DATE: September 26, 2012

TO: Non-Entitlement Jurisdictions Eligible for the State Community Development Block Grant (CDBG) Program

FROM: Thomas Brandeberry, CDBG Section Chief

SUBJECT: Updated CDBG Program Income Policy

***This Management Memorandum Supersedes Management Memorandum 11-04***

THE PURPOSE OF THIS MEMORANDUM

1. Is to update Departmental Policy to align with the federal CDBG Final Rule published April 23, 2012 and effective May 23, 2012, regarding:

   (A) Program Income (PI)
   (B) Reporting of PI Expenditures and Accomplishments into the Federal IDIS System
   (C) Program Income General Administration (PI GA)
   (D) Program Income Reuse Plans
   (E) Changes to PI Waivers

The federal regulation changes discussed in this memo will be effective for state non-entitlement jurisdictions July 1, 2012. This requires jurisdictions to implement the changes listed below, effective July 1, 2012, and report to the Department when the first PI Report is due for this fiscal year - January 31, 2013. Reporting must capture all required data including PI receipts, expenditures, Revolving Loan Accounts (RLA), accomplishments and demographics, as applicable. The new name for this form will be the Program Income Expenditure/Performance Report (Semi-Annual/Annual). This revised form will be released later this year under a separate Management Memorandum.

2. Is to notify all Non-Entitlement jurisdictions that the PI Chapter in the Department’s Grant Management Manual – Chapter 14, found on the Department’s website at http://www.hcd.ca.gov/fa/cdbg/manual/, has been updated to reflect this Memorandum. Participating Non-Entitlement jurisdictions should read the new chapter in its entirety for a full understanding of the State’s PI process and policy. The changes were required pursuant to the federal CDBG Final Rule, the Department’s implementation of the PI Waiver process and updates to the Department’s PI reporting requirements.
WHAT'S NEW WITH STATE CDBG PROGRAM INCOME?

**Program Income Definition Update – De-federalizing PI**

The Final Rule implements changes to 24 CFR 570.489(e)(2)(i), which increases the threshold for when a jurisdiction can "de-federalize" (State’s term) PI received within a fiscal year from $25,000 to $35,000. **However**, the change requires that PI received from any RLA now be excluded from that calculation. Thus, all PI received through an RLA will be counted as PI regardless of the amount. All PI generated through an open grant or PI Waiver of $35,000 or less may either be:

1. Counted and reported as PI, allowing the jurisdiction to include that amount in its PI GA (17%) calculation; or,

2. Not counted or reported as PI, which “de-federalizes” the funds, and allows them to be deposited into the jurisdiction’s General Fund.

If PI is generated from a loan made partially from an RLA and partially from grant funds, PI accounting and reporting must reflect the correct amounts from each source and the entire RLA portion must be reported as PI.

**Program Income General Administration Calculation is Reduced from 18% to 17%**

The Final Rule codifies changes to 24 CFR 570.489(a)(1) by allowing the State to use a 3% calculation for State Administrative funds. Prior to the Final Rule, the calculation was 2%. To accommodate the 3% allowance, local PI GA is now 17% of PI received.

As noted above, the Program Income Expenditure/Performance Report (Semi-Annual/Annual) will be updated prior to the January 30, 2013 submission date. Since the 17% applies to PI received from July 1, 2012 going forward the revised report will reflect that change.

**Program Income Policy for Jurisdictions Who Have Been Receiving Entitlement Funds, But Who Will Now Compete for Non-Entitlement Funding**

Final Rule changes to Section 570.489(e)(3)(iv) address PI on hand when a jurisdiction leaves the Entitlement Program to participate in the State's Non-Entitlement Program.

As of July 1, 2012, upon entry into the State CDBG program, a jurisdiction that has lost or relinquished its Entitlement status (including election to stop participation in an Urban-County Agreement) must, with respect to PI it would otherwise be permitted to retain, either:

1. Retain PI generated under Entitlement grants and continue to comply with Entitlement program requirements for PI; or,
2. Retain the PI, transfer it to the State CDBG program, and comply with the State’s rules for PI and the requirements of 570.489(e).

**Program Income Policy for Jurisdictions Who Have Been Receiving Non-Entitlement Funds, But Who Will Now Receive Entitlement Funding**

A jurisdiction transferring from Non-Entitlement to Entitlement status (including participation in an Urban-County Agreement), **must notify the State in writing that they will be leaving the State’s Non-Entitlement Program and disclose how they intend to handle any PI they currently have on hand.** The jurisdiction may leave the PI in the State’s Non-Entitlement Program and continue current reporting and monitoring actions, or request the State’s approval to transfer State CDBG grant-generated PI (including RLA-generated PI) to the jurisdiction’s Entitlement program. A state may approve the transfer, provided the jurisdiction certifies in writing to the State that it:

1. Has officially elected to participate in the Entitlement grant program;
2. Agrees to use such PI in accordance with Entitlement program requirements; and,
3. Has set up Integrated Disbursement Information System (IDIS) access and agrees to enter receipt of PI into IDIS.

**Program Income Reuse Plans**

The Final Rule makes clear in 24 CFR 570.489(e)(3)(ii)(A)-(C) that the Department must maintain a contractual relationship with jurisdictions regarding PI and its use.

In order to assist jurisdictions and maintain compliance with these requirements, the Department has revised the Program Income Reuse Plan template. The template has fill-in areas and includes federally-required contractual agreements and assertions governing the use and reuse of PI in RLAs. The new plan can be found within **Chapter 14 Program Income and Revolving Loan Accounts** in the Grant Management Manual. It can also be found on the CDBG Section website under Forms & Reports at: [http://www.hcd.ca.gov/fa/cdbg/FormsReports.html](http://www.hcd.ca.gov/fa/cdbg/FormsReports.html)

The Reuse Plan is now limited to a 5 year period, must be executed by the Department, and must be completed using the Department’s template.

Any jurisdiction that has a Reuse Plan older than 3 years must revise their Reuse Plan **by December 31, 2012** or it will be unable to expend PI, including PI from an RLA, PI Waiver, or PI committed to an open grant funded activity, until the new Plan has been executed by the Department.
After December 31, 2012, jurisdictions that have not updated their Reuse Plan to the new template will be allowed to use their current approved Reuse Plan for up to 3 years. Thereafter, the jurisdiction will be unable to expend any PI, including PI from an RLA, PI Waiver, or PI committed to an open grant funded activity, until the new Reuse Plan has been executed by the Department.

**Reporting Of PI Expenditures And Accomplishments Into The Federal IDIS System**

As of May 23, 2012 (effective date of the federal CDBG Final Rule), the Department is required to report all expended PI by State Non-Entitlement jurisdictions, and the corresponding accomplishments (national objective and demographic data), into IDIS.

The Department will use, for the fiscal year ending June 30, 2012, the present Semi-Annual Program Income Report (due July 31, 2012) and the PI GPRs.

For the current fiscal year, the Department will revise PI reporting forms to ensure it has all the required accounting and accomplishment data in the same Excel workbook. This report will be released prior to January 31, 2012 and will include training to the jurisdictions. The report will be called: Program Income Expenditure/Performance Report (Semi-Annual/Annual).

**Waiver Activities**

Due to increased workload, as of the date of this Memorandum, PI Waivers are limited to two (2) active PI Waiver activities per jurisdiction at any one time. “Active” means the Waiver activity has been approved by the Department (jurisdiction’s receipt of the approval, signed by CDBG management staff), but the jurisdiction has not yet “Closed-Out” the approved activity. “Closed-Out” has the same meaning as for a grant activity, with all required reporting, Citizen Participation and board resolutions.

**Definition of “Substantially Revolving” for RLAs**

RLAs must be “substantially revolving,” which means on an annual basis (July 1 – June 30) at least 60% of the funds in an RLA must be used for loans which will be repaid to the account. Up to 40% may be expended on non-revolving activities, which include Activity Delivery (AD) and grants for the same activity as the RLA.

General Administration costs are not considered part of the jurisdiction’s RLA Activities and should not be used in the consideration of “substantially revolving”.

**Excess PI On Hand**

Jurisdictions with excessive PI ($500,000 or more, including GA) at the end of the fiscal year will be required to submit a plan for expending the funds or risk having to return the PI to the Department. The Grantee should use the PI Annual Report to describe the reason for the large amount of PI on hand and describe how the grantee will reduce the amount over the coming year.
If the jurisdiction needs to accumulate PI to fund a project that will cost more than $500,000, the jurisdiction must identify the project in its Semi-Annual PI Expenditure/Performance Report (in the Annual Comment Section) with a detailed narrative about the project, including its timeline for completion.

Approval of a PI Balance above $500,000 will be made on a case-by-case basis.

If you have any questions regarding PI or this Memorandum, please contact your CDBG Representative. Each jurisdiction’s representative contact can be found here: http://www.hcd.ca.gov/fa/cdbg/ContactUs.html