



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

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To: Countywide Priority Setting Committee

From: Leelee Thomas, Planning Manager, Housing and Federal Grants
Jared Stalling, Planner

Subject: Community Development Block Grant (CDBG) and Home Investment Partnership Program (HOME) Funding Recommendations for FY 2017-18

Meeting location: San Rafael Community Center, 618 B St, San Rafael, CA

Date: April 4, 2017

REQUEST:

Consider funding recommendations for Community Development Block Grant (CDBG) Countywide Housing and HOME program funding for the 2017-18 fiscal year

RECOMMENDATION:

Consider and Recommend CDBG and HOME funding for fiscal year 2017-18 to the Marin County Board of Supervisors.

DISCUSSION:

The Community Development Block Grant (CDBG) program and Home Investment Partnership Program (HOME) are federally-funded programs of the U.S. Department of Housing and Urban Development (HUD) that provides funding for housing, community facilities, and community services for low income households. Examples of CDBG and HOME funded projects are throughout the County and have included site acquisition for transitional housing, development of affordable housing, rehabilitation of affordable housing and group homes. CDBG funds are divided into three activity categories consisting of: 1) housing, 2) capital projects, and 3) public services. Federal regulation stipulates at least 85% of the CDBG funds must be spent on housing and capital projects, and up to 15% may be spent on public services. HOME funds provide affordable housing options for people with lower incomes.

Subject to approval by the Marin County Board of Supervisors on May 9, 2017, the funding recommendations in this report, along with the funding recommendations adopted by the CDBG Local Area Committees and the cities of San Rafael and Novato, will be submitted to the U.S. Department of Housing and Urban Development (HUD). These funding recommendations will be included in the Annual Action Plan, which is an amendment to the five-year Consolidated Plan for Fiscal Years 2015-2019. The five-year Consolidated Plan, which was submitted to HUD in 2015, serves as a plan and budget for the use of CDBG and HOME funds. Each year, the County submits to HUD either a five-year Consolidated Plan or an Annual Action Plan amendment to the Consolidated Plan.

Funding Update

Funds for Marin County's 2017-18 CDBG and HOME program come from the federal budget for Fiscal Year 2017, which is from October 1, 2017 to September 30, 2018. This year, Marin County's CDBG allocation is estimated at \$1,302,255 while the HOME allocation is estimated at \$578,379. Estimates for funding are determined based on prior years' funding allocation and are subject to change in accordance with the federal budget approved by Congress.

Historically, the CDBG and HOME Programs have seen a decline in funding. Less money means less impact, and unless other funding sources fill the gap, it means fewer and/or smaller projects. This year, we are estimating our funding to remain flat as opposed to the increase in funding we saw during the last fiscal year. As grants remain flat or decline, and personnel costs increase, we are likely to see a gap between actual administrative costs and the amount HUD allows for administration.

Current HUD regulations and policy trends suggest increased scrutiny on entitlement communities and the administration of their federal dollars. Funding should therefore be prioritized for projects which can meet timely spending requirements in a more careful manner, avoiding funding agencies with unspent balances or agencies lacking the administrative capacity to execute their spending in a timely manner.

If Marin's grant amount differs from these assumptions, to avoid the need for an additional hearing, staff recommends that if there is a change in the grant allocation, the grant amounts approved by the Priority Setting Committee be subject to revision. At that time, staff would recalculate the amounts available for each planning area, and for each activity category. To the extent that cuts are needed or additional funds are available, staff would adjust the preliminary project grant amounts, so that the final funding amounts will be proportional to the amounts approved by the committee. Where feasible, staff would then round numbers to the nearest hundred dollars. If additional funds are available, the adjustment would be limited so that no project receives more than the amount the sponsor requested.

CDBG Program Spending Deadlines

HUD regulations require that projects utilize funds in a timely manner and that funds are utilized rather than sit unspent. HUD takes sanctions if, on the annual test date in late April, a community has unspent CDBG funds that exceed 1.5 times its annual CDBG grant amount. If a community's unspent CDBG balance exceeds the 1.5 standard on the test date, HUD will designate the community as a "high-risk" grantee. HUD may also take CDBG funds away from communities that violate the timely spending standard. The reduction of grant awards is done through an automated process, so there is no opportunity to request a waiver or extension. In the past, Marin has been very close to the allowable limit of unspent funds.

HUD's accounting system tracks funds so that no grant dollar goes unspent for longer than permitted by the program regulations. In the past, a grant dollar spent ahead of the deadline could offset a grant dollar that remained unspent past its spending deadline; this is no longer the case. HUD has warned its grantee communities that, in order to avoid losing grant funds, they should prioritize project which are ready to spend funds in a timely way.

Therefore, in making funding recommendations, staff is giving increased weight to project readiness and is recommending reprogramming funds from slow-moving projects.

HOME Program Spending Deadlines

The HOME program also sets deadlines for spending funds, and the County will automatically lose funds if the deadlines are not met.

Under the HOME regulations:

- Within 2 years after HUD makes an allocation of HOME funds available, the County must enter into a contract with a project sponsor committing the HOME funds to a specific project. But the County is not permitted to enter into a contract to provide a project sponsor with HOME funds unless all other necessary financing has been secured, and there must be a reasonable expectation that the project can start construction or rehabilitation within 1 year of the contract date. (If the project involves acquisition, there must be a reasonable expectation that acquisition will occur within six months.) In practice, the sponsor needs to have secured all local planning approvals before they can obtain the required funding commitments for the entire cost of the project.
- A project must be completed within 4 years (5 years if HUD grants an extension) of the date when the County signed the HOME funding contract with the project sponsor.
- Funds must be expended within 5 years after HUD makes the funds available to the County.

If any of these deadlines are not met, HUD can cancel that portion of the community's HOME grant. HUD can also require repayment of funds, even if the County has already spent the money on a project, and regardless of whether the project is eventually completed.

The most challenging requirement is that all other financing must be secured before the County can enter into a contract to provide a project with HOME funds. Paired with the requirement that HOME funds be placed under contract within two years, this is extremely difficult to implement in Marin County. Most sponsors of affordable housing find that they need a substantial commitment of HOME funds in order to obtain commitments from other sources of funding, particularly if those sources are non-local. For example, in order for an affordable housing development project to successfully compete for low-income housing tax credits, it needs a substantial commitment of local funding, which often includes HOME funds from the local jurisdiction.

Local Funding Priorities

At a workshop on August 18, 2016, the Priority Setting Committee (PSC) established local funding priorities, discussed below, which were used by staff in evaluating applications and making funding recommendations.

Affirmatively Furthering Fair Housing:

In recent years, Marin County has received criticism for its lack of affordable housing as well as significant gaps in the availability of affordable housing for members of the protected classes. In 2011, the County submitted an Analysis of Impediments to Fair Housing Choice (AI) to HUD which identified 37 specific barriers to fair housing choice. While many of the items have been addressed, several goals are still outstanding. Federal grants funding will be used in a manner consistent with supporting the goals of furthering fair housing choice in Marin County. This would align with recommendation 4 from the Implementation Plan of the Analysis of Impediments:

Make fair housing and equal opportunity criteria a more visible and comprehensive part of the Community Development Block Grant (CDBG) and HOME Program project selection process by screening all CDBG and HOME applications for compliance with fair housing and equal opportunity criteria and including an analysis of equal opportunity impact in staff reports recommending projects for funding.

In the 2017-18 cycle and beyond, projects which are aligned with Fair Housing goals that have been laid out in the Consolidated Plan and the Assessment for Fair Housing will be prioritized. Addressing the fair housing concerns in Marin County will require a consolidated effort on behalf of County staff, Board of Supervisors, Cities and Towns and Priority Setting Committee members. One of the first steps is to align our federal funding sources with these fair housing plans and educate and communicate our strategy and goals to our partners to create a more unified effort. An example of this would be considering recommendation 16 from the Implementation Plan of the Analysis of Impediments when funding affordable housing developments:

Encourage and facilitate the development of more subsidized and affordable housing for families with children outside areas of minority concentration. Consider acquisition and shared housing. Screen and prioritize applications for CDBG and HOME funds for housing projects that will serve families and are located outside areas of minority concentration.

Supporting projects that serve members of the protected classes:

The PSC also opted that during the 2017-18 cycle projects that serve members of the projected classes will be prioritized. The application could require that data be provided which would specifically identify how and what members of the protected classes are being served and this data will be used in making funding recommendations and in evaluating whether projects predominantly serve members of the protected classes.

All funded projects will be required to affirmatively market their services. In this context it means to promote fair housing and to empower and give special assistance to groups that have historically been disadvantaged. It is simply not enough to not discriminate; we must also take assertive steps aimed at reversing historical trends and discriminatory patterns. The affirmative marketing plans are one part of that effort. The purpose of the affirmative marketing plan requirement is to promote a condition in which individuals of similar income levels in the same area have available to them a like range of choices in housing and services regardless of their race, religion, color, national origin, sex, disability or familial status. Through an affirmative marketing plan, a provider indicates what special efforts they will make to reach out to potential applicants who might not normally seek housing or services. This requires that the provider study the market area, learn the target population and design methods to reach out to the target population. Affirmative marketing does not limit choices; it expands choices by actively seeking to reverse the patterns of the past and truly provide for open and fair access to housing and services where the individual is free to live, work and recreate where they choose. Affirmative marketing does not include specific goals or quotas. However, quantitative data and analysis are essential to planning and monitoring affirmative marketing program effectiveness.

Prioritizing fewer applications:

HUD requested that Marin reconsider the numerous small allocations that have been made and consider funding fewer projects. More funds could be directed to larger projects that address a priority as established by the Priority Setting Committee. This recommendation was based on multiple conversations with the HUD office on ways to utilize our funds in the most efficient and effective way possible. Most recently this included comments on the 2016 Consolidated Plan Amendments requesting that we consider funding larger projects. Larger projects were identified by HUD as \$10,000 per project; however a dollar amount was not established by the PSC and could

be reconsidered at the local level in the future.

Funding fewer housing projects per year.

The PSC also recommended that one or two housing projects that are prepared and ready to utilize funds be prioritized. Funding fewer projects per year could allow more substantial funding commitments instead of funding many projects for multiple years. Funding in larger amounts may assist housing projects meet a more timely completion schedule. However, this may not always be feasible due to the lengthy approval processes common in Marin and HUD's strict timely spending requirements.

Funding recommendations for CDBG Countywide Housing and HOME Program

The staff recommendations for the use of CDBG Countywide Housing and HOME Program funds are shown in the tables on page 9.

A list of all the CDBG Countywide housing applications is included as Attachment A. A list of all the HOME Program applications is included as Attachment B. A summary of recommended funding for all CDBG and HOME proposals, including CDBG planning area amounts, is included as Attachment C. A list of recommended reprogrammed funding for CDBG and HOME is included as Attachment D.

CDBG COUNTYWIDE HOUSING and HOME PROGRAM PROJECTS

There were 7 applications for Countywide Housing and HOME Program. Four projects applied for a total of \$655,000 in CDBG Countywide Housing funding. Three projects that applied in the Countywide Housing category serve the entire county, and funding was provided in multiple planning areas. Four projects described below applied for a total of \$1,635,915 in HOME Program funding.

1. Fair Housing Services (Fair Housing Advocates of Northern California)

Fair Housing Advocates of Northern California requested \$70,000. Fair Housing of Marin counsels those who suspect that they may be victims of housing discrimination, investigates potential complaints, mediates settlements where appropriate, refers cases to federal and state enforcement agencies, helps people with disabilities with requests for reasonable accommodations, conducts training for landlords, provides community education on fair housing laws, and presents educational programs in public schools. The proposed funding for Fair Housing Services will pay for staff to provide community education and outreach concerning fair housing laws and services, training for housing providers, to recruit and train fair housing testers, to monitor discrimination in the housing market, to investigate and verify claims of alleged discrimination, to counsel victims of housing discrimination, and to pursue fair housing cases through mediation, in court, and through referrals to state and federal agencies. Fair Housing Advocates of Northern California will also provide training on Affirmatively Furthering Fair Housing responsibilities for local governments. Fair Housing services do not count towards the 15% cap on public services. Staff is recommending \$10,235 in Countywide Housing CDBG funds for the 2017-18 Fiscal Year; \$59,765 was funded by individual planning areas providing a total of \$70,000.

2. Rehabilitation Loan Program (Marin Housing Authority)

The Marin Housing Authority is requesting a total of \$285,000 for the Rehabilitation Loan Program for the 2017-18 Fiscal Year. This program provides approximately 22 loans a year to

low income homeowners to correct substandard housing conditions, to eliminate health and safety hazards, and to create second units if rented to low income tenants. The program is open to owners of single-family homes, mobile homes, and houseboats. New loans range from \$5,000 to \$35,000, with an average of \$25,000. Loan terms are set according to the borrower's situation; the program offers amortized loans, interest-only loans, and deferred payment loans (with no payments due until the property is transferred). New loans are being made at a 5% interest rate. Annual CDBG funding allocations are used towards the cost of staff and other operating expenses of the Rehabilitation Loan Program. The program's loans are funded from a revolving loan fund. Revenue from monthly loan payments and repaid loans is expected to total \$350,000 in program income for the 2016-17 program year, and will be added to the revolving loan fund and used to make additional loans. Staff is recommending \$2,067 in Countywide Housing CDBG funds for the 2017-18 Fiscal Year; \$197,933 was funded by individual planning areas providing a total of \$200,000.

3. Domestic Violence Emergency Shelter (Center for Domestic Peace)

The Center for Domestic Violence is requesting a total of \$50,000 to provide three additional emergency shelter beds. The Center for Domestic Peace is a domestic violence shelter located in Marin County. The Center for Domestic Peace accepts women and families from all across Marin County and markets their services through hospitals and clinics, as well as legal aid services throughout the county. Staff is recommending \$17,468 in Countywide Housing CDBG funds for the 2017-18 Fiscal Year; \$32,532 was funded by individual planning areas providing a total of \$50,000.

4. Piper Court Apartments (EAH/Bridgecourt Housing)

EAH/Bridgecourt Housing is applying for \$500,000 in CDBG and HOME funds for the acquisition of the Piper Court Apartments, twenty-seven units (18-2BR and 9-3BR) of family housing; a type of apartment underrepresented in Marin's existing affordable housing stock. Piper Court provides affordable family housing near excellent schools and consistent with HUD's goals, outside an area of minority concentration. EAH, Bridgecourt Housing's development partner and property management provider, maintains a "compliance department" with a staff of seven that annually reviews its affirmative marketing and tenant screening and selection procedures. EAH manages more than thirty affordable housing properties and routinely oversees acquisitions and rehabilitations. EAH anticipates applying for tax credits in 2017, local funding is necessary to leverage these funds. If their application is successful, they anticipate receiving LIHTC funds in June/July 2017 and closing out the acquisition by the end of the calendar year. Once acquired and rehabilitated, the rents collected by the apartments will finance any debt service and pay for necessary maintenance and staffing requirements. Staff is recommending \$110,783 in Countywide Housing CDBG funds for the 2017-18 Fiscal Year, \$178,103 in CDBG Countywide Program Income, and \$89,217 in new HOME funds for this project for a combined total of \$378,103.

5. Employment Based Rental Assistance (Downtown Streets Team)

The Downtown Streets Team is applying for \$250,000 in HOME funding for the 2017-18 Fiscal Year. The Downtown Streets Team's Employment Based Rental Assistance Program would provide housing search and rental assistance for employed homeless individuals and families in San Rafael. The Downtown Streets Team is predominately an employment organization and the application was unclear how the applicant would expand their capacity to include administering a housing program that would meet the Federal requirements for tenant selection, unit inspection and the County's commitment to fair housing. A large portion of the requested funds appears to be for program administration, which is not an allowed use under HOME regulations. To utilize HOME funds for rental assistance, a program must align with both the community's

Consolidated Plan and the Continuum of Care. The Marin County Consolidated Plan for 2015-2019 lists the County's funding priorities for housing; the lead priority is to address the housing needs of extremely low and very low income households through 1) acquisition of affordable units, 2) rehabilitation of affordable units, 3) new construction of affordable units, and 4) rental assistance. Rental assistance is listed as the fourth priority, below acquisition, rehabilitation, and construction of new units. There are permanent affordable housing developments applying for funding, therefore, staff recommends that Downtown Streets Team not receive funding for their Employment Based Rental Assistance program at this time.

6. *Oma Village (Homeward Bound of Marin)*

Homeward Bound is applying for funds for the Oma Village Apartments. Oma Village is a nearly-completed, newly-constructed multi-family development designed to provide fourteen homes to extremely-low income families coming out of homelessness. Homeward Bound expects Oma Village to receive a certificate of occupancy in January 2017; HOME funds would largely finance supplies and work already completed at the time of this application. Homeward Bound has yet to incur debt on the development of Oma Village. Oma Village has received \$1,868,629.64 in combined HOME and CDBG funds, and since the project is complete, it is not as high a priority as other projects which may not advance without local funding. In addition, HOME regulations allow funds to be used for either new construction or rehabilitation; given that Oma Village has received its occupancy permit, it is not eligible for additional HOME funds under either of these categories. Staff is not recommending additional HOME funds

7. *Victory Village (Resources for Community Development)*

Resources for Community Development (RCD) applied for \$170,000 in CDBG and \$550,000 in HOME funds for construction of 54 new affordable homes for low income seniors. RCD received commitments of \$220,000 in 2013 HOME and \$100,000 in 2013 CDBG funds. While at the time of this evaluation, RCD had not expended any of its previous HOME and CDBG allocations; it plans to use the funds for purchase of the property and will draw funds down by December 31, 2017. RCD intends to contract the John Stewart Company to provide both property and construction management services. The John Stewart Company has extensive experience in managing and developing affordable housing projects and as such, will oversee Davis-Bacon compliance and also provide accounting, affirmative marketing, and tenant screening and selection services in compliance with Fair Housing laws and program requirements. RCD Staff anticipates that the necessary Planning approvals will be completed in February 2017. The requested funds will be used to strengthen the project's competitiveness in its 9% Low Income Housing Tax Credit (LIHTC) and Affordable Housing and Sustainable Communities (AHSC) Program applications. In addition to the CDBG funds allocated from the Planning Area; staff recommends \$431,324 in new HOME funds and \$48,352 in HOME program income for a total of \$479,676.

RECOMMENDATIONS FOR REPROGRAMMING

At its January 1992 meeting, the CDBG Priority Setting Committee decided that unspent CDBG balances allocated to projects more than two years previously should be considered for reallocation ("reprogramming") to other projects which may be in greater need of the funds. In compliance with this policy, CDBG staff has sent the required 30-day notices to most project sponsors with CDBG funds which were allocated more than two years previously, as well as to newer projects which have been moving slowly, so that the Committee would have the option of reprogramming these funds.

During the local planning area meetings reprogramming recommendations were made for five slow moving projects throughout the County these recommendations are detailed in Attachment D. In the Upper Ross Valley Planning area staff recommended that \$81,520 be reprogrammed to current year applicant from Fairfax-San Anselmo Children's Center-Deer Park School (\$49,895 from 2009-2016), Town of Fairfax-ADA Improvements (\$20,700 from 2010), and Marin Homes for Independent Living -Camino Alto Apartments (\$10,925 from 2011). In the West Marin local Planning area, \$34,882 was recommended for reprogramming from Mesa Park (\$13,000 from 2007-2010) and Bolinas Community Land Trust-Gibson House (\$21,882 from 2011-2013). Subsequent to the Upper Ross Valley Planning Area's recommendation, staff from the Fairfax-San Anselmo Children's Center acquired the necessary bids and proposals to be ready to proceed with the project and staff is recommending that the proposed reprogrammed funds be restored to this project. In addition, new program income was received and it is recommended that \$66,000 of these funds be used to fund Lifehouse's Comita House project.

CDBG COUNTYWIDE HOUSING PROGRAM INCOME

If the CDBG program receives revenue from a completed project, this amount is considered program income, which must be made available to fund new CDBG activities. When CDBG funds are used towards acquisition or major rehabilitation of real estate, a deed of trust or a CDBG lien agreement is usually recorded on the property. The Rehabilitation Loan Program, funded by CDBG, uses a standard Promissory Note and Deed of Trust to secure the loans it makes to homeowners. Loans made by the Rehabilitation Loan Program carry a fixed interest rate, which is stated in the loan documents. For other CDBG projects, typically a CDBG lien agreement is used which is triggered if the property is sold or if its use is changed, but which never requires payment of principal or interest if the property remains in the same ownership and use. The standard CDBG lien agreement is for a stated percentage of the value of the property, set at the percentage of the project cost contributed by CDBG, so that, if the lien is triggered, the implicit interest rate on the CDBG funds is the rate at which the property has appreciated. In the past year, three projects (Toussin Senior Housing, The Meadows, Rotary Valley Apartments and Community Action Marin) have generated CDBG program income for a total amount of \$227,998. County staff recommends that the CDBG program income be applied to current CDBG applicants for the 2017-18 Fiscal Year

Rehabilitation Loan Program (Marin County Housing Authority)

The Rehabilitation Loan Program makes loans to eligible homeowners and nonprofit organizations for rehabilitation of single-family houses, including mobile homes, group homes, and houseboats. The amount of program income generated by the Rehabilitation Loan Program is volatile and difficult to predict. During the 2015-16 program year (July 1, 2015 to June 30, 2016), the Rehabilitation Loan Program generated \$344,834 in program income. In the past, revenue from monthly loan payments and repaid loans has been deposited in the Rehabilitation Loan Program's Revolving Loan Fund and then used to make additional loans. Staff recommends that this procedure continue to be followed. For the 2016-17 program year (July 1, 2016 to June 30, 2017), we expect that this program will generate approximately \$450,000 in program income.

HOME PROGRAM INCOME:

The County of Marin currently has \$48,352 in program income from the HOME program. The HOME funds program income was generated primarily through our ADDI repayment on three properties totaling \$40,654. The remaining program income of \$7,698 was generated through another HOME funded property resulting in the final amount of \$48,352 to be reprogrammed. County staff recommends that the HOME program income be applied to current HOME applicants for the 2017-18 Fiscal Year.

COMMUNITY DEVELOPMENT BLOCK GRANT COUNTYWIDE REQUESTS FOR FUNDING HOUSING PROJECTS (2017-18)						
PROJECT NAME	PROJECT SPONSOR	APPLICANT'S CDBG REQUEST	PROPOSED CDBG PLANNING AREA ALLOCATION	PROPOSED CDBG COUNTYWIDE HOUSING ALLOCATION	PROPOSED CDBG REPROGRAMMED FUNDING	PROPOSED CDBG TOTAL
Fair Housing Services	Fair Housing Advocates of Marin	70,000	59,765	10,235		70,000
Rehabilitation Loan Program	Marin Housing Authority	285,000	197,933	2,067		200,000
Domestic Violence Emergency Shelter	Center For Domestic Peace	50,000	32,532	17,468		50,000
Piper Court Apartments	Bridgecourt Housing /EAH	300,000	-	110,783	178,103	288,886
Total CDBG		705,000	290,230	140,553	178,103	608,886

HOME PROGRAM REQUESTS FOR FUNDING (2017-18)						
PROJECT NAME	PROJECT SPONSOR	APPLICANT'S HOME REQUEST	PROPOSED HOME ALLOCATION	PROPOSED REPROGRAMMED PRIOR YEAR HOME FUNDS AND PROGRAM INCOME		PROPOSED HOME TOTAL
Victory Village	Resources for Community Development	550,000	431,324	48,352		479,676
Piper Court Apartments	Bridgecourt Housing/EAH	200,000	89,217			89,217
HOME Program Administration			57,838			57,838
Total HOME		750,000	578,379	48,352		626,731

ATTACHMENTS

Attachment A: List of CDBG Countywide Housing Applications

Attachment B: List of HOME program Applications

Attachment C: Funding Recommendations

Attachment D: Reprogrammed funding