

04 NCAC 19L .0907 PROGRAM INCOME

(a) Definition. Program Income is defined as gross income earned by the recipient from grant supported activities. Such earnings may include, but not be limited to, sale of property, interest received from a loan program, and the return of sales taxes on purchases made during the program. Receipts derived from the operation of a public work or facility, the construction of which was assisted by this program, do not constitute program income. Income generated under the Development Loan Fund program, including loan repayments, fees, lease payments does not constitute program income.

(b) Unless the grant agreement provides otherwise, recipients shall have no obligation to the Department with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement. Recipients must however, follow the procedures set forth in Rule .0909 PROPERTY MANAGEMENT STANDARDS.

(c) All interest earned on grant funds prior to distribution shall be returned to the Department, except recipients may keep one hundred dollars (\$100.00) per year for administrative expenses in accordance with 24 CFR 570.489(c)(2).

(d) Recipients shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions when such revenues are specifically earmarked for a grant project in accordance with the grant agreement.

(e) Unless otherwise required, program income generated by a pre-1986 grant may be retained by the recipient. Program income is identified by the grant year in which the activities which generated the program income were funded. Pre-1986 program income shall be added to funds committed to a current project and used for activities approved in the project's application. Pre-1986 program income shall be expended prior to requesting additional funds from the Department or shall be used in future CDBG projects.

(f) Program Income generated by grants made in 1986 or afterwards shall be returned to the Department except when:

- (1) the recipient shall propose at the time of application or at the time the program income is anticipated, a use or uses for the projected program income, and
- (2) the Department determines that, at the time of the proposal, the use of the projected program income meets federal requirements prohibiting the state from recapturing the program income; or
- (3) the recipient, designated at the time of the preliminary grant award as a "severely distressed county" pursuant to G.S. 105-130.40(c), or a city in such a county, wishes to retain the program income to establish a local economic development revolving loan fund. Any activities that are eligible under Title I of the federal Housing and Community Development Act of 1974, as amended, and that meet at least one of the three national objectives of the Housing and Community Development Act may be undertaken. If the designation, pursuant to G.S. 105-130.40(c), as a "severely distressed county" is removed from a county, projects having received at least a preliminary grant award prior to the removal of the designation may continue to retain program income resulting from that grant as provided in this subsection. Provisions of 4 NCAC 19L .0913 apply at the time of closeout; or
- (4) the program income is generated from an Entrepreneurial Empowerment project, and the Department has approved the plan for re-use of program income.

(g) Income after closeout and not subject to Rule .0907(e) and (f) of this Subchapter.

- (1) Except as may be otherwise provided under the terms of the grant agreement or any closeout agreement, program income of twenty-five thousand dollars (\$25,000) or more received annually subsequent to the CDBG Program closeout shall be used for any eligible activity pursuant to Rule .0301 of this Subchapter. Recipients must receive Division approval in writing prior to obligation of program income under this Paragraph to determine if the proposed use is plainly appropriate to meeting the recipient's needs and objectives. When income received is less than twenty-five thousand dollars (\$25,000) annually, the recipient may spend the funds at the end of the 12 month period according to its own needs; and
- (2) Accurate records shall be kept on all program income and reported annually to the Division when the annual amount exceeds twenty-five thousand dollars (\$25,000) and to determine when the twenty-five thousand dollars (\$25,000) threshold is exceeded subsequent to grant closeout.

(h) Program income generated under the Development Loan Fund program, including loan repayments, fees, lease payments shall meet all the requirements outlined in 24 CFR 570.489(e) and the contract between the unit of local government and the Department of Housing and Urban Development.

History Note: Authority G.S. 143B-431; 153A-376; 160A-456; 24 C.F.R. 570.489(e);

Eff. July 1, 1982;

Temporary Amendment Eff. August 19, 1988 for a period of 180 days to expire on February 15, 1989;

Amended Eff. August 1, 1998; March 1, 1995; June 1, 1993; September 1, 1991; September 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.