24)



**Current Mill Creek Park Bathroom**



**Proposed Mill Creek Park ADA Bathroom Upgrade**

