

TRANSMITTAL

To:

THE COUNCIL

Date: 12/7/2017

From:

THE MAYOR

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

A handwritten signature in blue ink, appearing to read 'Eric Garcetti', is written over a light blue circular stamp.

(Ana Guerrero) for

ERIC GARCETTI
Mayor



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

Community Services & Development Bureau
1200 West 7th Street, 9th Floor, Los Angeles, CA 90017
tel 213.928.9071 | fax 213.808.8999
hcidla.lacity.org

November 28, 2017

Council File No.: New
Council District(s): Citywide
Contact Persons:
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Julie O'Leary (213) 922-9626
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Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 303, City Hall
200 N. Spring Street
Los Angeles, CA 90012

Attention: Mandy Morales, Legislative Coordinator

COUNCIL TRANSMITTAL: REQUEST GENERAL FUND ALLOCATION OF \$5.9 MILLION TO RESOLVE FINDINGS MADE BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT RELATED TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SUMMARY

City General Funds in the amount of \$5,974,497.54 are requested to resolve findings made by the U.S. Department of Housing and Urban Development (HUD) related to the City's Community Development Block Grant (CDBG) and Section 108 Loan programs.

Multiple HUD audit and monitoring review reports from 2011 to 2017 determined that the City was noncompliant with regulations in certain areas or used CDBG funds to support projects that were not completed. The findings by HUD require the City to reimburse the U.S. Treasury or the local CDBG trust fund line of credit with nonfederal funds.

Los Angeles Housing + Community Investment Department (HCIDLA) staff has worked with HUD for a number of years to resolve these and other audit issues to mitigate the impact on the City's General Fund. HCIDLA staff has been working with staff from the offices of the Mayor and City Administrative Officer (CAO), as well as from the Economic and Workforce Development Department (EWDD), to further address the outstanding issues and propose a course of action to resolve these findings. Many

audit issues have been resolved, but after several consultations with HUD, the City has determined that repayment of funds is necessary to close these findings. A total of \$8,672,244.14 is owed and \$2,697,746.60 is available from proceeds from the sale of properties acquired with CDBG funds, leaving a balance of \$5,974,497.54 needed from the General Fund. The City's proposal is outlined in the attached draft letter to HUD. The letter to HUD's Deputy Assistant Secretary for Grant Programs provides more information on the resolution of specific findings including the request for a three-year payment plan. Where possible, the City is proposing that General Funds be paid to the City's CDBG line of credit so the City will be able to use these funds toward future eligible CDBG projects.

RECOMMENDATIONS

The General Manager of HCIDLA respectfully requests that:

- I. This transmittal be scheduled for consideration at the next available meeting(s) of the appropriate City Council committee(s) and scheduled for consideration by the full City Council for review and approval immediately thereafter.
- II. The Council, subject to the approval of the Mayor:
 - A. Approve the City proposal to HUD that includes a three-year repayment plan, as outlined in the attached draft letter, dated November 14, 2017.
 - B. Authorize the General Manager of HCIDLA, or designee, to submit the proposal letter to HUD.
 - C. Upon acceptance by HUD of the City's proposal, allocate up to \$5,974,497.54 in General Funds to resolve findings made by HUD relating to the CDBG and Section 108 Loan programs.
 - D. Instruct the General Manager of the HCIDLA, or designee, to report to the Mayor and City Council with recommendations to implement the response from HUD.
 - E. Authorize the HCIDLA to make technical corrections that may be required and are consistent with the intent of this action, and authorize the Controller to implement these instructions, subject to the approval of the CAO.

DISCUSSION

Since 2011, the City has had outstanding items from HUD's reports of monitoring the City's CDBG and Section 108 Loan programs. HCIDLA, EWDD, and other City partners have worked with HUD to address these findings and reduce possible questioned costs. However, staff has been unable to resolve some of the findings and they require repayment of the CDBG funds using nonfederal funds.

Attached is a draft letter to the Deputy Assistant Secretary for Grant Programs of HUD, which lists many of HUD's monitoring findings regarding the City's CDBG and Section 108 Loan programs. The City calculates that it owes \$8,672,244.14 to close these audit findings. Of this amount, HCIDLA has

funds totaling \$2,697,746.60 from proceeds from the sale of properties initially acquired with CDBG funds, leaving a balance of \$5,974,497.54 needed from the General Fund.

To pay the balance of \$5,974,497.54, HCIDLA requests for the City to pay with General Funds to resolve the findings. Of the total funds due, \$337,629.00 would be sent to the U.S. Treasury to resolve a finding made by the Office of Inspector General. The City is requesting that HUD approve that the balance of \$5,636,868.54 be returned to the City's CDBG Line of Credit and be used to benefit the City through future CDBG-eligible projects. In addition, the City requests a three-year timeframe to repay the funds.

The City could request that HUD consider reducing future City CDBG entitlement allocations instead of using General Funds to repay the local line of credit. However, this transmittal recommends that the Mayor and Council appropriate General Funds instead, because the majority of the funds are proposed to be credited to the local CDBG program to be used for future projects to benefit residents of the City (\$337,629.00 that must be repaid to the U.S. Treasury, and would not be credited to the City's CDBG program). If instead the City requested that future CDBG grants be reduced, the City would lose \$8.3 million that could instead go back into the CDBG program. There would also be a reduction in the amount that could be used for public services and administrative costs, as these activities have caps related to the amount of grant funds awarded.

The draft letter also requests that HUD accept the City's response for some of the findings and close them without repayment from nonfederal funds. If HUD does not accept the City's proposed resolution, there could be an additional \$1,927,452.00 in General Funds needed to resolve these other outstanding HUD findings.

The attached letter to HUD is a draft and has not been sent. Once Council and Mayor take action, the letter will be sent or modified and sent, as needed.

FISCAL IMPACT

This transmittal proposes to allocate \$5,974,497.54 in City General Funds. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report yet.

Prepared by:



KAREN BANKS
Senior Management Analyst I
Consolidated Planning Division

Reviewed by:



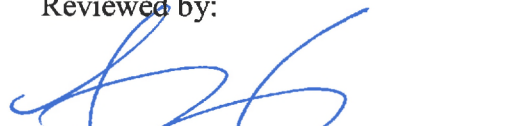
JANET WEST
Senior Management Analyst II
Consolidated Planning Division

Reviewed by:



JULIE A. O'LEARY
Chief Management Analyst
Consolidated Planning Division

Reviewed by:



ABIGAIL R. MARQUEZ
Assistant General Manager
Community Services & Development

Reviewed by:



LAURA K. GUGLIELMO
Executive Officer

Approved by:



RUSHMORE D. CERVANTES
General Manager

RDC:LKG:ARM:JO:JW:KB

Attachment: Draft Monitoring Response Letter to HUD



Community Services & Development Bureau
1200 West 7th Street, 9th Floor, Los Angeles, CA 90017
tel 213.928.9071 | fax 213.808.8999
hud.a.lacity.org

Attachment



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

November 17, 2017

Draft

Stan Gimont
Deputy Assistant Secretary for Grant Programs
Office of the Deputy Assistant Secretary for Grant Programs
U.S. Department of Housing and Urban Development
451 7th Street, SW Room 7204
Washington D.C. 20410

**REQUEST FOR ASSISTANCE IN RESOLVING OPEN AUDIT AND MONITORING ISSUES
ASSOCIATED WITH THE CITY OF LOS ANGELES COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM**

Dear Mr. Gimont:

The City of Los Angeles has a number of open findings relating to the Community Development Block Grant (CDBG) program from monitoring conducted by the local area office and the Office of Inspector General (OIG). The City appreciates the efforts of these partners in reviewing our program and requesting improvements, which we acknowledge should be, are being, or have been made. Some findings where the local office or OIG has instructed the City repay with nonfederal funds, we believe should be reconsidered and are asking your office to review the requests below and approve the alternate City proposals to close the findings. Additionally, we have included a few other City-identified issues with proposed solutions. We would like to discuss a schedule or payment plan for the City to remit the amount of funds identified below.

I. MAJOR OPEN AUDIT AND MONITORING ISSUES

- A. Project: **Adams/La Brea North Acquisition Project (IDIS #10237)**
Disbursed: **CDBG \$3,254,790.00**
Audit: **2011 CDBG Monitoring Report and 2015 Remote Monitoring Report**

City Request:

The City requests HUD approve a change in the national objective to *Limited Clientele*. With this change, the City will record \$711,104.20 in proceeds from the sale of two properties as program income and use those funds for reprogramming in a subsequent Annual or Amended Plan. In addition, the City will reimburse \$1,845,801.92 to the City's CDBG line of credit for reprogramming in a subsequent Annual or Amended Plan, and with these actions requests HUD close the finding.

Comment:

Although the original national objective was to benefit low income residents through *Job Creation* for the 17A—CI Land Acquisition/Disposition activity, the City requests HUD's approval to change the national objective to *Limited Clientele*. The City's former redevelopment agency (CRA/LA), acquired

four properties with \$3.25 million in CDBG funds for a retail project. Following the purchase, two of the properties (worth \$1,408,988.40 of the total acquisition costs) were leased to the Los Angeles Homeless Services Authority to provide shelter to homeless victims of domestic violence, and through this work, the City met a national objective of Limited Clientele benefit. Several years later, the CRA/LA, operating under State Dissolution Statutes, transferred to the City the four properties purchased. Subsequently, the City disposed of the properties through a bid process, with notice to affected citizens, for an amount totaling \$1,196,945.80. Of the total amount realized, \$711,104.20 was the value of the two properties used for the shelter that met a national objective. The City will record this amount as program income and use for reprogramming in a subsequent Annual or Amended Plan.

For the balance of the \$3.25 million used for acquisition (\$1,845,801.92), those projects did not meet a national objective and the City will return the proceeds from the property sale, \$485,841.60, plus nonfederal funds of \$1,359,960.32, for a total of \$1,845,801.92 to the City's CDBG line of credit for reprogramming in a subsequent Annual or Amended Plan.

- B. Project: **Crenshaw Gateway—CRA Project (IDIS #10780)**
Disbursed: **CDBG \$2,218,127.59**
Audit: **2011 CDBG Monitoring Report and 2015 Remote Monitoring Report**

City Request:

Per 24 CFR 570.505 *Use of Real Property*, the City (through CRA/LA) sold the property and will return \$2,218,127.59 to the City's CDBG line of credit for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's proposed resolution and close the finding.

Comment:

The City's former redevelopment agency (CRA/LA), operating under State Dissolution Statutes, disposed of the property by auction for \$2,257,046. Of this amount, \$2,211,905 or 98 percent has been returned to the City from the CRA/LA. The \$45,141 (2%) of the disposition proceeds retained by CRA/LA reflects the portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, and improvements to, the property. The City's remittance will be a combination of the CRA payment (\$2,211,905.00) and other nonfederal funds (\$6,222.59) for a total of \$2,218,127.59.

- C. Project: **Watts Cinema Education Center, Inc. (Wattstar Theater) (IDIS #12018 and #12970)**
Disbursed: **CDBG \$1,912,289.36 (\$1,772,512.53 + \$139,776.83)**
Audit: **2011 CDBG Monitoring Report and 2015 Remote Monitoring Report**

City Request:

The City requests to cancel the activities and reimburse the City's CDBG line of credit with nonfederal funds totaling \$1,912,289.36 for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's proposed resolution and close the finding.

Comment:

This project was a long-standing community priority that has been dissolved due to failure of the sponsoring nonprofit entity to obtain all financing required to proceed to construction. The City allocated CDBG funds for architectural, construction drawings, and related soft costs.

- D. Project: **Westlake Theatre—CRA Project (IDIS #10928)**
Disbursed: **CDBG \$2,000,000.00**
Audit: **2011 CDBG Monitoring Report and 2015 Remote Monitoring Report**

City Request:

The City will reimburse the City's CDBG line of credit with nonfederal funds totaling \$2,000,000.00 for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's proposed resolution and close the finding.

Comment:

The former CRA/LA purchased this historic building with CDBG funds. Subsequently, the CRA/LA invested funds toward the redevelopment of this building and area by relocating a swap meet and making repairs to the theatre. Unfortunately, continued redevelopment ended with the State dissolution of CRA/LA.

- E. Project: **Gensler Capital Improvement Project (IDIS #12927)**
Disbursed: **CDBG: \$1,000,000.00 plus related program delivery costs**
Audit: **2014 CDBG/Section 108 Monitoring Review**

City Request:

The City requests HUD close the finding without repayment, per the justification set forth below.

Comment:

The City believes that it complied with 24 CFR 58.22(a) regarding the Gensler project as no funds were released and a contract was not executed with Gensler prior to receipt of HUD approval of the Request for Release of Funds (RROF) and receipt of environmental clearance in accordance with 24 CFR 58.22(a). Case law has shown that until a contract is fully executed by the City, the City has no enforceable obligation to that project and has made no legal commitment to a project or recipient. Although the City did reimburse for some costs incurred prior to the RROF approval, the City did not obligate or disburse CDBG funds until after the NEPA review was done. The project met a national objective.

In addition, the City has corrected its procedures and increased training related to NEPA clearance policies and procedures to ensure all NEPA reviews and clearances are obtained before incurring project costs.

- F. Project: **Valley Economic Development Corporation (IDIS #5497)**
Disbursed: **CDBG: \$63,307.11**
- Project: **Highland Park-Eagle Rock Business Assistance Center (IDIS #8397)**
Disbursed: **CDBG: \$21,242.62**
- Audit: **2011 OIG Remote Monitoring Report**

City Request:

The City will reimburse the City's CDBG line of credit \$84,549.73 with nonfederal funds for the two activities for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's proposed resolution and close the finding.

Comment:

This monitoring report reviewed the five-year period from 2000–2005 and found that the City had approximately 350 long-open activities in IDIS. The report required the City to follow up on all activities and bring them to completion or provide acceptable remediation plans. During this period, the City had just under 2,000 different activities that expended more than \$560 million in CDBG. The two activities listed above did not have sufficient documentation of accomplishments at

the time of the monitoring. Subsequently, the City identified information from an archived website posting that allowed the City to enter data into IDIS regarding these activities. Both activities are now completed in IDIS.

G. Project: **Goodyear Tract Brownfields**
Disbursed: **CDBG: \$337,629.00**
Audit: **OIG Audit Report 2012-LA-1005**

City Request:

The City will remit \$337,629.00 in nonfederal funds to the U.S. Treasury. Upon receipt of the funds by the Treasury, the City requests HUD accept the City's proposed resolution and close the finding.

Comment:

The City is now retracting our prior correspondence on this matter and proposing the above alternative resolution. (Prior correspondence included letter of September 23, 2016 to Principal Deputy Assistant Secretary Harriet Tregoning: Response to OIG Audit Report 2012-LA-1005, and prior related correspondence on this matter.)

H. Project: **Public Service Cap**
Disbursed: **CDBG: \$927,452.00**
Audit: **CPD Program Year 2012 Review**

City Request:

The City requests HUD close the finding without repayment of nonfederal funds to the City's CDBG line of credit, per the justification set forth below.

Comment:

HUD's annual review of the City's 2012 CPD programs found the City exceeded the public service cap. To compensate for the overage, the City under-allocated public service funds in the next program year, as was the common practice at the time the infraction occurred. The City believes it acted in good faith and in line with acceptable practices at the time. However, the local area office is requiring the City to reimburse \$927,452 in nonfederal funds to the CDBG line of credit, citing a change in HUD policy that was released *subsequent* to the 2012 program year (HUD Area Office Information Bulletin CPD-2013-10). The cap overage occurred during the program year ending March 31 2013, while the new HUD policy was issued in May 2013. See Attachment: *Correspondence Regarding Exceeding Public Service Cap: November 19, 2013 Letter to Area Director William Vasquez* and related subsequent correspondence on this matter, including the HUD Office Information Bulletin CPD-2013-10, which acknowledges, "HUD has previously permitted under-obligation in a future year as an acceptable corrective action...."

II. ANNUAL PROGRAM REVIEW FINDINGS

A. Project: **American Women's Economic Development (IDIS #5498)**
Disbursed: **CDBG \$205,451.00**
Audit: **2014 CPD Annual Review**

City Request:

The City will reimburse the City's CDBG line of credit \$205,451.00 with nonfederal funds for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's proposed resolution and close the finding.

- B. Project: **Community Based Development Organizations**
Disbursed: **No Questioned Costs Stated**
Audit: **2013 CPD Annual Review**

City Request:

The City requests HUD close this finding, as the City no longer use the Community Based Development Organization (CBDO) designation to fund activities.

Comment:

The local office advised the City to enhance the documentation to certify organizations as CBDOs and document the creation of jobs for community economic development projects to use the CBDO portion of 24 CFR 570.204 to exempt public service expenditures from the public service cap. This guidance, in effect, made it impossible for the City to continue its programs and we ceased funding more than \$10 million in public service activities that we believed were correctly exempt from the public service cap and in compliance with 570.204. Though we no longer use the CBDO designation, this finding remains open.

- C. Project: **Respite Center (IDIS #11047)**
Disbursed: **\$4,430.00**
Audit: **2015 CPD Annual Review**

City Request:

The City will reimburse the City's CDBG line of credit \$4,430.00 with nonfederal funds for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's proposed resolution and close the finding.

IV. CANCELLED ACTIVITIES

The City has expended a small amount of CDBG funds on planning costs associated with capital improvement activities that have been cancelled or delayed. The City requests approval to cancel these activities with draws.

- A. Project: **Central Ave Undergrounding Facilities – DWP (IDIS #12457)**
Disbursed: **CDBG \$31,507.56**

City Request:

The City will reimburse the City's CDBG line of credit \$31,507.56 with nonfederal funds for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's proposed resolution, close or cancel the activity in IDIS, and remove the activity from the IDIS At-Risk table.

- B. Project: **Salvadoran American Leadership and Educational Fund (IDIS #13108)**
Disbursed: **CDBG \$32,457.98**

City Request:

The City will reimburse the City's CDBG line of credit \$32,457.98 with nonfederal funds for reprogramming in a subsequent Annual or Amended Plan. The City requests HUD accept the City's

proposed resolution, close or cancel the activity in IDIS, and remove the activity from the IDIS At-Risk table.

The City acknowledges that we have a few long-delayed projects but we ask that HUD consider that the CDBG regulations do not impose a particular timeframe in which to meet national objectives and that many of these projects were implemented in the most underserved areas of the city. Many of these investments were made just before the Great Recession and the dissolution of California's Community Redevelopment Agencies, which were extraordinary circumstances. During the long history of the CDBG program, it is not unexpected that some priority projects in distressed parts of the community are not able to materialize, due to local and national economic circumstances.

The City looks forward to working with our HUD partners in resolving these issues and, with this letter, we are requesting approval of a three-year repayment schedule for the total of \$8,334,615.14 in funds returned to the Letter of Credit and \$337,629.00 to the U.S. Treasury. Please contact Abigail Marquez at 213-808-8462 or abigail.marquez@lacity.org to discuss the City's proposal at your earliest convenience.

Sincerely,

RUSHMORE D. CERVANTES
General Manager

RDC:LKG:ARM:JO:JW

cc: Jan Perry, Economic and Workforce Development Department