

CHAPTER 9

PROGRAM INCOME

I. PURPOSE

This chapter explains required procedures that must be followed when recording, reporting, and expending program income. These required procedures, and the program income requirements in DHCD's contracts, are to be followed by all general revenue and federally funded sub-recipients unless otherwise stated in the contracts or in the applicable rules and regulations. Each Program CDBG (24 CFR 570.500 and 504), HOME (24 CFR 92.505) and ESG (24 CFR 576) as well as 24 CFR 84 and 85 cover the Federal Requirements

II. STATEMENT OF POLICY

It is DHCD's intention, within the context of the laws and regulations by which it is bound, to approve contractors' retention of eligible program income to be used to the maximum extent possible for the expansion of community development activities. This policy is not to be interpreted as prohibiting DHCD from pursuing other courses of action for good and sufficient cause.

III. DEFINITIONS

- Sub-recipient is defined as an individual or organization providing services in accordance with the terms of its contract with DHCD. For the purpose of this chapter, it also means any other party that has control over the sub-contractor or over which the sub-recipient has control, whether or not it is legally enforceable, if there are any financial or programmatic transactions between the parties.
- General earned income is income attributed to the expenditure of non-DHCD contract funds.
- Program income is gross income received by the sub-recipient/contractor directly, generated from activities supported by DHCD funds. When program income is generated by an activity that is only partially assisted with DHCD funds, the income shall be prorated to reflect the percentage of DHCD funds used.

IV. EXAMPLES OF PROGRAM INCOME

A. EXAMPLES OF PROGRAM INCOME

Income that may be used with DHCD's written prior approval.

1. Income from the temporary use or leasing of properties acquired with awarded funds pending the disposition or use for which the property was acquired.
2. Payment of principal and interest on loans made with DHCD funds.
3. Income earned on the investment of program income, whether or not that income is in a revolving fund.

4. Service fees, e.g., notary fees.
5. Membership dues or fees even when contributed as a condition of participation.
6. Income from sales of commodities such as produce.
7. Usage or rental fees, e.g., charge to others for use of a copier.
8. Fees from joint venture agreements.
9. Administrative fees, such as management service agreement fees, fees from packaging loans, and servicing agent collection fees.
10. Income received by a third party, such as a bank, which is engaged by contract by a sub-recipient to administer an income operating DHCD activity such as rehabilitation loans. The principal and interest collected on the loans by the bank is program income.
11. Proceeds from the sale of real or personal property purchased or improved with DHCD funds.
12. Gross income from the use of or rental of real property acquired or improved by a contractor with awarded funds, less the costs incidental to the generation of such income that were charged to the generated income. Costs incidental to the generation of such income are the expenses involved in operating and maintaining the property including such expenses as salaries for operating and maintenance staff, utilities, janitorial supplies, furnishings, repairs, depreciation, and costs of collecting fees or charges. Program income is generated from use or rental of the property only when funds remain from the use or rental charges after the expenses of operating and maintaining the property have been subtracted.
13. Income that is generated from DHCD activities, but its use does not require DHCD's approval and it may be used on non-DHCD activities. Examples: Income from the sale, use of, or rental of real property where DHCD provided only the operational support in developing the project (i.e., no financial support for land or improvements or construction was provided) or where the financial support was in the form of a loan guarantee.
14. Certain real property development costs paid with contract funds which later are reimbursed through a construction financing mortgage. Seek guidance from your Project Manager for restrictions that may apply.

V. INCOME NOT CONSIDERED PROGRAM INCOME

B. EXAMPLES OF INCOME NOT CONSIDERED PROGRAM INCOME

1. Payments of principal and interest on loans made exclusively with non-DHCD funds where DHCD funds are used to pay administrative costs associated with the loans.

2. Proceeds from fees charged for activities taking place on or within real property acquired or improved with awarded funds where the proceeds are not used to pay for the use or rental of the property, e.g., proceeds used to pay for day care supplies or for day care providers' salaries but not for use or rent of the space in which day care takes place.
3. Proceeds from fundraising activities carried out by sub-recipients receiving federal funds from DHCD to administer one or more eligible activities, (Federal funds cannot be used to pay for fundraising. Fundraising includes the costs of solicitation, receipt, recording, and management of funds solicited. These activities must be conducted as a separate cost center and not as part of the contract supported project costs).

VI. SPECIAL CONSIDERATIONS

A. EXAMPLES OF SPECIAL CONSIDERATION

- 1) Interest earned on advances must be remitted to DHCD on a monthly basis. Note that "advances" has a very restrictive definition and federally funded contracts are funded only on a direct payment and reimbursement basis.
- 2) Real and Personal Property. Disposition proceeds by sale or otherwise must be handled in accordance with the contract. Disposition is subject to the prior approval process.
- 3) Income generated from revolving loan funds activities (return of principal, payment of interest, fees, and other related income) is restricted. This program income must be substantially disbursed for eligible loans, approved loan-related programmatic costs, and approved operational costs for the same revolving loan activity prior to any request of DHCD for disbursement of additional contract funds.
- 4) Income generated from non-revolving loan funds activities must be substantially disbursed to pay for any approved non-revolving loan costs (operational and programmatic) and for revolving loan activity costs (as identified in #3 above) prior to requesting disbursement of additional contract funds.
- 5) Income generated from any activity (e.g., housing construction) using private resources (bank loans, land donations, etc.) combined with DHCD funds (trainee stipends, support personnel, equipment, etc.) is program income if the federal (or DHCD) funds are an integral and direct part of the activity, (e.g., a construction manager paid with DHCD funds).
- 6) Program income cash-on-hand, as explained above must be used prior to requests for draws from the contract. This requirement will cause inaccuracies in the projection of source of funds assigned to cover budgeted line-items. That is, because the flow of program income cannot be easily

matched to the flow of expenses, the budget may reflect certain costs as charged to the contract award which are eventually paid from program income or vice versa.

- 7) To correct this condition, at least every six months, but not more frequently than quarterly, contractors are required to revise their budgets to correctly match costs with the source of funds. The rebudgeting process will also enable contractors to adjust program income generation estimates and avoid deficiencies to cover essential costs. Contractors are cautioned that accurate revenue projections and monthly cash-flow analysis are essential to avoid deficiencies.

VII. ACCOUNTABILITY AND REPORTING OF PROGRAM INCOME

I. OVERVIEW

- Program income generated by contractors from CDBG supported activities retains its federal identity for as long as there is an active agreement between U.S. HUD and Miami-Dade County. The earnings, use, reporting, and recording of program income are subject to the requirements of 24 CFR 570 as long as contractors are allowed use of this income, even if contractors are not receiving CDBG assistance for any period thereon.
- For other federally assisted activities and non-federally assisted activities, DHCD will make a determination on a case by case basis.
- Sub-recipients shall report program income earnings and uses for as long as they have control over program income generated from any contracts with DHCD. The Progress Reports and Earned Income Reports shall be used for this purpose. Additionally, the program income cash-on-hand must be reported on the Payment Request form and Revolving Loan Fund/Capital Investments form (these forms are included in Chapter on Processing Payment Requests).
- All program income must be documented and accounted for in the same manner as contract funds, i.e., as to earnings, source, and uses.
- When more than one funding source contributes to the cost of a program income producing activity, the income shall be prorated to DHCD on the same basis as the DHCD financial contribution to the cost of the activity. The ratio obtained is then applied to the gross income for the activity.
- In the case of real property (the sale, use, or rental) only the financial contribution made directly toward the acquisition or improvements or both is to be considered in calculating the share of program income. The calculation method is the same whether (for example) in the case of housing construction, the sale proceeds are greater than, equal to, or less than the actual cost of land, improvements, and construction provided that a profit is realized as a result of the DHCD support or subsidy.

- When the DHCD contract includes more than one type of fund, the DHCD program income must be prorated to each. The same proration method as noted above applies.
- If, from inception, the costs cannot be reasonably separated from overall activity costs, with DHCD's prior approval, the following applies (unless otherwise specified in DHCD's contract):
 - The preliminary basis for allocation shall be the proportion of total contract funds per funding source (and type of DHCD fund) to the combined total.
 - This basis shall be used on an interim basis and it shall be adjusted to actual cost ratios at the time of the sub-recipient/contractor's earliest expired contract. Each succeeding period shall be handled in the same manner, as if it were a new period.
- Sub-recipients/contractors, for activities for which it is not otherwise required, may deem it advisable to match program income with the activity that generated it while using the funds for a different eligible activity. (This must be done with caution as federal regulations do not permit this flexibility for some activities such as a revolving loan fund). If so, this should be done through the use of subsidiary ledger - accounts which would record program income by funding source and by activity. The general ledger would then record, by funding source, the total from all the respective subsidiaries.
- Earnings, sources, and uses of program income must be reported to DHCD on the Earned Income Report. This reporting requirement is in addition to and separate from the prior approval requirement discussed below.
- Reporting program income to DHCD on the Earned Income Report shall reflect cumulative information for the contract period except for RLFs which shall be from inception of the RLF.
- Earned Income Reports must specifically document, in narrative form, that the costs supported by program income benefit funding sources objectives.
- In prorating program income (as required by the report form) and in preparing the narrative, take note that an objective, for the purpose of this report, is a defined part of the program or scope of services. If it has physical presence, it generates measurable costs and income independent of other parts of the program, whether similar or not (e.g., an elderly housing rental building, a group of single family units at one site). If the objective is a service, it is distinguishable from other services provided (e.g., loan packaging, housing, counseling, child daycare). If the objective combines any two or more of these, it is because of a funding restriction, requiring or permitting such grouping into one (e.g., loan packaging combined with direct loans when both go hand in hand).

- The narrative needs to justify how the costs connect to and move forward the accomplishment of approved objectives and the contract's goals or the funding legislation in the short- and long-term. (Examples of proper narrative are: \$10,000 used to capitalize a U.S. HUD 202 project and must remain restricted for 3 years, required by U.S. 141.1D to cover cost overruns that may occur, and will permit the construction of 80 rental elderly units which otherwise would not be available; \$5,000 used to upgrade the computer software - this will permit us to automate the cost accounting for specific objectives and the per unit cost of single family units under construction, resulting in a more efficient use of staff time and more accurate reporting, it is estimated that 25% of the benefit will go towards our housing development effort and 75% equally distributed among our other activities).

- Except as noted in preceding paragraphs, program income may be retained by sub-recipients/contractors and used as specified in the contract or in accordance with the allowable uses stipulated below.

VIII. ALLOWABLE USES OF PROGRAM INCOME

ALLOWABLE ACTIVITY COSTS

- Allowable costs in excess of contract funds.
 - Costs that may not be permissible or approved as a charge to DHCD's contract funds but that further the federal or contract objectives. The exception is that charges that are unallowable under other rules or regulations shall not be construed as permissible solely on the basis that they are charged to program income.
 - Program income earned by one program activity may be disbursed to carry out another program eligible activity except for program income from revolving loan fund activities.
 - When program income cash balances exceed cash needs to carry out approved activities, DHCD may require the return of the excess funds.

IX. PRIOR APPROVAL

- The use of program income requires DHCD's written prior approval. This is accomplished:
 - Through a budget process by combining the program income budget with the contract budget or
 - When appropriate, through a separate approved program income budget or through a prior approval request letter.

- Seek the advice of your Project Manager for the method most applicable to your case.

- All program income unexpended at the expiration of the contract must be reported to DHCD. If an immediately continuing contract will not be entered into, any program income on-hand at expiration or received after the current contract's expiration shall be paid to DHCD.

X. OTHER INCOME

- Sub-recipients/contractors, when the contract is cost-sharing, must report on the Earned Income Report all sources of income and amounts including general earned income; others need not provide general earned income information unless required by DHCD.
- Sub-recipients/contractors must notify DHCD in writing of all sources of funding within 30 calendar days of notification by the funding source when the funding is intended to be in support of DHCD's contract or when the cost proration or allocation in the approved budget is affected. The notification must include:
 - Source
 - Purpose
 - Copy of contract or grant, if applicable
 - Statement of how the additional activity will or will not interface with DHCD's project
 - Revised budget that reflects the new funding source and appropriate cost allocation charges

XL PROGRAM INCOME EXERCISES (CDBG)

1. Scenario:

DHCD awards \$100,000 of CDBG funds to a neighborhood-based nonprofit housing organization to acquire a site on which the nonprofit will build low and moderate-income rental housing.

- a. After the units are built, will at least part of the rental income received by the nonprofit constitute program income?

2. Answer:

- a. It's possible, but unlikely. This must be assessed on a case-by-case basis.

Discussion:

The nonprofit in this case is sub-recipient (i.e., a nonprofit entity, or an entity described in 570.204(c) that is provided CDBG funds for its use in carrying out an agreed upon eligible activity).

The rent is "gross income" from the use or rental of real or personal property acquired by the sub-recipient with CDBG funds... [570.500(a) (1) (iii)]

However, the last phrase in 570.500(a) (1) (iii) allows "costs incidental to the generation of such income" to be subtracted from gross income in arriving at program income. Therefore, the costs of operating and maintaining the housing units, and any other costs incidental to generating the income, may be netted out of gross income.

For low/mod rental housing, it is unlikely that there will be any cash remaining from gross rental receipts after incidental costs are netted out.

2. Scenario:

DHCD awards \$100,000 of CDBG funds to a neighborhood-based nonprofit housing organization to acquire a site to be used for low and moderate-income rental housing. After acquisition, the nonprofit sells the site to a private developer for \$40,000 as part of an agreement under which the developer will build low and moderate-income rental housing on the site.

- a. After the housing is built, will at least part of the rent received constitute program income?
- b. If within a few years the developer sells the property, will the sales proceeds be program income?
- c. Looking at all of these transactions, is any program income generated?

2. Answers

- a. No, unless the nonprofit sub-recipient required the developer to share rental income with the nonprofit as a condition of providing the land write-down to the developer, and there was income remaining after the costs incidental to generating the income were netted out. Because the developer is neither DHCD, the County, nor a sub-recipient, any income it receives cannot, by definition, be program income, absent a contract to pay all or part of the rental income to the nonprofit sub-recipient.
- b. No, unless the nonprofit sub-recipient, required all or part of the sales proceeds to be paid to the nonprofit as a condition of providing the land write-down to the developer. Same reason as "a".
- c. Yes. The \$40,000 received by the non-profit when it sold the property is program income because that amount was received by a sub-recipient from the sale of real property purchased with CDBG funds [(see 570.500(a)(1)(i))].

3. Scenario

DHCD awards \$100,000 of CDBG funds to a neighborhood-based nonprofit housing organization to rehabilitate low and moderate-income rental housing units owned by the non-profit. After rehabilitation is completed, the nonprofit increases rents slightly.

- a. Will at least part of the rent increase received by the nonprofit constitute program income?
- b. What if the nonprofit sells the rehabilitated property?

3. Answers:

- a. The nonprofit in this case is not a sub-recipient. Instead, it is a target of rehabilitation assistance, specifically identified as such at 570.202 (b) (1). That section states that "CDBG funds may be used to finance ... assistance to ... nonprofit organizations ... to rehabilitate properties for use or resale for residential purposes." The nonprofit is not acting on behalf of DHCD by providing rehabilitation financing to another party, but rather is itself the target of financing assistance from DHCD to enable it to rehabilitate its own property. Because the nonprofit in this case is neither DHCD, the County, nor a sub-recipient, any income it receives cannot, by definition, be program income unless the agreement between DHCD and the nonprofit requires all or part of revenue from rent increases to be paid to DHCD [(see 570.500 (a))].
- b. Same as "a". Unless the contract between DHCD and the nonprofit requires all or part of sale proceeds to be paid to DHCD, none of the sale proceeds would be program income.

4. Scenario

DHCD uses \$200,000 of CDBG funds to renovate a closed school building for use as a multi-purpose neighborhood center in a low and moderate-income area. After the center opens, it is used primarily for day care, senior citizen activities, recreational and social activities, and for meetings. None of these activities receive CDBG assistance.

Which of the following are potential sources of program income?

- Proceeds from modest fees charged for day care services. The proceeds are used to pay part of the salaries of the day care providers.
- Fees charged for certain senior citizen activities to help cover the cost of those activities.
- Fees charged to private groups for use of part of the center for private functions occasionally held there.

Answers:

- No. These funds are not "directly generated" from the use of CDBG funds. Instead, they are generated from the day care services which are not paid with CDBG funds. The fees are not for use or rental of the facility.
- No. Same reasoning as above. Fees are not for use or rental of the facility but rather to pay for senior citizen activities not funded with CDBG funds.

- Yes. Potential, but unlikely source of program income. The fees would be included in the gross income from the use or rental of real property improved with CDBG funds. [570.500 (a) (1) (iii)] However, the last phrase in that section allows costs incidental to the generation of such income to be netted out from gross income. When operating and maintenance expenses and other incidental costs are subtracted from gross income, it is unlikely that any gross income would remain.

5. Scenario

DHCD establishes a rehabilitation fund with a bank for the purpose of financing the rehabilitation of privately owned properties. The fund is established with a lump sum drawdown of \$100,000 from DHCD's letter of credit. The deposited funds are used by the bank to provide supplemental loans to borrowers of non-CDBG funds. A local housing authority is a third party to the written agreement between the sub-recipient and the bank. Its role is to screen applicant eligibility, complete work write-ups, conduct periodic work inspections and coordinate financing of individual loans with the bank.

Which of the following constitute sources of program income?

- Payments of principal and interest on the supplemental loans made with CDBG funds?
- Payments of principal and interest on the primary loans made with non-CDBG funds?
- Interest earned on funds in the account established with the lump sum drawdown?
- Part of the proceeds from the sale of a home rehabilitated using the non-CDBG funded loan and the CDBG funded supplemental loan?

5. Answers:

- Yes. See 570.500 (a) (1) (v)
- No. Not directly generated from the use of CDBG funds. See 570.500 (a) (1) (v). Also see 570.513 (b) (8)
- Yes. See 570.500 (a) (1) (viii)
- No, unless the agreement that the homeowners received from the CDBG rehabilitation financing assistance stipulated that a portion of the sales proceeds would have to be paid to the sub-recipient. The homeowner receiving the sale proceeds is a target of rehabilitation financing assistance under 570.202 (b) (1), and is neither DHCD, the County, nor a sub-recipient. See 570.500 (a).

XII. INSTRUCTION FOR EARNED INCOME REPORT

A. General

- This report must be submitted by any sub-recipient which has income generated from DHCD contract supported activities or income generated from any of the sub-recipient's activities if a cost sharing contract was approved.

2. DHCD must report each year to U.S. HUD on income generated from federal funds. This report covers the activity for only the twelve (12) months of June 1 through May 31. For this reason, under same circumstances, sub-recipients which receive federal funds (e.g., CDBG) are required to prepare an earned income report which is in addition to the periodic reports identified for in the contract. This additional report is required under the following conditions:
 - (a) The contract period is longer than twelve months
 - (b) The contract begins earlier than June 1
 - (c) The contract ends later than May 31
 3. This additional report needs to segregate the earned income activity for the June 1 through May 31 period, which may result in a report that covers data across contract periods. The beginning balance is to reflect amounts at 6/1 and the ending balance is to reflect amounts at 5/31 (e.g., 6/1/2010 to 5/31/2011).
 4. The contract is a cost sharing contract when all activities of the sub-recipient are considered to be part of the DHCD contract, irrespective of which finding source provides financial support for specific objectives, and resulting in cost proration that does not need to be justified by a cost allocation plan.
 5. Do not make adjustments to "Prior Periods" on a current period report. Any error in a prior report must be corrected by submitting a corrected report for each affected period.
- Note: The Earned Income Report is an attachment in the Progress Report sub-recipients are required to submit to the Department of Housing and Community Development (DHCD) on a quarterly basis.

EARNED INCOME

PART C. REVOLVING LOAN

GENERAL INSTRUCTIONS

- 1) Revolving Loan program income must be reported separate from other types of program income.
- 2) This portion of the report should only contain DHCD contracts Revolving Loan Fund income.
- 3) This income must be reported cumulatively for the contract period for as long as the Contractor is holding program income receivables, or both.
- 4) Indicate under PAYMENTS ON LOANS the payments made by borrower or principal and interest and the income from the resale of loans.
- 5) Indicate under INVESTMENT INCOME the income earned from the deposits or investment of RLF cash receipts in a bank or other type of financial institution.

PART D: NON-RLF EARNINGS

GENERAL INSTRUCTIONS

- 1) Report income received under the current contract period.
- 2) For Non-RFL income from prior contracts, your organization must report on the prior period the earnings and the balance at the conclusion of preceding contract; DO NOT include any other Non-RLF amounts, from prior contracts anywhere else on this report.
- 3) For Non-RLF income from prior contracts, your organization must report on a separate earned income report any amount that your organization may be holding or received during the current period if there has been an interruption in the contractual relationship with DHCD.

Program Income Request Form

Agency: _____

Date: _____

Pursuant to 24 CFR Part 570.500, any income generated from activities supported by CDBG funds is considered program income. Miami-Dade County and the Department of Housing and Community Development (DHCD) have a contractual obligation with US HUD to track, manage, and report all program income generated through the CDBG program. Thus, it is imperative that your quarterly and annual progress reports accurately reflect program income. In addition to reporting the program income, your agency must also request in writing, permission to expend these funds. Program income generated from CDBG activities cannot be expended unless prior written approval has been received from DHCD.

If your CDBG activities have generated income this quarter, please complete the following information and return this form with your progress report to DHCD.

Recipient Name (Organization): _____

Activity Name and Address: _____

Activity Description: _____

Activity ID: _____

Reporting Period: _____

Amount of Program Income: _____

Justification for Program Income Usage: _____

Please attach a copy of your budget revisions for approval

I certify that the above information is accurate and true.

Signature: _____

Date: _____

Department of Housing and Community Development only below this line:

Approve: _____ Deny _____

Signature, Project Manager: _____ Date: _____

Signature, Division Director: _____ Date: _____

July 29, 2009

Mr. John Doe, Director
Camacol Loan Fund, Inc.
735 NW 22nd Avenue
Miami, FL 33125

Re: Program Income Request for Contract Number: _____

Dear Mr. Doe:

Your request to use the program income generated from CDBG activity has been received. Please complete and return the enclosed form for consideration.

If you have any questions, please contact me at 786-469-2100.

Sincerely,

Claudious Thompson
Project Manager

CT:ed

Enclosure