



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT
Philadelphia Regional Office
The Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3380

June 10, 2020

Mr. Andrew D. Reilly
Executive Director
Luzerne County Office of
Community Development
54 West Union Street
Wilkes-Barre, PA 18711

Dear Mr. Reilly:

RE: Annual Community Assessment
Luzerne County
January 1, 2019 through December 31, 2019

The provisions of the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990, require the annual submission of performance reports by grant recipients receiving federal assistance through programs covered under these Acts. Additionally, these Acts require that a determination be made by the Secretary of the U.S. Department of Housing and Urban Development that the grant recipient is in compliance with the statutes and has the continuing capacity to implement and administer the programs for which assistance is received.

The Consolidated Plan regulations at 24 CFR 91.525 require the Department to evaluate and report to the public on a community's overall progress in the management of its program funds, compliance with the Consolidated Plan, the accuracy of performance reports, and the extent to which progress has been achieved toward the statutory goals identified in Section 91.1. This letter serves to apprise you of our assessment of Luzerne County's overall progress.

In making our evaluation, we relied primarily upon the county's submission of the Consolidated Annual Performance and Evaluation Report (CAPER) for Fiscal Year 2019. This report summarized accomplishments made with funds provided from the Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG) and Home Investment Partnerships (HOME) programs. As part of our evaluation of the county's performance, we also took into account technical assistance and follow up conversations with county staff. This letter is a summary of our review of Luzerne County's overall performance.

Under the Part 91 Consolidated Planning regulations, all Annual Action Plans and CAPERs are required to include performance measures as part of annual reporting. The Office of Management and Budget has deemed this information necessary to validate the continued funding of HUD programs. The county provided performance measures as required by this guidance.

The CDBG timeliness requirement is that a community may have no more than 1.5 times its most recent annual grant remaining in the line of credit 60 days prior to the end of its program year. When the 60-day CDBG timeliness test was conducted on November 2, 2019, the county had 4.21 years of CDBG funds remaining in its accounts (this number is adjusted to account for program income). The county was, therefore, not in compliance with 24 CFR 570.902. This was the third year in a row that the county was found to be in violation of 24 CFR 570.902, as the county had 4.17 years of CDBG funds remaining in its accounts when the test was conducted on November 2, 2018, and 3.16 years of CDBG funds remaining in its accounts when the test was conducted on November 2, 2017. An informal consultation was held between staff from HUD Headquarters, the HUD Philadelphia Field Office and Luzerne County to discuss the reasons for Luzerne's failure to comply with the CDBG timely expenditure requirement at 24 CFR 570.902. Based on information provided by the county during the consultation, HUD determined that Luzerne County qualified for an exception to the timeliness policy and that the county's FY 2020 CDBG grant would not be reduced.

Subsequent to this consultation, the county provided a workout plan showing actual and projected expenditures, including a listing of loan receivables, for reducing unused program funds and meeting the CDBG timeliness test when the next test is conducted on November 2, 2020. While Luzerne County is taking steps to comply with the CDBG Timeliness standard by November 2, 2020, we encourage the county to seek additional ways to increase its rate of CDBG expenditures so as to comply with this standard by the established deadline. Please be advised that the county's timeliness will be further impacted by the Office of Inspector General's (OIG) Audits, as detailed in the July 30, 2019 letter from Mr. Stanley Gimont, Deputy Assistant Secretary for Grant Programs. The county's timeliness also will be impacted as a result of the COVID-19 crisis, which we acknowledge to create circumstances beyond the county's control. The county will need to consider the various alternatives to addressing the OIG's findings, as well as the impact of COVID-19, and how each alternative will impact the county's compliance with the CDBG Timeliness standard. We continue to be available to assist the county as it works to comply with this requirement. However, if the county is unable to meet this standard by November 2, 2020, the county will be in violation of 24 CFR 570.902 for the fourth year in a row. Please be advised that the county's failure to meet the 1.5 timeliness requirement at the time the next 60-day ratio is measured may result in a reduction of a future grant by 100 percent of the amount in excess of the 1.5 standard, though, after an informal consultation, an exception could be granted as occurred in 2018 and 2019.

During the 2019 program year, the county reports that it expended 95.64 percent of its CDBG funds for activities benefiting low- and moderate-income persons, which meets the primary objective of the Housing and Community Development Act of 1974. In addition, the county obligated 13.97 percent of its funds on public service activities, which is below the 15 percent regulatory cap. The county also obligated 10.3 percent of its funds to planning and administration, which is below the 20 percent regulatory cap and is in compliance with the program year obligation test at 24 CFR 570.200(g)(2).

The grant-based accounting interim rule at 24 CFR 570.200(g)(1) requires that, for 2015 and subsequent CDBG grants, a grantee may not expend more than 20 percent of any year grant for planning and program administrative costs. As a result, beginning with 2015 CDBG grants, grantees must ensure compliance with this new *origin year grant expenditure test*. Though not fully expended, currently the county has expended 19.82 percent of its 2015 grant, 17.29 percent of its 2016 grant, 16.24 percent of its 2017 grant, 18.10 percent of its 2018 grant and 18.52 percent of its 2019 grant on planning and program administrative costs. The county's final compliance with the 2015 - 2019 origin year expenditure tests will be assessed once the grants are fully expended.

The county received a CDBG grant of \$4,048,612 for Program Year 2019. According to the IDIS PR26 report for the county's 2019 program year, the county expended \$7,959,084.26 of CDBG funds during the 2019 Program Year. Resources were devoted to activities in geographic areas consisting primarily of low- and moderate-income residents throughout the county. The county made significant progress in meeting its Housing and Community Development goals and priorities outlined in the 5-Year Consolidated Plan. The following priorities were addressed: Affordable Housing, Economic Development, Public Facilities and Improvements, Public Services, and Slum and Blight Removal.

The Consolidated Appropriations Act of 2017 (P.L. 115-141) suspends the 24-month HOME commitment requirement for deadlines that occurred or will occur in 2016 through 2020. Therefore, HUD will not enforce cumulative and grant-specific commitment requirements for deadlines in 2018. The 24-month CHDO commitment requirement has also been suspended for funds that would be/will be deobligated in 2018-2021. Luzerne County must continue to meet the HOME expenditure requirement, as reflected on the HOME Grant Specific Commitment and Disbursement Summary Report.

The Department also reminds grantees that all HOME projects should be closed within 120 days of their final draw. The county has made significant progress in maintaining up to date information in the Integrated Disbursement Information System (IDIS) system for the HOME program. In Program Year 2019, the county used its HOME funds for rental housing and homebuyer assistance. The county has procedures in place for addressing housing that has been found to contain lead-based paint.

During the 2019 program year, Luzerne County expended FY 2019 of ESG funds for shelter operations and administration. The FY 2019 ESG grant is not fully expended, however, the county appears to be on track to be within the 7.5 percent limitation established for ESG administration, and within the 60 percent limitation established for street outreach and emergency shelter activities.

Luzerne County is also the recipient of funding for disaster recovery, appropriated under Section 239 of the Department of Housing and Urban Development Appropriations Act, 2012 (Pub. L. 112-55 and Pub. L. 113-2) for Hurricane Irene and Tropical Storm Lee. In 2012, HUD provided CDBG-DR funds totaling \$15.7 million, and an additional \$9.7 million in 2013. The

county should continue to work toward the timely completion of the disaster activities authorized with the 2012 CDBG-DR Allocation, which contains a current undisbursed grant balance of \$576,627.34. As of the most recent monthly CDBG-DR Grant Financial Report, the county has a small balance (\$15,436.89) remaining in its 2013 grant, making the grant ready for close-out.

Status of Open Audits

In correspondence dated July 30, 2019 from Mr. Stanley Gimont, then Deputy Assistant Secretary for Grant Programs, the Department sought to bring closure to the series of issues arising from audits issued by HUD's Office of Inspector General. The Department upheld its March 31, 2014 determination that seven activities failed to comply with program requirements. The Department noted that the county had documented in the Integrated Disbursement Information System (IDIS) that five loans had been repaid in full. The county was able to resolve the issues for these five activities. For the remaining two activities, the Department is requiring that the county repay \$5,956,242.45 in connection with activity #2952 (Sterling Hotel) and \$500,000 in connection with activity #3327 (Cranberry Creek) from non-federal funds. In correspondence dated November 6, 2019, Luzerne County provided no information regarding reimbursement options for these two activities. Instead, the county requested that HUD reconsider its determination to require the county to repay the funds associated with these two activities. To date, HUD has not issued a response to this correspondence.

During the county's Program Year 2017, an audit was conducted of the county's CDBG Program (Audit Report 2017-NY-0002) - dated September 29, 2017. Our office submitted a management decision letter on April 5, 2018 and subsequent guidance on May 18, 2018 to the county regarding the two findings identified in the audit. The county responded with a submission on May 31, 2018, which is currently under review by our Office.

HUD acknowledges the county's programmatic accomplishments during the program year. Based on our review we have concluded that the county has the capacity to carry out its CPD programs and has met its reporting requirements.

HUD's Office of Fair Housing and Equal Opportunity (FHEO) also reviewed the county's CAPER for Program Year 2019. We note however, in electronic mail (email) correspondence dated May 1, 2020, Luzerne County provided a copy of its updated AI for 2020. FHEO is in receipt of this document. Any comments FHEO may have regarding the county's 2020 AI will be provided under separate cover.

The 2020 AI coincides with the submission of the County's five-year Consolidated Plan for the years 2020-2024. The county's Consolidated Plan needs to be updated to incorporate the impediments and recommended actions from the 2020 AI and include proposed timeframes and milestones for addressing the impediments to affirmatively further fair housing. Specifically, the County should incorporate the AI's recommended actions in the updated Consolidated Plan for all six of the identified impediments, create milestones, define measurable outcomes, and develop a timetable to address each specific impediment during the five-year Consolidated Plan

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cycle. This information also should be incorporated in the Annual Action Plans (AAPs) and Consolidated Annual Performance and Evaluation Reports (CAPERs). Future CAPERs should report on actions taken to address each impediment identified in the County's new AI and the updated Consolidated Plan, identify whether milestones were achieved, describe what outcomes were measured from the actions taken, and provide the status of the County's efforts to affirmatively further fair housing.

The Consolidated Plan will dictate the planning in the AAPs and the reporting in the CAPERs for the five-year cycle. If the Consolidated Plan does not include the recommended actions, timeframes, and milestones to address the impediments identified in the AI, it is likely this information will be absent from the AAPs and CAPERs throughout the five-year cycle, which will bring the County's certification to affirmatively further fair housing into question. Please note that FHEO is available to provide technical assistance regarding affirmatively furthering fair housing upon your request. Should you have any questions, we encourage you to reach out to Melody Taylor, FHEO Regional Director, at (215) 861-7643, or by email at Melody.C.Taylor@hud.gov.

We ask that you review our assessment of your performance and provide any comments that you may have within 35 days of the date of this letter. Upon receipt, we will evaluate your comments and make any revisions that are deemed appropriate. If you do not have any comments, we request that you formally notify us of that fact within the 35-day timeframe. Where no comments are received within the designated timeframe, our initial letter will serve as our final assessment of the county's performance for this program year. To facilitate and expedite citizen access to our performance letter, we request that you inform the general public and interested citizens' organizations and non-profit entities of its availability. If, for any reason, the county chooses not to do so, please be advised that our office is obligated to make the letter available to the public. We appreciate your cooperation in this matter.

We look forward to continuing to work with you and members of your staff to accomplish Departmental goals and mutual objectives to develop viable urban communities. We would also be pleased to provide you with any information on resources that may be available to your community. If you need assistance, or if you have any questions concerning the content of this letter please contact Ms. Mary Anne Bellacima, Senior Community Development Representative at (215) 861-7654, or by email, at MaryAnne.Bellacima@hud.gov. Our telephone text (TTY) number for the hearing impaired is (800) 877-8339.

Sincerely,

NADAB BYNUM

Digitally signed by: NADAB BYNUM
DN: CN = NADAB BYNUM C = US O = U.S. Government
OU = Department of Housing and Urban Development,
Office of Administration
Date: 2020.06.10 13:08:49 -0400

Nadab O. Bynum
Director
Office of Community Planning
and Development

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