

U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

Notice: CPD 99-4

All Secretary's Representatives
All State Coordinators
All CPD Division Directors
All HOME Participating jurisdictions

Issued: April 16, 1999
Expires: April 16, 2000

Cross Reference: 24 CFR Part 92

Subject: Commitment and Expenditure Deadline Requirements for the HOME Program

I. PURPOSE

The purpose of this notice is to provide procedures for determining whether participating jurisdictions (PJs) have met the requirements for committing and expending HOME Program funds in accordance with the requirements of 24 CFR 92.500(d) of the HOME Program regulation. This notice updates and modifies the procedures in CPD Notice 98-6-REV. Two substantial changes have been made in the notice. The notice revises procedures for determining commitments and expenditures (See Paragraph III). The notice has also been modified to revise information on data sources available for determining PJ commitments and expenditures (See Paragraph IV).

II. BACKGROUND

The HOME Program statute provides that HOME funds are available to participating jurisdictions (PJs) for commitment to affordable housing for a period of 24 months and that at least 15 percent of each PJ's allocation must be reserved for investment in housing to be developed, sponsored, or owned by community housing development organizations (CHDOs). These provisions are implemented by regulation at 24 CFR 92.500(d).

The definition of commitment includes (1) funds that have been committed to a specific project pursuant to a legally binding agreement with a State recipient, a subrecipient, or a contractor, or, if the project is owned by the PJ or State recipient, funds for the project have been set up in the HOME Cash and Management Information System (C/MIS) or the Integrated Disbursement and Information System (IDIS), and (2) funds for which the PJ has entered into a legally binding agreement with a State recipient, a subrecipient, or a contractor to produce affordable housing or provide tenant-based rental assistance, or has entered into a written agreement reserving a specific amount of funds to a CHDO (see 24 CFR 92.2). **NOTE:** An activity (HOME project) in IDIS is recorded as "committed" when activity funding has been assigned to the activity.

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Further, HOME Program funds are available to PJs for expenditure for affordable housing activities for a period of five years. The HOME Program regulation at 24 CFR 92.500(d) provides that HUD will reduce or recapture HOME funds in the PJ's U.S. Treasury account that are not expended within the five year period. (See Paragraph VI below). **Note:** Prior to the commitment of HOME program funds, the environmental review and notification requirements of 24 CFR 92.35 must be addressed.

III. DETERMINING AMOUNTS COMMITTED

There are two requirements for commitment which must be reviewed: total commitments, and commitments to Community Housing Development Organizations (CHDOs).

A. Determining Total Commitments

The procedure for determining total commitments has been modified from previous years. In prior fiscal years, to determine commitments, the Department reviewed a PJ's commitments for the three most recent fiscal years. To more accurately reflect PJ commitments, the Department has revised the procedures to review cumulative rather than only current and subsequent year commitments. For purposes of determining whether a PJ has met the requirement for committing Fiscal Year 1997 funds by its deadline, Field Offices must determine whether total cumulative commitments, including the sum of commitments (reservations) to CHDOs, state recipients, and/or other entities and funds committed by the PJ to specific projects from Fiscal Year 1992 through Fiscal Year 1998 funds are equal to or greater than the sum of the PJ's Fiscal Year 1992 through Fiscal Year 1997 allocations (less funds reserved for administrative and CHDO operating expenses). **NOTE:** In determining whether the PJ has met the total commitment requirement, Field Offices must review the total amount of funds *reserved* for CHDOs, state recipients, and/or other entities. Funds *committed* by CHDOs, state recipients, and/or other entities for specific projects are not considered separately when making the commitment determination since they are already included in the reserved amount (See Paragraph IV, Data Sources).

B. Determining Commitments to CHDOs

After reviewing the status of total commitments, Field Offices must review the status of funds reserved for CHDOs. At least 15% of the PJ's cumulative allocations (FY 1992 - FY 1997) must be reserved for CHDOs. In prior Fiscal Years, the Department determined CHDO commitments for each Fiscal Year. Consistent with the change in determining total commitments, the process for determining whether the PJ has met the CHDO commitment requirement has been modified. For purposes of determining whether a PJ has met the CHDO commitment requirement for Fiscal Year 1997 funds, Field Offices must determine whether the sum of total CHDO reservations, including funds reserved for CHDO capacity building (see below) from all fiscal years (FY 1992 - FY 1998) is equal to or greater than 15% of the PJ's cumulative allocations for Fiscal Years 1992 through 1997. If a PJ has reserved any funds for CHDO capacity

building during the first 24 months after its designation as a PJ, these funds will be considered committed and will count toward meeting the CHDO requirement. Thus, funds (up to the limit allowed) that were reserved for CHDO capacity building as of the 24-month deadline will not be deobligated and will remain available for CHDO capacity building. After the 24-month deadline, the PJ may not reserve any additional funds for CHDO capacity building. **NOTE:** The CHDO commitment requirement is determined based on funds *reserved* for CHDOs. Funds committed for CHDO activities are not considered separately when making the CHDO commitment requirement determination, since they are already included in the reserved amount.

IV. Data Sources

1. Participating Jurisdictions Converted to IDIS

For PJs that have been converted to the Integrated Disbursement and Information System (IDIS), Field staff may monitor total commitments by reviewing the Status of HOME Grants Report (C04PR27) which may be generated for HOME PJs within the Field Office Jurisdiction (See Attachment 1 for Field Instructions on Generating IDIS Reports). The Status of HOME Grants Report (C04PR27) provides information on total commitments by fiscal year source of funds. It also shows whether the PJ has reserved funds for CHDOs, State recipients, and/or other entities. Using the "Status of Commitments" section of the report, Field staff can determine the PJ's "Commitment Requirement" and the PJ's "Total Commitments". In order to determine the total cumulative commitment requirement for 1992 through 1997, staff should deduct the 1998 commitment requirement from the "Total Commitment Requirement." "Total Commitments" in the Status of HOME Grants Report includes funds reserved for CHDOs, State recipients, and other entities. CHDO reservations can be determined by reviewing the column "% CHDO Reserved." If the total is 15% or more, the PJ has met its CHDO requirement (See Attachment 2 for sample report). **NOTE:** In some instances, the IDIS Report does not accurately reflect the "Total Commitment Requirement" for PJs that have had funds deobligated. In those instances, Field staff should contact Charlene Williams in the Office of Affordable Housing Programs at (202) 708-3226, extension 4581 to determine the PJs "Total Commitment Requirement." Headquarters will be providing Field Offices via email a list of all PJs that have had funds deobligated.

2. Participating Jurisdictions in CMIS

In order to determine commitments for PJs in CMIS, Headquarters will begin producing monthly commitment requirement reports effective April, 1999. The report will provide information on total funds authorized and committed to projects and funds reserved for CHDOs, State recipients, and/or other entities.

In instances where the IDIS or Headquarters reports indicate that the PJ has not met the requirement for total commitments or CHDO commitments, the Field Office is to notify the PJ within 30 days of the commitment deadline and provide it an opportunity to report commitments

which are not shown in the HOME C/MIS or IDIS data. If the PJ chooses to provide additional information, please note that the PJ must provide information on **all** commitments (FY 1992 - FY 1998) needed to achieve commitment requirements, and not just the balance uncommitted in the HOME C/MIS or IDIS, since commitments to specific projects may also be included in *legally binding agreements* with State recipients or subrecipients and therefore would be double counted.

If Field Offices need assistance in accessing the IDIS C04PR27 report or obtaining the Headquarters monthly commitment requirements report, please call Charlene Williams in the Financial and Information Systems Division at (202) 708-3226, extension 4581.

Note: Attachment 3 may be used for all PJs to report on HOME funds under binding commitments.

V. DEOBLIGATION PROCESS

If it has been determined that funds must be deobligated, the CPD Division Director should notify (by email or memorandum), the Office of Affordable Housing Programs, Attention: Charlene Williams, of the proposed deobligation. Following Headquarters notification to proceed, the CPD Division in the Field Office will prepare a Funding Approval and HOME Investment Partnership Agreement (HUD-40093), as indicated below, to deobligate any funds that were not committed by the deadline. This action should be completed no later than 30 days after receiving notification from Headquarters to proceed with the deobligation. Deobligated amounts are no longer required to be rounded down to the nearest \$1,000. Field Offices should deobligate the exact amount (e.g., if the amount to be deobligated is \$59,629.72, rather than rounding the deobligation down to \$59,000, the amount to be deobligated must be \$59,629.72). The HUD-40093 should be completed as follows:

Item 8 - Previous Obligation: Enter the amount of FY 1 997 HOME funds awarded previously (from the original HUD-40093 for the FY 1997 funds).

8.a - Regular Funds: Repeat the amount entered in item 8. (All funds obligated previously were regular funds.)

8.b - CHDO Reallocation: Leave blank. (None of the previous obligation was from CHDO reallocation funds.)

Item 9 - Current Transaction: Enter the total amount of funds being deobligated by this action. (Either put a minus sign before the amount or parentheses around the amount to indicate the funds are being deobligated.)

9.a - Regular Funds: Repeat the amount entered in item 9. (Since the PJ has only received regular funds, all deobligated amounts should be reported as regular funds. Again, use minus sign or parentheses.)

9.b - CHDO Reallocation: Leave Blank. (The amount of funds deobligated because the PJ has not met the requirement for CHDOs is to be reported in item 11.)

Item 10 - Revised Obligation: Subtract the amount entered in item 9 from item 8 and enter here.

10.a - Repeat the amount entered in item 10.

10.b - Leave blank.

Item 11 - Special Conditions: If any of the funds are being deobligated because the PJ had not reserved at least 15 percent of its allocation for CHDOs as required by 24 CFR 92.300 and 24 CFR 92.500(d), check box b and indicate in the space in block 11 the amount of funds that are being deobligated because they were not reserved for CHDOs or attach a separate page with this information. **NOTE:** It is important that we keep separate the regular HOME funds being deobligated from the CHDO funds being deobligated because the PJ had not satisfied the requirement for CHDO reservations. The amount of the CHDO funds being deobligated must be included in the total amount of funds indicated in item 9a (regular funds). For example if \$350,000 is being deobligated because the PJ did not meet its total commitment requirement of which \$150,000 is being deobligated because the funds were not reserved for CHDOs, the total amount in item 9a would be \$350,000. However, in item 11, special conditions, the Field Office would enter \$350,000 and indicate that \$150,000 was not reserved for CHDOs and the balance (\$200,000) was regular funds not committed.

For the purpose of deobligating HOME funds, four copies of the HUD-40093 should be prepared and signed as originals. After the CPD Division Director signs the Agreement (four copies), one copy should be provided to the Fort Worth Accounting Center, Department of Housing and Urban Development, 1600 Throckmorton Street, Post Office Box 2905, Fort Worth, Texas for recording the deobligation in the Program Accounting System (PAS). One copy should be sent to the PJ; one copy should be sent to the Office of Affordable Housing Programs, ATTN: Charlene Williams, Room 7168; and finally, one copy should be kept in the Field Office grantee files. Upon receipt of the HUD-executed HUD-40093, the Fort Worth Accounting Division will deobligate the funds and will return the funds automatically to HUD Headquarters for reallocation according to Subpart J of the HOME regulations.

VI. DETERMINING AMOUNTS EXPENDED AND REDUCTION OF GRANT

In accordance with 24 CFR 92.500(d), HUD will reduce HOME funds in the HOME Investment Trust Fund by the amount of any funds in the United States Treasury account that are not expended within five years after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Trust Agreement. The procedure for determining whether a PJ has met the expenditure deadline is consistent with the procedures for determining

whether the PJ met the commitment requirements (See Paragraph III above). For determining whether PJs have met the expenditure deadline for Fiscal Year 1994 funds, the sum of the PJs expenditures from all fiscal years (Fiscal Year 1992 through Fiscal Year 1998) must equal or exceed the sum of its Fiscal Year 1992 through 1994 allocations. The Status of HOME Grants Report (C04PR27) provides information on expenditures (See Attachment 2). Headquarters will provide this information for PJs in CMIS.

For any PJ not meeting the expenditure deadline, HUD will offset the PJ's subsequent HOME allocation by reducing the grant in an amount equal to the amount of funds that was not expended by the PJ. After determining the initial allocation for all PJs, the offset funds will be added to the funds available for allocation and redistributed to all PJs except those whose allocations are being reduced.

If it has been determined that funds must be deobligated, the CPD Division Director should notify (by email or memorandum), the Office of Affordable Housing Programs, Attention: Charlene Williams, of the proposed deobligation. Notification to Headquarters should occur within 30 days of the PJ's expenditure deadline. Following Headquarters notification to proceed, the CPD Division Director should notify any PJ that did not meet its expenditure deadline in accordance with 24 CFR 92.500(d) of the amount which will be deducted from its Fiscal Year 2000 or subsequent year HOME Program allocation. Concurrent with the notification to PJs, the CPD Division in the Field Office will prepare a Funding Approval and HOME Investment Partnership Agreement (HUD-40093), to deobligate any funds that were not expended by the deadline. For the purpose of deobligating HOME funds, four copies of the HUD-40093 should be prepared and signed as originals. After the CPD Division Director signs the Agreement (four copies), one copy should be provided to the Fort Worth Accounting Center, Department of Housing and Urban Development, 1600 Throckmorton Street, Post Office Box 2905, Fort Worth, Texas for recording the deobligation in the Program Accounting System (PAS). One copy should be sent to the PJ; one copy of the HUD-40093 and a copy of the notification to the PJ should be sent to the Office of Affordable Housing Programs, ATTN: Charlene Williams, Room 7168; and finally, one copy should be kept in the Field Office grantee files. Upon receipt of the HUD-executed HUD-40093, the Fort Worth Accounting Division will deobligate the funds and will return the funds automatically to HUD Headquarters for reallocation according to Subpart J of the HOME regulations.

NOTE: In accordance with 24 CFR 92.508(c) HOME participating jurisdictions must retain records pertaining to each fiscal year of HOME funds for the most recent five year period. HUD Field Staff must retain records in each PJ's program file to document each PJ's compliance with the 24-month commitment and 5-year expenditure deadline, including actions taken by HUD to deobligate and/or recapture HOME Program funds.