



COUNTY OF MENDOCINO

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MEMORANDUM

DATE: DECEMBER 5, 2023

TO: HONORABLE BOARD OF SUPERVISORS

FROM: EXECUTIVE OFFICE

RE: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) & USE OF 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.¹

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.
- 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

¹ CDBG Grants Management Manual – Chapter 1 Program Overview

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.²

2024 Notice of Funding Availability

The 2024 Notice of Funding Availability (NOFA) will be released in late January 2024. It is expected that the NOFA will be for approximately \$40 million, which includes the roughly \$10 million balance of 2023 funds and the total 2024 HUD allocation of an expected \$30 million. Eighty-one percent of the funding will be reserved for over-the-counter grants, which include economic development, housing assistance, infrastructure, and public assistance projects. Nine percent of the 2024 NOFA funding will be set aside for competitive grants, which include public service and planning grants, as HUD mandates that planning can only be ten percent of the State's use of dollars. HCD will allow grantees to submit up to two applications for the 2024 NOFA. Applicants can submit one over-the-counter and one competitive or two competitive applications. Jurisdictions will be limited to a total award limit of \$3.25 million.

- Over-the-counter solicitation:
 - Infrastructure, public facility, housing, or economic development project: up to \$3.25 million
 - Housing program: up to \$1.5 million
 - Economic development: up to \$1.5 million
- Competitive solicitation:
 - Public services: up to \$250,000
 - Planning and technical assistance: up to \$250,000³

Of note for the 2024 NOFA, HCD requires that grantees arrange for independent audits on all CDBG grants consistent with 2 CFR 200.500 to 200.512.⁴

Current & past County CDBG projects:

- Acorn Valley Plaza
- Covelo Clean-Up
- Micro-Enterprise Business Technical Assistance

² CDBG Grants Management Manual – Chapter 2 National Objectives & Eligible Activities

³ 2024 CDBG NOFA & Annual Action Plan Listening Session 10/25/23

⁴ CDBG Final Guidelines 2019

- Micro-Business Assistance Grants
- Live Oak Apartments Transitional Housing

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, the HCD requires these funds to be utilized for eligible CDBG activities. When the funds received reach \$35,000, Grantees must create a plan for that 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 such as staff time. Just 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.⁵

PI cannot be banked, and there must be a plan in place to use PI existing 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 can be required to remit the PI (the amount on hand and any future receipts) to HCD.⁶

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

⁵ HCD Office Hours 10/18/23

⁶ Community Development Block Grant Final Guidelines 2019

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 standards⁷ 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.⁸ Funds were awarded to three separate businesses. These include:

- Cold Creek Compost (\$180,000 - 1% interest loan due 3/1/2038) for the purpose of retaining seven full-time jobs through the consolidation of multiple business equipment loans, lowering monthly debt service requirement.
- Geiger's Hopland Market (\$180,000 - 1% interest loan due 4/1/2033) for the purpose of creating six new full-time jobs through the purchase and opening of a grocery store in Hopland.
- Happy Rides (\$105,000 - 1% interest loan due 2/1/2027) for the purpose of creating three new full-time jobs through the purchase a non-medical transport van.

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. Businesses proposing to retain or create jobs to LMI persons must agree to allow the County, or their designated representative, to review and collect their payrolls before and after the loan closing (minimum three months) to prove over half of all job positions are provided to low-moderate income persons. This demonstrates the project's job retention met the national objective of principally benefiting LMI persons and allow the close to close out the loan requirements with the Department and HUD⁹.

Mendocino County receives PI repayments from these three loans and three other previous year's first-time homebuyer programs and business loans. It also incurs ongoing expenses, such as external loan servicing which runs \$1,210 per month currently, to service these loans. Recent program changes have altered how Mendocino County reports and can claim ongoing loan servicing expenses for its PI programs. HUD and HCD now require a grantee to have an active business loan program for a grantee to bill for expenses related to loan servicing, such as the loan servicing itself and staff time. The County currently has an open agreement with HCD for a business assistance loan program, which is set to expire in June of 2024. With the changes in the rules surrounding the use of PI, the open agreement requires a contract amendment so the County can be compensated for incurred loan servicing expenses of past and current loans and \$50,000 for one of the three loans approved under the open agreement. At this time, it is

⁷ "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).

⁸ 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).

⁹ Mendocino County 2020 CDBG COVID-19 Business Assistance and Recovery Loan Fund Program Manual

recommended that the County move forward with an amendment to the current agreement of \$263,278.05 (\$50,000 business loan & \$213,278.05 activity delivery) to cover expenses incurred and current fiscal year anticipated expenses.

Utilization of CDBG PI Funds Going Forward

With \$858,225.34 of PI on hand as of 10/31/2023, there are multiple options for use. Staff recommends amending the current businesses assistance loan program agreement (\$263,278.05) so costs can be charged to HCD and recommends allocating \$121,947.29 for internal capability to deliver economic development technical assistance with current PI funds. With the remaining PI funds, the County can decide to put the funds towards another PI project(s) or towards the budget of its 2024 NOFA application project(s).

The County may also consider submitting a new business assistance loan program application with PI funds. This action would allow the County to continue to use CDBG PI to offer additional business loans to our community during this time of economic uncertainty when it is facing year-over-year decline in small business lending consistent with rising interest rates and tightening credit standards¹⁰. This action would also allow the County to cover the costs associated with servicing loans under its existing portfolio going forward which run \$1,210 per month currently in external loan servicing fees. To be considered having an active loan program with HCD and HUD, the County must make one to two new loans per year during the three years of the agreement. By having an active loan program, the County would be able to continue to use CDBG PI for the loans and expenses to process those new loans, plus servicing all loans under the County's portfolio. As some current loans have ten to fifteen years left, the County has the option to reapply for a business assistance loan program application every three years to keep the program active and cover ongoing program expenses. If the County does not reapply for a business assistance loan program application the County will need specify how it will cover the ongoing loan expenses, such as external loan servicing which will run until 2038. Of note is that the County currently receives an estimated program income of \$13,000 - \$15,000 per month (\$156,000-\$180,000/year) from the current six loan repayments.

FY23-24 PI Recommendations

\$263,278.05	Current business assistance loan program (<i>amend current agreement</i>) \$50,000 business loan & \$213,278.05 activity delivery
\$121,947.29	Economic development technical assistance
\$473,000.00	Other PI Project or put towards the budget of a 2024 NOFA project
\$858,225.34	(Total PI on hand as of 10/31/23)

Other PI Projects

- **Business Assistance Loan Program** (*new*)
 - A new assistance program could be structured with \$173,000 for three business loans at \$35,000 each and \$68,000 for activity delivery and general administration for the three-year program term. The program would most likely need to be replenished with PI for additional activity delivery and general administration support.
- **Mendocino County CDBG Eligible Critical Facility's Needs**¹¹:
 - Bower Park ADA (\$500,000) – bathrooms, sidewalks, parking lot, walking paths, etc. (*LMC qualification*¹²)

¹⁰ Federal Reserve Bank of Kansas City, Small Business Lending Survey, 9/29/23, https://www.kansascityfed.org/Root/documents/9822/Q2_2023_SBL_S_Release.pdf

¹¹ Mendocino County General Services Agency FY23-24 Recommended Critical Projects

- Faulkner Park Hazard Tree Removal (\$150,000) (*LMA qualification - Boonville 70.42%*)¹³
- Public Defender Office ADA (\$500,000) – bathrooms, elevator, etc. (*LMC qualification*)
- Yokayo Center Interior Lighting Upgrade & LCP (\$300,000) (*LMC qualification*)

2024 NOFA

Mendocino County also has the opportunity to submit two applications, one over-the-counter and one competitive, when the 2024 NOFA opens in late January. With the understanding that projects and programs 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 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).

Preliminary Project Ideas from County Requests

- County facilities: architectural barrier removal (ADA), public improvements (sidewalks, parking lots, utility lines, etc.), and/or energy efficiency improvements.
 - Sheriff's Office Utility & ADA Corridor (\$3,000,000)¹⁴
 - See list above (*Mendocino County CDBG Eligible Critical Facility's Needs*)
- Planning and feasibility studies (*not PI eligible*)
 - ADA Transition Plan Update (\$60,000) (*LMC qualification*)
 - CSA
 - Ukiah library (expansion, remodel, or relocation) (*LMA qualification – Parts of Ukiah 51%+*)
 - Willits library improvements (ADA, energy/lighting retrofit) (*LMA/LMC qualification – Willits 55.82%*)
 - Willits museum (ADA improvements & barrier removal) (*LMA/LMC qualification – Willits 55.82%*)

Project Ideas from Community Listening Sessions¹⁵

- Down payment assistance for homes
- Affordable & workforce housing development projects
- Workforce development programs/local trade programs (*not PI eligible*)
- Broadband expansion
- Water & sewer planning (*not PI eligible*)
- Sidewalk repairs & beautification projects in unincorporated areas
- Microgrids/solar/energy projects
- Regional community resiliency/disaster centers
- Food security & distribution

¹² LMC = Low/Mod Limited Clientele. "Benefits are provided to a specific group of eligible persons rather than every person in a defined service area... 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)

¹³ Low/Mod income Area Benefit. "For the Low/Mod Area Benefit (LMA) objective, benefits must be available to all the residents of a designated service area in which at least 51 percent of the residents are Low/Mod." (CDBG Grants Management Manual – Chapter 2 National Objectives and Eligible Activities)

¹⁴ Mendocino County General Services Agency FY23-24 Recommended Critical Projects

¹⁵ Prepare CA Jumpstart Grant Community Listening Sessions

All local governments receiving CDBG funds from HCD must also adhere to its Public Participation Requirements. As such, staff will also solicit input on local community development needs and proposed activities via a public hearing in late December or early January. This hearing will be an opportunity to educate and inform residents regarding the program, provide a forum for community input, and obtain housing, economic and community development needs. Identified needs and eligible project ideas will also be added to the proposed project list that will be presented to the board in January.¹⁶

Conclusions

The Board of Supervisors has the authority to allocate Program Income (PI) to multiple projects and determine the projects to be pursued in the 2024 NOFA, with each project potentially becoming a separate grant application to HCD.

With this report, staff requests guidance from the Board on the projects or eligible activities they wish to see PI funds utilized for and which projects they want to see applications developed for the 2024 NOFA in January. When evaluating potential 2024 NOFA projects, it is important to also consider criteria beyond the CDBG program guidelines: which projects align best with the County's Strategic Plan, meet high-priority County needs, and fulfill our community's needs. With specific feedback from the Board, the department can solicit additional proposals consistent with Board direction, which can then be brought back to the Board in January for final direction and approval on which projects are included in the required Resolutions that will be submitted with applications to HCD for the 2024 NOFA. The Resolutions for approval will be presented on the consent calendar once it has been circulated and approved by County Counsel.

¹⁶ CDBG Grants Management Manual – Chapter 4 Additional Grantee Requirements