

## CHAPTER 15

### PROGRAM INCOME POLICY and EMERGENCY REPAIR PROGRAM

#### INTRODUCTION

The Michigan Economic Development Corporation (MEDC) on behalf of the Michigan Strategic Fund (MSF) is issuing this Program Income Policy for CDBG Grantees, effective July 1, 2016.

It is imperative that all CDBG Program Income (PI) received by the Unit of General Local Government (UGLG) in the CDBG Grant Program Year (PY) from July 1 to June 30 be counted to determine if the UGLG received \$35,000 or more in Program Income in the Program year (UGLG Total PI).

An UGLG may receive CDBG Program Income from various CDBG funds, grants and/or loans including housing, community development, business development, revolving loan funds, CDBG loan funds, etc.

### PROGRAM INCOME POLICY

#### SECTION 1 - PROGRAM INCOME DEFINED

A. Program Income commonly includes:

1. Principal and interest on loans made from CDBG funds.
2. Interest earned from CDBG local Revolving Loan Funds.
3. Proceeds from sale, disposition, or long-term lease of any privately-owned property or equipment purchased or improved in whole or in part with CDBG funds. For proceeds on sale of privately-owned property, proceeds will be netted against cost of maintaining the property and net proceeds will be subject to the Program Income rules. In this situation, please contact the MEDC for further guidance.
4. Gross income from the use or rental of real property owned by the UGLG and purchased or improved with CDBG funds.
5. See HUD regulation [24 CFR 570.489 \(e\)](#) for a full list of potential Program Income sources.

B. Program Income does **NOT** include:

1. UGLG Total PI less than \$35,000 in the Program Year. These funds cease to be federal money after the end of the PY in which the PI was received and may be used by the UGLG for any activity, including activities not eligible under CDBG regulations.
2. Income received by 105(a)15 Lenders (Regional Loan Funds in the CDBG Loan Program) for successfully completed loans per the Grant Administration Manual (GAM) and other guidance.
3. Proceeds on sale of real property purchased or improved more than 5 years after the expiration of the grant agreement between the UGLG and the State. This applies to UGLG owned property, subject to the terms of the grant agreement.

**SECTION 2 - POLICY AND PROCEDURE**

1. CDBG Program Income may NOT be expended during the Program Year (July 1 – June 30) in which PI was earned. Exceptions will be considered, please contact the MEDC.
2. CDBG Program Income may NOT be expended for non-CDBG eligible uses without receiving MEDC verification that the UGLG Total PI is less than \$35,000.
3. At the end of the Program Year, all CDBG Program Income generated through all UGLG Programs (housing, CDBG Loan Funds, economic development projects, etc.) must be counted together to determine if the UGLG Total PI has exceeded the \$35,000 limit.
4. One central contact for UGLG Total PI should be established for each UGLG to assist us in gathering and disseminating information related to CDBG Program Income. This person will be identified on the certification form submitted by the UGLG.
5. Near the end of the program Year, the CDBG PI Program Year Certification (Form 15-B) must be completed by all grantees. The form will verify the amount of PI received during the program year.
6. Upon receipt of the CDBG PI Program Year Certification forms, the MEDC will verify the amount of UGLG Total PI and advise UGLG as to whether the \$35,000 threshold has been surpassed.
7. **If the UGLG Total PI (from housing, CDBG loan funds, economic development grants, etc.) is \$35,000 or more**, then the funds retain their federal identify and the UGLG will have 12 months from June 30th to spend those funds on continuing CDBG activities as defined by the CDBG Program. **Effective July 1, 2018, the only eligible CDBG continuing activity will be emergency home repairs.**
8. **If the UGLG Total PI (from housing, CDBG loan funds, economic development grants, etc.) is less than \$35,000**, the funds cease to be federal and may be used by the UGLG for any activity, including activities not eligible under CDBG regulations. It is recommended that UGLGs consider using said non-federal funds to administer an emergency repair program.
9. Program Income of \$35,000 or over received in a single program year retains its federal nature indefinitely, except in very limited circumstances.
10. Program Income not expended within 12 months of the end of the Program Year must be returned to the State of Michigan.
11. If an UGLG does not wish to retain CDBG Program Income and comply with these requirements, the UGLG may return PI funds to the State. All Program Income returned to the State will be reported to HUD and reallocated to other CDBG programs.
12. Program Income Emergency Repair programs are subject to remote monitoring. The MEDC reserves the right to monitoring on-site.
13. Publication Affidavit and Public Hearing with Meeting Minutes for the amount of program income received from the emergency repair program.

Notice for public hearing, which must be substantiated with a publication affidavit, will show five (5) calendar days minimum notice was provided to citizens, and the notice was published in a local or applicable newspaper, a sample of a Public Hearing Notice can be found in the Grant Administration Manual, Chapter 11 Citizen Participation and Other Requirements form 11-A. Begin counting day one (1) on the day following the notice. The following items must be included in the public notice:

- a. The amount of emergency repair program income funds available.
- b. The estimated amount proposed to be used for to benefit LMI persons.
- c. The plans of the applicant for minimizing displacement of persons as a result of activities assisted with such funds and the benefits to be provided by persons actually displaced as a result of such activities, if applicable.
- d. Information regarding the applicant's performance in prior CDBG programs funded by the State, if applicable.

Proof of notice, written minutes of hearings and an attendance roster must be kept for review by State officials.

### SECTION 3 - COMPLIANCE

The expenditure of \$35,000 and over of PI received in a single program year is subject to standard federally required compliance, reporting and monitoring. National objectives must be met, and accomplishment data collected.

- CDBG Program regulations (24 CFR 570)
- CDBG Program regulations relative to Program Income (24 CFR 570.489e(3)(ii))
- NEPA Environmental Review (24 CFR 58)
- National Objective (1040 Income Verification)
- Davis Bacon (not required for Homeowner Emergency Repair activities)
- Uniform Relocation Act (not required for Homeowner Emergency Repair activities)
- Federal Administrative Requirements (2 CFR 200 OMB Super Circular)
- MEDC and/or HUD reporting and monitoring requirements

### SECTION 4 - CDBG ACTIVITIES PERMITTED WITH PROGRAM INCOME

#### Low/Mod Housing

- Emergency Repair

#### Administration

- Reasonable and necessary costs for administering a PI Emergency Repair Program
- Administrative costs may not exceed 18% of total Program Income received
- Not more than 18% of the total funds spent on each activity may go towards admin.
- Administrative costs must be fully documented and will be reviewed at monitoring.

**Program Income Generated from CDBG Non-housing Grants** may only be used for the eligible continuing activity identified by the CDBG Program.

### SECTION 5 - SINGLE AUDIT GUIDANCE FOR PROGRAM INCOME

The following are suggestions and guidance to be provided to your Certified Public Accountant (CPA) for determining proper treatment of Program Income funds for Single Audit and SEFA purposes. This information is provided for informational purposes only and should not be considered professional advice. Please consult your CPA.

Here are a few broad points to consider.

1. Locally Held Program Income are **all federal funds reportable** under CFDA 14.228.

2. Any expenditures from these funding types should be taken into consideration for purposes of both calculating **total federal expenditures** to determine if a Single Audit is required, and for inclusion in the SEFA.
3. For any community or organization receiving CDBG funds, including loan funds and program income a MEDC **Form 8-C “Audit Requirements Certification Form”** will be required annually within 60 days of the community or organization’s fiscal year end, in compliance with HUD regulations.

There are many variations of these types of funds. Below are details on individual situations that may exist.

#### **Locally Held Program Income (PI)**

Program Income received must be included when calculating whether a Single Audit is required. Program Income expended in the UGLG’s fiscal year must be reported on the SEFA, if applicable.

## EMERGENCY REPAIR PROGRAM

### SECTION 1 - UGLG PROGRAM GUIDELINES

The UGLG must have Emergency Repair Program Guidelines setting forth how program income will be used including a description of the emergency repair program. The UGLG:

1. May use MSHDA County Allocation Program Income Guidelines; however, they must be updated.
2. Edit all references to MSHDA to read as the County's name.
3. Is responsible for the emergency homeowner repair projects.
4. Must list any and all activities to be included for emergency rehabilitation housing projects.
5. Must utilize the compliance guide for program income emergency repair.
6. Must send their Emergency Repair Program Guidelines to MEDC for review.
7. Upon MEDC review and approval, they must be approved by the County Board.
8. Upon approval from the County Board, the UGLG will be allowed to utilize their program income funds.

### SECTION 2 - EMERGENCY REPAIR ACTIVITY

The UGLG is charged with the fiscal responsibility of certifying that 100% of the CDBG Program Income Emergency Repairs are being performed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse.

- Program Income has been used in accordance with Title I requirements, in accordance with CDBG Program Income Emergency Repair, and program requirements outlined in the GAM.
- UGLG has a system for tracking Program Income generated by CDBG Loan Program funds
- Program Income must be deposited into a separate fund or account (may be interest-bearing).
- Program Income information in UGLGs accounting records match the information reported to the State.
- Program Income received is prorated based on the percentage of MEDC federal funds used or is directly tied to the mortgage and note or net proceeds of sale.

UGLG's have the flexibility under the CDBG Program Income Emergency Repair to design programs that meet the needs of their residents. Examples of the types of local programs that may be funded include:

The CDBG Program Income Emergency Repairs are being performed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse, which typically bring the property up to local codes and standards.

Emergency repair programs that provide for the repair of certain elements of a housing unit in emergency situations, such as:

1. Repairs to a **roof** that is leaking, but the whole house is not rehabilitated.

2. Malfunctioning **hot water equipment** resulting in total lack of running hot water in the household.
3. **Plumbing** repairs in cases where water supply or drainage lines have ruptured, and the house is without running water.
4. **Septic tank** is overflowing, or the **drain field** has deteriorated.
5. **Electrical or gas repairs in electrical fire or gas hazard situations** and or cases where the faulty electrical wiring has resulted in total lack of illumination in the household or inability to use such necessary major appliances as the refrigerator or range or furnace or water heater.
6. **Structural damage** that creates an emergency safety situation.
7. Emergency **handicapped accessibility improvements**, such as installation of a ramp can be approved with an emergency health, triggering event.
8. **Other emergency items** not listed above will need approval by the CDBG Program Specialist.

### SECTION 3 - HOUSEHOLD ELIGIBILITY REQUIREMENTS

Grantees must certify that CDBG program recipients meet the HUD eligibility requirements. The Grantee must follow the HUD guidance for income calculations, using the **IRS Form 1040 Adjusted Gross Income Calculation** method: <https://www.hudexchange.info/incomecalculator>

When using the IRS Form 1040 definition to determine an applicant's annual income, Grantees must use the **most current version** of the IRS Form 1040 – the version filed **for current year tax reporting purposes**. An example of the worksheet is Form 2-D, RR Income Eligibility Calculation SAMPLE.

Grantees are responsible for maintaining all documents used to determine and verify CDBG program recipient's income used with the HUD income calculator.

### SECTION 4 - LIEN REQUIREMENTS

The UGLG, has the discretion to provide a grant, or a mortgage loan. The CDBG does not require Liens, nor repayment of mortgage loans. It is for the UGLG to determine and comply with their own policy regarding CDBG Program Income Emergency Repair liens.

**Land Contracts.** Please Note: The CDBG does not require Liens. If you are dealing with a land contract. Please Note: The Land Contact seller(s) must sign the UGLG's mortgage and the Land Contract Subordination Agreement. This document would be recorded and would give the grantee a superior lien position to the Land Contract seller(s).

## SECTION 5 – COMPLIANCE

The UGLG is responsible for the compliance, regulations, requirements and forms set forth in the GAM. The following items are located at:

	GAM Chapter
Asbestos	5
Citizen Participation	11
Conflict of Interest	1
Environmental Review	5
Fair Housing and Equal Opportunity	9
Financial Management	8
Administrative Activity Report	8-D
Lead-Based Paint	5
Lead-Based Paint Requirements Applicability Worksheet	5-S
National Objective	1
Procurement and Contracting	4
Contract and Subcontract Activity HUD-2516	4-P

### LEAD SAFE HOUSING RULE-EXEMPTIONS

Some CDBG projects may be exempt from the Lead Safe Housing Rule if they meet the criteria listed below:

1. Housing units constructed after 1978.
2. The CDBG Program Income Emergency Repairs are being performed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse. The exemption applies only to repairs necessary to respond to the emergency.
3. Housing “exclusively” for the elderly or persons with disabilities, with the provision that children less than six years of age will not reside in the dwelling unit.
4. An inspection performed according to HUD standards found the property contained no lead-based paint.
5. According to documented methodologies, lead-based paint has been identified and removed, and the property has achieved clearance.
6. The rehabilitation will not disturb any painted surface.
7. The property has no bedrooms.
8. The property is currently vacant and will remain vacant until demolition.

UGLGs administering emergency repair programs should pay attention to the exemption “The rehabilitation will not disturb any painted surfaces.” Many emergency repair programs replace only water heaters or roofs where no painted surfaces are disturbed and thus may be exempt from the Rule.

All exemptions must be documented in the project file. A Program Income Exempt Project Determination and a Lead-Based Paint Requirements Applicability Worksheet must be submitted to and approved by the MEDC for each activity before costs for the activity can be incurred.

## SECTION 6 – REPORTING REQUIREMENTS

Records for program income transactions after the period of performance. In some cases, Grantees must report program income after the period of performance. Where there is such a requirement, the 3-year retention period for the records pertaining to the earning of the program income starts from the end of the Grantee’s fiscal year in which the program income is earned.

**Program Income Certification.** Grantees that receive Program Income, as defined above, must certify each Program Year the amount of Program Income is received using Form 15-H, Program Income PY Expenditure and Accomplishment Report. This is required for each Program Year, whether the grantee has received funds or not.

## **SECTION 7 – ADDITIONAL REQUIREMENTS**

### **CONFLICTS PROHIBITED**

No persons described above may obtain a financial interest or benefit from a (UGLG) County program income emergency rehabilitation program-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have a family or business ties, during their tenure or for one year thereafter.

### **COOPERATION**

At all times the UGLG shall cooperate fully with the MSF, MSF Fund Manager, HUD, Office of Inspector General or similar department, and law enforcement officials and agencies.

## **CHAPTER 15 FORMS**

- 15-A UGLG PI Decision Tree
- 15-B Program Income Certification
- 15-C Program Income Emergency Repair Activity Checklist
- 15-D Program Income Emergency Repair Grant Checklist
- 15-E Certifying Officer Designation
- 15-F Land Contract Subordination, SAMPLE
- 15-G Program Income Exempt Project Determination
- 15-H Program Income PY Expenditure and Accomplishment Report