



U.S. Department of Housing and Urban Development

Philadelphia Regional Office
The Strawbridge's Building
801 Market Street
Philadelphia, Pennsylvania 19107-3380

June 23, 2022

Via email: Andy.Reilly@luzerneCounty.org

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

Dear Mr. Reilly:

RE: Program Year Review Letter
Luzerne County
Program Year 2021 (January 1, 2021 through December 31, 2021)

We want to thank you and your staff for all you are doing to serve the CPD program needs of your community during these unprecedented times. 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 Program Year 2021. This report summarized accomplishments made with funds provided from the Community Development Block Grant (CDBG), Emergency Solutions Grants (ESG) and HOME Investment Partnerships (HOME) programs. This letter is a summary of our review of the 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.

CARES Act Program Accomplishments

Luzerne County has received an allocation of \$3,885,941 of CDBG and \$1,907,889 of ESG CARES Act funds for use preparing for, preventing, and responding to COVID-19. The County has expended \$983,233.55 of CDBG-CV and \$170,294.57 of ESG-CV CARES Act funds to-date. In Program Year 2021, the funds were spent on the following activities: street outreach, shelter, economic development, public services, public facilities and administration. We appreciate all that the County has done to serve the needs of its community during these difficult times and to adapt to the many operational challenges that COVID-19 has presented.

Annual Program Accomplishments

CDBG Program:

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 test was conducted on November 2, 2021 it was calculated that your community had an adjusted for program income balance in its line of credit of **2.88** times its annual grant, which is not in compliance with the 1.5 timeliness standard. The 60-day ratios for Luzerne County as measured on November 2, 2017, November 2, 2018, and November 2, 2019, were 3.16, 4.17, and 4.24, respectively.

A number of flexibilities, waivers, and alternative requirements were in effect in fiscal years 2020 and 2021 in recognition of the extenuating circumstances under which many local governments were operating due to coronavirus. Included among these was suspension of all corrective actions, sanctions, and information consultations for untimeliness in fiscal years 2020 and 2021. This suspension ended September 30, 2021. HUD advised grantees that this suspension did not eliminate the timely expenditure requirements set forth in 24 CFR 570.902. HUD continued to run expenditure reports and notified grantees of deficiencies when their grant fund balances exceeded the regulatory standard. In a memo dated October 21, 2021, CPD indicated how it would be restarting the corrective action process for untimely expenditures, including a temporary change in process for the application of corrective actions for untimely grantees. Our Office noted Luzerne County's lack of timely performance as a deficiency in our November 8, 2021 deficiency letter. In addition, our Headquarters noted the fourth consecutive year deficiency in correspondence dated April 15, 2022. An informal consultation was held between staff from Headquarters, the Philadelphia Office of Community Planning and Development and Luzerne County on February 2, 2022. Based on the information provided by

the County during this meeting, HUD determined that Luzerne County qualifies for an exception to the timeliness policy and the County's FY2022 CDBG grant will not be reduced. It is important to monitor your CDBG grant spending by running the IDIS PR-56 report on a regular basis. Please work towards coming into compliance with the 1.5 timeliness standard by November 2, 2022.

During the 2021 program year, the County reports that it expended 99.69 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 spent 11.13 percent of its funds on public service activities, which is below the 15 percent regulatory cap. The County obligated 13.02 percent of its CDBG funds to planning and administration, which is below the 20 percent regulatory cap and 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 *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, 18.52 percent of its 2019 grant, 17.66 percent of its 2020 grant, and 18.39 percent of its 2021 grant on planning and program administrative costs. The County's final compliance with the 2015, 2016, 2017, 2018, 2019, 2020, and 2021 origin year expenditure tests will be assessed once the grants are fully expended.

The County received a CDBG grant of \$4,185,238 for Program Year 2021 and expended \$8,860,530.44 of CDBG funds during this period. Resources were devoted to activities in geographic areas consisting primarily of low- and moderate-income residents throughout the County. The types of activities undertaken with these funds included acquisition, economic development, housing rehabilitation, public facilities and improvements, public services, planning and administration.

In Program Year 2021, the majority of CDBG funds were spent on public facility and improvement activities. A total of \$6,870,370.22 was used for youth centers, parks and recreational facilities, water and sewer improvements, street and sidewalk improvements and fire station/equipment in the County.

Additionally, the County funded homeless activities with CDBG grant funds. These activities included providing operating support to a homeless shelter and a food bank. A total of \$648,335.90 was spent on these activities.

Grantees were required to expend all 2014 CDBG funds by September 30, 2021. The County expended all its 2014 funds in compliance with this requirement. Any unexpended 2015 funds that the County may have available must be expended by September 30, 2022.

HOME Program:

The County received a HOME grant of \$698,075 for Program Year 2021. Luzerne County expended \$1,712,974.98 of HOME funds during this period for first-time homebuyer and rental housing activities. The IDS PR23 Report shows a total of fourteen (14) units were assisted through these activities.

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 2020. We note that the County is utilizing the waiver which suspends the 15 percent set-aside for Community Housing Development Organizations (CHDOs) for FY 2017, FY 2018, FY 2019 and FY 2020 HOME allocations.

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.

ESG Program:

Luzerne County received an ESG grant of \$356,450 for Program Year 2021. During Program Year 2021, the County expended ESG funds for emergency shelter and administration. The FY 2020 and 2021 ESG grants are 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. Based on information contained in the Integrated Disbursement Information System (IDIS) PR93 report, "ESG Risk Status Recipient Report," the County needs to take actions to ensure compliance with the obligation and disbursement requirements for its 2020 and 2021 ESG grants.

CDBG-DR:

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 \$369,580.10. 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 the seven activities failed to comply with program requirements. The Department noted that the County had documented in the IDIS that five loans had been repaid in full. The County was able to resolve the issues for these five activities. The County subsequently repaid the \$500,000 in connection with activity #3327 (Cranberry Creek) from sales proceeds, thus resolving the issue for activity #3327. For the remaining activity, #2952 (Sterling Hotel), the Department is requiring that the County repay the \$5,956,242.45 in connection with this activity from non-federal funds. In correspondence dated November 6, 2019, Luzerne County provided no information regarding reimbursement options for this activity. 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 in this regard.

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 (2) findings identified in the audit. The County responded with a submission on May 31, 2018, which is currently under review by the Department. *(1300k Stone Audit)*

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.

Affirmatively Furthering Fair Housing

The County also included in its CAPER its efforts to affirmatively furthering fair housing and identify impediments to fair housing. In conjunction with the Luzerne County Court of Common Pleas, the Mortgage Foreclosure Diversionary Program assisted 34 households threatened with foreclosure. The County provided printed FHEO materials in the public area of the County's Office of community Development. The Housing Development Corporation of NEPA (HDC), a subrecipient, provided education and counseling related to Fair Housing rights and responsibilities. We commend you for these efforts.

U.S. Department of Housing and Urban Development program participants are reminded that the legal obligation to affirmatively further fair housing remains in effect under the Fair Housing Act; Title VI of the Civil Rights Act; Section 109 of the Housing and Community

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Development Act; and other civil rights related authorities. Please be aware that a jurisdiction could be subject to a compliance review to determine whether, as a recipient of HUD funds, it is in compliance with applicable civil rights laws and their implementing regulations if its certification to affirmatively further fair housing is in question. The Office of Fair Housing and Equal Opportunity (FHEO) initiates most compliance reviews based on risk analyses, issues raised during a limited monitoring review, or when a civil rights problem is detected through HUD program monitoring. 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 Carolyn Punter, FHEO Program Center Director, at Carolyn.K.Punter1@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 MaryAnnel.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: 2022.06.23 13:35:41 -0400

Nadab O. Bynum
Director
Office of Community Planning
and Development