CHAPTER 9: GENERAL ADMINISTRATIVE AND MONITORING REQUIREMENTS

Part I of this chapter presents many of the general administrative requirements that apply to the use of HOME Program funds. It discusses eligible administrative costs and limitations, and pre-award costs. It also provides information on Consolidated Plan requirements as they relate to HOME, applicable uniform administrative requirements, written agreements, conflict-of-interest provisions and prohibition against the use of HOME funds for inherently religious activities.

Acceptance of HOME funds obligates participating jurisdictions (PJs) to ensure that HOME monies are used in accordance with all applicable requirements. Part II of this chapter will cover two key components of this process – monitoring and record-keeping. It will also discuss current annual performance reporting requirements for the HOME Program.

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PART I: GENERAL ADMINISTRATIVE REQUIREMENTS

ELIGIBLE ADMINISTRATIVE AND PLANNING COSTS

<u>Overview</u>

- Each participating jurisdiction (PJ) may use up to 10 percent of each year's HOME allocation for reasonable administrative and planning costs. In addition, up to 10 percent of program income earned by the PJ or a subrecipient/state recipient during a program year may be used for eligible administrative and planning costs. Administrative and planning costs may be incurred by the PJ, state recipient or subrecipient.

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Calculating Staff Costs for HOME

♦ Eligible administrative and planning costs include expenditures for salaries, wages and related costs of PJ staff persons responsible for HOME Program administration.

♦ PJs have two alternatives for determining the amount of staff costs to charge to HOME Program administration.

  ➢ **Option 1**: Include the ***entire*** salary, wages and related costs of each person whose ***primary*** responsibility involves program administration assignments.

OR

  ➢ **Option 2**: Determine the ***pro rata share*** of salary, wages and related costs of each person whose job includes ***any*** program administration assignments for each person.

♦ A PJ may choose ***only one*** of these two methods each program year.

<u>Example</u>: In Smithville's Housing Department, the HOME Program director spends approximately 90 percent of her time on HOME Program management, oversight and coordination, while the budget analyst spends only 30 percent of his time on HOME Program management and coordination. Under Option 1, all of the HOME Program director's salary could be charged to HOME administrative/planning costs, but none of the budget analyst's salary could be charged. Under Option 2, 90 percent of the HOME Program administrator's salary and related costs and 30 percent of the budget analyst's salary and other costs could be charged to HOME Program administrative/planning costs.

♦ **Assignments as a factor:** For the purpose of determining whether all or a portion of a staff person's salary and related costs may be charged to HOME, PJs must analyze the types of assignments carried out by each individual.

♦ HOME Program administrative assignments that should be considered in making this determination include:

  ➢ Developing systems and schedules for ensuring compliance with HOME Program requirements;

  ➢ Developing HOME agreements;

  ➢ Monitoring HOME-assisted housing and housing with designated matching funds;

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- Preparing reports and other documents;
- Coordinating the resolution of monitoring and audit findings; and
- Managing or supervising persons whose primary responsibilities include those previously listed.

Other Planning and Administrative Costs

- In addition to staff salaries and related costs, these include:
  - Goods and services necessary for administration (e.g., utilities, office supplies, etc.);
  - Administrative services under third party agreements (e.g., legal services);
  - Administering a tenant-based rental assistance (TBRA) program;
  - Providing public information;
  - Fair housing activities;
  - Indirect costs under a cost allocation plan prepared in accordance with applicable Office of Management and Budget (OMB) Circular requirements;
  - Preparation of the Consolidated Plan; and
  - Complying with other federal requirements.

Administrative Costs Versus Project-Related Soft Costs

- Certain costs may be charged as either administrative and planning costs, ***or*** as project-related soft costs. These are listed below.
  - **Staff and overhead costs**: These are staff and overhead costs incurred by the PJ, state recipient, subrecipient or third party contractor that are directly related to carrying out specific HOME projects. They include:
    - ✓ Appraisals;
    - ✓ Preparation of work specifications;
    - ✓ Loan processing and underwriting;
    - ✓ Construction inspections and oversight;

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  - ✓ Inspections for the presence of lead hazards or defective paint;
  - ✓ Advisory and other relocation services;
  - ✓ Project-specific environmental reviews; and
  - ✓ Homebuyer and tenant counseling (if the buyer or tenant is HOME-assisted).

- ➢ **Compliance costs**: These include the costs of complying with other federal requirements directly related to a specific HOME-assisted project.

♦ **Implications of charging to a project**: Charging costs to a specific project has several implications.

- ➢ Project costs count in the maximum per-unit subsidy limit calculation.
- ➢ Administrative costs charged to the project should not be included in the loan to the project owner.
- ➢ Project costs trigger 25 percent match.
- ➢ If the project does not go forward, project costs must be charged as administrative costs.

♦ **Implications of charging as administrative and planning costs**:

- ➢ Costs are subject to the 10 percent cap, and
- ➢ Accounting and reporting requirements are simplified.

♦ **Exceptions**:

- ➢ The cost of providing HOME-funded TBRA is an administrative cost and may not be charged as a project-related soft cost.
- ➢ Project-related soft costs incurred by a property owner are considered project-specific and cannot be charged as administrative costs. (For example, if the property owner hires and pays for an appraisal.)

Note: A PJ or subrecipient may not charge a fee to a project for ongoing project monitoring and compliance reviews. PJs also may not charge fees for origination or loan servicing.

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- **For more information**: For further guidance, PJs should refer to HUD Notice CPD 96-09 "Administrative Costs, Project-related Soft Costs, and Community Housing Development Organization (CHDO) Operating Expenses Under the HOME Program," which is provided in the Appendix.

THE CONSOLIDATED PLAN

Overview

- **Definition**: The Consolidated Plan is a plan of up to five years in length that describes community needs, resources, priorities and proposed activities to be undertaken under certain HUD programs, including Community Development Block Grant (CDBG), HOME, Emergency Shelter Grant and Housing Opportunities for Persons with AIDS (HOPWA).
  - Effective February 6, 1995, the Consolidated Plan replaced previously required planning and application documents, including the HOME Program Description.
  - Any entity that receives HOME funds must submit a Consolidated Plan, including an annual Action Plan (see below), to HUD.
  - For details on the contents of a Consolidated Plan, citizen participation and how the plan should be submitted to HUD, see Attachment 9-1.
- **Action Plan**: Each year, PJs must update the Consolidated Plan by submitting a document, referred to as an Action Plan, to HUD. This annual update describes the specific planned uses of the covered HUD programs, including HOME, as well as certain other program requirements.

UNIFORM ADMINISTRATIVE REQUIREMENTS

PJs and Other Governmental Entities

- PJs and other governmental entities receiving HOME funds, including those receiving HOME funds as a subrecipient, must comply with certain administrative requirements, generally pertaining to the financial management and audit standards that federal funding recipients must meet. All PJs and government entities should be familiar with these requirements. They are detailed below.

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- **OMB Circular A-87 "Cost Principles for State, Local and Indian Tribal Governments":** This circular establishes principles and standards to provide a uniform approach for determining allowable costs under federal grants and other agreements with states and local governments and Indian tribal governments.

- **Certain provisions in 24 CFR Part 85**: These regulations set forth uniform requirements for financial management systems, procurement, reports and records, and grant close-outs for recipients of federal grant funding. Attachment 9-2 lists the applicable provisions.

- **OMB Circular A-133 (Audit Requirements)**: PJs, HOME-funded state recipients, subrecipients and CHDOs acting as subrecipients are required to have audits. Audit thresholds and requirements are outlined in OMB Circular A-133.

Nonprofit Organizations

- HOME-funded subrecipients that are nonprofit organizations and CHDOs, to the extent that they are acting as subrecipients, also must comply with certain uniform administrative requirements. These requirements are similar, but are not quite the same as those placed on PJs and other governmental entities. All nonprofit HOME subrecipients should be familiar with these requirements, as detailed below.

  - **OMB Circular A-122, "Cost Principles for Non-Profit Organizations,"** or, for institutions of higher education, OMB Circular A-21 "Cost Principles for Educational Institutions": This circular establishes principles for determining allowable costs under grants, contracts and other agreements with nonprofit organizations. OMB Circular A-122 is in the Appendix.

  - **Certain provisions of 24 CFR Part 84**: The regulations at 24 CFR Part 84 implement OMB Circular A-110 and set forth uniform requirements for nonprofit organizations, including financial management systems, property standards, procurement standards, reporting and record-keeping. Attachment 9-2 lists the applicable provisions.

CHDOs

- The requirements at 24 CFR 84.21, "Standards for Financial Management Systems" apply to CHDOs who are acting as an owner, developer or sponsor of HOME-assisted housing.

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WRITTEN AGREEMENTS

Entering into Written Agreements

- A written agreement must be entered into ***before any HOME funds are committed or disbursed*** to any entity. In addition, a state recipient, subrecipient or other entity that plans to disburse HOME funds to another entity must first execute a written agreement between itself and the recipient.

Importance of Written Agreements

- When properly written and executed, a written agreement can be:
  - A valuable management tool for verifying compliance and monitoring performance;
  - A training tool for all parties using HOME funds to learn about the rules and regulations of the HOME Program and other federal regulations; and
  - A PJ's method of enforcing program requirements and protecting its investment.

Contents of Written Agreements

- A written agreement should serve as a concise statement of the relationship between the PJ and the recipient of HOME funds. It should also clearly state the conditions under which the HOME funds are provided.

- **Required provisions**: The specific contents of agreements will vary, depending upon the role the entity is asked to assume or the type of project undertaken. The Final Rule details the specific HOME provisions that must be included in written agreements between PJs and the various entities that may receive HOME funds. These provisions are listed below.
  - **Use of funds**: Description of tasks to be performed, schedule for completing tasks, a budget in sufficient detail to effectively monitor performance and the period of the agreement. (For nonprofit and for-profit housing owner, sponsor or developers, the duration of the agreement will be in a separate clause.)
  - **Reversion of assets/program income requirements**: States whether program income proceeds, unexpended funds or other assets will be retained by the recipient for other eligible activities, or will be returned to the PJ.

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- **Uniform administrative requirements**: Compliance with applicable federal administrative requirements (OMB Circular A-87 and applicable provisions of 24 CFR Part 85 for governmental entities, or OMB Circular A-122 and applicable provisions of 24 CFR Part 84 for non-profit entities).

- **Other program requirements**: Requirements regarding: non-discrimination and equal opportunity; affirmative marketing and minority outreach; environmental review; displacement, relocation and acquisition; labor standards; lead-based paint; and conflict-of-interest.

- **Affirmative marketing**: Requirements for affirmative marketing in projects of five or more assisted units.

- **Requests for disbursements of funds**: Requirement that HOME funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before requesting funds from the PJ.

- **Records and reports**: Enumeration of records that must be maintained, and information and reports that must be submitted.

- **Enforcement of the agreement**: This provision is in the agreement with all parties, including owners, and is the means of enforcing the provisions of the written agreement.

> **More on Agreement Provisions**
>
> Exhibit 9-1 summarizes which of the minimum required provisions must be included in the various types of written agreements.

- **Drafting the documents**: PJs will get best results if they work together with legal counsel to draft all contracts, agreements and other legal documents. In addition, staff should provide legal counsel with information that assists them in understanding HOME rules and their intent.

> **Drafting Documents: A Learning Tool**
>
> Remember that the process of developing written agreements and legal documents can serve as a way for program staff and counsel to develop internal capacity and expand knowledge regarding the technical aspects of the HOME Program

- **Duration of Agreements**: The agreement must specify the duration of the agreement. If the housing assisted under the agreement is rental housing, the agreement must be in effect through the affordability period required by the PJ. If the housing assisted under this agreement is homeownership

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housing, the agreement must be in effect at least until the completion of the project and ownership by the low-income family.

- **Amending the documents**: Written agreements may be amended by mutual agreement of the parties when regulations and requirements change, or when adjustments to funding levels or other conditions related to a specific project are needed.

CONFLICT-OF-INTEREST

Requirements for PJs, State Recipients and Subrecipients

> **Subrecipients Under CDBG and HOME**
>
> CDBG and the HOME Program differ in the recognition of who is and is not a subrecipient. PJs working with both programs should refer to the CDBG regulations for further clarification and guidance.

- **Overview:** The HOME Program regulations require PJs, state recipients and subrecipients (including CHDOs that are acting as subrecipients) to comply with two different sets of conflict-of-interest provisions. The first set of provisions comes from 24 CFR Parts 84 and 85. The second, which applies only in cases ***not*** covered by 24 CFR Parts 84 and 85, is set forth in the HOME regulations. Both sets of requirements are discussed below.

EXHIBIT 9-1: REQUIRED PROVISIONS IN WRITTEN AGREEMENTS							
	PJ Agreement With...						
Required Provisions (§92.504)	**State Recipients**	**Subrecipients (e.g. Consortia members)**	**Owners, Sponsors, Developers (e.g. CHDOs)**	**Contractors**	**Homebuyers**	**Homeowners**	**Tenants (Receiving TBRA)**
Use of HOME Funds	✓	✓	✓	✓	✓	✓	
Affordability (§92.252 or §92.254)	✓		✓		✓		
Program Income	✓	✓					
Uniform Administration Requirements (§92.505)	✓	✓					
Project Requirements (as applicable in Subpart F)	✓		✓		✓ **§92.254(a) only**	✓ **§92.254(b) only**	✓ **§92.209 and §92.253 only**
Property Standards (§92.251 and §92.355)			✓				
Other Program Requirements (Subpart H except §92.352 and §92.357)	✓	✓	✓	✓ **except §92.505, §92.506, and §92.352**			
Affirmative Marketing (§92.351)	✓	✓	✓				
Requests for Disbursement of Funds	✓	✓	✓				
Reversion of Assets		✓					
Records and Reports	✓	✓	✓				
Enforcement of the Agreement (§92.252 and 24 CFR Part 85 as applicable)	✓	✓	✓		✓		
Duration of the Agreement	✓		✓	✓			
CHDO Provisions (§92.300 and §92.301)			✓				
Suggested Provisions (not HOME requirements)							
Roles and Responsibilities	✓	✓	✓	✓			
Description of the Project	✓	✓	✓				
Performance Standards	✓	✓	✓	✓			
Conflict of Interest	✓	✓	✓				
Monitoring	✓	✓	✓	✓			
Close-out Requirements	✓	✓	✓				
Non-compliance	✓	✓	✓	✓	✓		

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- **Activities covered by CFR provisions**: In the procurement of property and services by PJs, state recipients and subrecipients, the conflict-of-interest provisions at 24 CFR 85.36 and 24 CFR 84.42 apply. These regulations require PJs and subrecipients to maintain written standards governing the performance of their employees engaged in awarding and administering contracts. At a minimum, these standards must:

  - Require that no employee, officer, agent of the PJ or its subrecipients shall participate in the selection, award or administration of a contract supported by HOME if a conflict-of-interest, either real or apparent, would be involved;

  - Require that PJ or subrecipient employees, officers and agents not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements; and

  - Stipulate provisions for penalties, sanctions or other disciplinary actions for violations of standards.

- A conflict would arise when any of the following has a ***financial or other interest*** in a firm selected for award:

  - An employee, agent or officer of the PJ or subrecipient;

  - Any member of an employee's, agent's or officer's immediate family;

  - An employee's, agent's or officer's partner; or

  - An organization that employs or is about to employ an employee, agent or officer of the PJ or subrecipient.

- **Activities covered by HOME regulations**: In cases not covered by 24 CFR 85.36 and 24 CFR 84.42, the HOME regulations at 24 CFR 92.356 governing conflict-of-interest apply. These provisions cover employees, agents, consultants, officers and elected or appointed officials of the PJ, state recipient or subrecipient. The HOME regulations state that no person covered who exercises or has exercised any functions or responsibilities with respect to HOME activities or who is in a position to participate in decisions or gain inside information:

  - May obtain a financial interest or benefit from a HOME activity; or

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- Have an interest in any contract, subcontract or agreement for themselves or for persons with business or family ties.

- This requirement applies to covered persons during their tenure and for one year after leaving the PJ, state recipient or subrecipient entity.

- **Exceptions**: Upon written request, exceptions to both sets of provisions may be granted by HUD on a case-by-case only after the PJ has:

  - Disclosed the full nature of the conflict and submitted proof that the disclosure has been made public, and

  - Provided a legal opinion from the PJ stating that there would be no violation of state or local law if the exception were granted.

Provisions for Nonprofit and For-Profit Owners, Developers and Sponsors

- The HOME Final Rule includes conflict-of-interest provision applicable to for-profit and nonprofit owners, developers and sponsors of HOME-assisted housing. This provision states that no owner, developer or sponsor of HOME-assisted housing, including their officers, employees, agents, consultants or elected or appointed officials, may occupy a HOME-assisted unit in a development. This provision ***does not*** apply to:

  - An individual receiving HOME funds to acquire or rehabilitate his/her principal residence, or

  - An individual living in a HOME-assisted rental housing development where he/she is a project manager or a maintenance worker in that development.

- **Exceptions**: Exceptions to this conflict-of-interest provision (governing owners, developer and sponsors of HOME-assisted housing) may be granted by the PJ on a case-by-case basis based on the following factors as set forth in the regulations:

  - Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will

Additional Conflict-of-Interest Requirements

The HOME regulations set forth minimum conflict-of-interest requirements. PJs may establish higher standards in order to conform with state/local laws, or to avoid other types of possible conflicts.

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permit him or her to receive generally the same interests or benefits as are being made available or provided to the group as a whole;

- ➢ Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
- ➢ Whether the tenant protection requirements of CFR 92.253 (prohibited lease terms, termination of tenancy and tenant selection) are being observed;
- ➢ Whether the affirmative marketing requirements are being observed and followed; and
- ➢ Any other factor relevant to the PJ's determination, including the timing of the requested exception.

- ♦ **Executing and maintaining conflict-of-interest provisions**: While not specifically required in the HOME regulations, PJs should include the conflict-of-interest provision in written agreements and other documents with owners, developers and sponsors. In addition, monitoring of projects should include necessary actions to ensure that this provision is adhered to.

RELIGIOUS ORGANIZATIONS

- ♦ HOME funds ***may*** be provided to primarily religious organizations for any activity, excluding inherently religious activities.
  - ➢ As of the September 30, 2003 Final Rule for 24 CFR Part 92, HUD (Attachment 1-4), HUD identified regulations for eight programs, including the HOME Program, to eliminate barriers and ensure that these programs are open to all qualified organizations regardless of their religious character.

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HOME INVESTMENT TRUST FUND ACCOUNTS

- There are two trust fund accounts that must be established for each participating jurisdiction (PJ): a U.S. Treasury HOME Investment Trust Fund account, and a Local HOME Investment Trust Fund account.

Treasury HOME Investment Trust Fund

- HUD establishes a Trust Fund set-aside at the U.S. Treasury for HOME funds allocated (or reallocated) to the PJ by HUD.

- Funds from the Treasury are drawn down by the PJ through the Integrated Disbursement and Information System (IDIS). The system applies certain restrictions on how funds may be drawn down. For example: at least 15 percent must be reserved and drawn for CHDO development activities; no more than 10 percent may be drawn for administrative costs.

Local HOME Investment Trust Fund

- The local HOME Investment Trust Fund account is established by the PJ at a local banking institution.

- The local Trust Fund includes the following:

  - HOME funds disbursed from the U.S. Treasury (wire transfers);

  - Repayments of HOME funds, if any;

  - Repayments of matching contributions, if any;

  - Interest or other return on investment of HOME and matching funds; and

  - Where applicable, funds used to make up the shortfall between the formula amount and $750,000 (or $500,000, if that is the amount needed to qualify as a PJ).

- The PJ may establish or designate a second HOME Investment Trust Fund if:

  - The PJ has its own affordable housing trust fund that it will use for matching contributions,

  - There is a local ordinance that requires repayments from the PJ’s trust fund to be made to the trust fund,

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- The PJ establishes a separate account within the trust fund for repayment of matching contributions, and
- The account is used solely for HOME activities in the PJ.

Integrated Disbursement and Information System (IDIS)

♦ There are two key objectives of the IDIS:

- To manage and account for disbursements of HOME funds to participating jurisdictions; and
- To collect, consolidate and report information regarding HOME Program performance.

♦ The IDIS is like a "bank." Each PJ has an account in the bank, and each account contains a deposit of HOME monies (and other HUD funds). PJs can withdraw funds from the account by using a PC, much like computerized banking. But, unlike a bank checking account, the PJ must maintain information regarding the purpose for each expenditure (that is, activity information).

Highlights of the IDIS

♦ **Electronic Data**: IDIS uses electronic data entry to receive all required system communications including project and activity set up, progress and completions, all disbursements -- and project/activity amendments.

> To IDIS, "Project" relates to the Consolidated Plan Action items.
>
> In IDIS, each HOME project is called an "activity".

♦ **Real time data**: IDIS is a real-time, mainframe-based computer application. Provides up to date information on activities and grants.

♦ **Program income**: HOME program income must be used for HOME-assisted projects ***before*** new HOME funds may be drawn down. When program income is reported in IDIS, you must select it for the next drawdown for the activity the PJ performs.

♦ **Deobligations**: Amounts to be deobligated, if any, will be determined 24 months after the PJ receives a HOME allocation. Deobligations will consist of:

- That portion of the PJ's total HOME allocations ***not committed***, and

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- That portion of the 15 percent CHDO set-aside ***not reserved for a CHDO or CHDOs***.

♦ **Commitment**: HOME funds are "committed" by means of:

- Legally binding agreements with contractors, subrecipients and state recipients to specific activities; or
- Reservation of funds for CHDOs or other entities; or
- Funding the activity.

♦ The definition of commitment to a ***specific HOME project*** is:

Remember: Each HOME project is an "activity" in IDIS.

- For privately-owned projects, it requires execution of a written agreement under which construction is reasonably expected to begin within 12 months of the date of the agreement.
- For publicly-owned projects, it requires activity set-up in the IDIS system. There must also be a reasonable expectation that construction will start within 12 months of the project start up date.
- When HOME funds will be provided for acquisition of standard housing, it requires execution of a written agreement under which transfer of title is to occur within six months of the date of the acquisition contract.

♦ Deobligation deadlines fall 24 months after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Partnership Agreement with the PJ.

♦ **IDIS reporting capabilities**: IDIS requires ***Activity Set-up*** information and ***Activity Completion*** information to be entered by the PJ.

- The PJ can download and print standardized financial and project/activity reports from IDIS at any time.

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Steps Necessary Prior to Use of IDIS

- Before the PJ can access IDIS and "commit" HOME funds, the PJ must identify the person(s) who will have the responsibility to set up activities and request disbursement of funds in IDIS. The process:
  - PJ submits to HUD the name of the IDIS Local System Administrator and other authorized users.
  - HUD grants security clearance to designated PJ staff and issues security passwords.
  - The PJ's Local System Administrator updates user access profiles for the users in their organization (viewing activities, set-up, drawdown, activity funding, reports, etc.).

> **Important!**
>
> For maximum check and balance security, the individual(s) authorized to make disbursements should be different from the individual(s) authorized to set up activities.

- A bank depository must also be selected to receive HOME funds from the U.S. Treasury.
  - The PJ can obtain a Form 1199A with transit number and the signature (approval) from bank.
  - The PJ should then submit the completed 1199A form to their HUD Representative at their local Field Office.
  - The HUD Representative will submit the form to the Chief Financial Officer, National Accounting Center, 801 Cherry Street 25th Floor, Fort Worth, TX 76101.
  - IDIS makes wire transfers (disbursements) to this bank account.

Steps in the IDIS Process for a HOME Activity

> **Key Activity Steps in IDIS**
>
> 1. Activity set-up.
> 2. Activity funding.
> 3. Disbursements of HOME funds requested via IDIS, as needed.
> 4. Activity Completion Report.

- Once a PJ executes the HOME Investment Partnership Agreement with HUD, submits the banking and security documents (discussed previously) and complies with applicable environmental review requirements, it can set up and draw down funds for HOME activities in IDIS.

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1. **Activity set-up**

What: HOME activities are set-up as activities in IDIS.

When: Each activity should be set up when a legally binding agreement has been entered into between the PJ and the project owner or, for a TBRA activity, when an agreement is entered into between a tenant and the PJ or other authorized entity.

An activity should not be set up unless construction is expected to commence within 12 months of the set-up.

Who: The set-up is made by the designated PJ official who has been authorized to perform this step, and who has been provided with a security password.

CHDOs do not have direct access to IDIS.

State recipients may have direct access to IDIS if approved by the state to perform these functions.

How: The activity set-up is accomplished by PJ staff using a personal computer (PC) with a modem or LAN connection to the Internet and an Internet browser. The PJ must enter activity information for the activity set-up, including:

- Activity address;
- Owner name, address and phone number;
- Form of ownership;
- Type of activity (set up type);
- Number of units (before and after completion); and
- Household characteristics (income, race, number of bedrooms and rent levels).

2. **Activity funding**

What: Funding for an activity is entered in IDIS by the PJ.

When: Option 1 – at Activity Funding.

Who: The PJ must designate each funding source for an activity.

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How: The PJ must enter information for activity funding in IDIS.

3. **Activity disbursement**

What: Activity disbursement is the drawdown of HOME funds through IDIS for HOME-assisted activity expenditures.

When: An activity disbursement occurs when the PJ (or other entity) anticipates the need for HOME funds for a payment.

A disbursement will be made for progress and final payments on activities.

All HOME funds must be disbursed to a payee (contractor, etc.) ***within 15 days*** of receipt from the U.S. Treasury.

Who: The PJ individual(s) authorized to make and approve drawdown requests. System access, drawdown and approval authority is necessary to initiate and approve a drawdown request.

How: The request is fully automated (no person-to-person contact).

More than one activity drawdown can be made on each request (cannot mix CHDO draws with other draws).

4. **HOME Completion Path Data Entry**

What: Completion information must be entered into IDIS for each activity completed with HOME funds (except administrative or CHDO operating).

When: The initial Activity Completion Data entry must be entered into IDIS within ***120 days*** of final disbursement.

Who: One or more individuals should be designated by the PJ as responsible for entering the completed data into IDIS.

How: Activity Completion information can be entered and updated at any time after final disbursement, because some data -- such as rent levels and household characteristics -- may not be known for some time after completion.

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Completion information should continue to be updated for multi-unit activities until all units have been rented or sold.

The PJ must enter activity completion information including:

- Owner name and address,
- Type of property,
- Itemization of costs by form of assistance and funding source, and
- Homeowner or tenant characteristics.

Note: Affordability periods on HOME assisted units do **not** begin until the completion report has been submitted for that activity.

5. **Changing Activity Status to Complete**

What: Activity completion is triggered by a final drawdown of HOME funds.

Excess HOME funds committed to an activity in IDIS must be deobligated under Activity funding either before or after completion of the activity in order for them to be returned to the PJ's Trust Fund account. (IDIS automatically deobligates excess funds when activity is marked completed.)

When: The final drawdown is made when a final payment of HOME funds will be needed.

Who: The drawdown request is made by the same PJ individual who is authorized and responsible for all IDIS drawdown requests.

How: Same as #3 above.

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KEY IDIS THRESHOLDS

Action	Timeframe	IDIS Penalty
1. Establish wire data transfer account/ identify people with access to IDIS	Immediately after signing HOME Partnership Agreement	No access to IDIS
2. "Commit" all FY HOME Funds (CHDO and Other)	24 months of agreement	Deobligation of uncommitted funds
3. Reservation of FY funds for CHDOs	24 months of agreement	Deobligation of CHDO set-aside
4. Enter Activity Set-Up information	Immediately after execution of legally binding agreement for use of HOME funds	Cannot "commit" funds, no draws on activity permitted
5. Enter Activity Completion information in IDIS	120 days of final draw	None (except that affordability periods do not begin until activity completion reports are submitted).

HOME PROGRAM INCOME

Program Income Defined

Program Income and Guaranteed Loans

Repaid loans guaranteed with HOME monies are not considered program income and are not subject to HOME requirements.

- Program income is the income received by a PJ, state recipient or subrecipient directly generated from the use of HOME funds or matching contributions. Program income includes, but is not limited to:

  - Proceeds from the sale or long-term lease of real property acquired, rehabilitated or constructed with HOME funds or matching contributions;

  - Income from the use or rental of real property owned by a PJ, state recipient or subrecipient that was acquired, rehabilitated or constructed with HOME funds or matching contributions, minus the costs incidental to generating that income;

  - Payments of principal and interest on loans made with HOME or matching funds, and proceeds from the sale of loans or obligations secured by loans made with HOME or matching contributions;

  - Interest on program income; and

NOTES

- Any other interest or return on the investment of HOME and matching funds.

- Program income derived from consortium activities remains consortium program income – even if those activities were carried out in, or by, a jurisdiction that has left the consortium.

General Requirements

- All HOME program income must be used in accordance with the HOME program rules.

- Program income must be expended before additional HOME funds are drawn down from the Treasury.

- PJs may use up to ten percent (10%) of the program income deposited into its local account or received and reported by its State recipients or subrecipients during the program year.

- Written agreements with state recipients, subrecipients, consortium members and developers (including CHDOs) must specify whether program income is to be returned to the PJ or used by the other entity to carry out further HOME activities. For entities who will retain and use their program income, the specific uses for those funds must be detailed.

Subrecipients vs. CHDOs

- Where program include is concerned, there is an important distinction between subrecipients/state recipients and CHDOs.

  - Program income received by subrecipients or state recipients, such as rental income, repayment of loans, interest on loans, fees and payments for services, is considered program income subject to HOME regulations.

  - However, project proceeds received by CHDOs may be considered program income. PJs have the option of permitting project proceeds to be retained by CHDOs or they may require CHDOs to return these proceeds to the PJ. Specific use of funds must be specified in the CHDO written agreement and limited to either HOME-eligible activities or other housing activities that benefit low-income families (see Chapter 3: CHDOs).

- A case study on program income is provided as Attachment 9-3 to this chapter.

NOTES

Recaptured Funds

- Any amount recaptured as a result of a homebuyer property being sold within the affordability period must be used for HOME projects in accordance with all HOME rules. This requirement must be stated in written agreements between the PJ and state recipients, subrecipients or CHDOs.

- Recaptured funds are a return of original HOME investment and are technically not program income. Therefore, unlike program income, 10 percent of recaptured funds **cannot** be used for planning and administrative costs.

PRE-AWARD COSTS

- With the publication of the Final Rule, PJs may incur eligible costs prior to the effective date of their annual HOME Investment Partnership Agreement, subject to certain conditions.

- Both administrative/planning and project costs may be incurred. Only costs eligible under the HOME Program rules in effect at the time the costs are incurred are included.

- Expenditures must meet all regulatory requirements, including environmental review regulations.

- Exhibit 9-2 provides a checklist for pre-award costs.

Exhibit 9-2

CHECKLIST FOR PRE-AWARD COSTS

- ✓ Have applicable environmental review requirements been met?
- ✓ For administrative costs, has the Consolidated Plan been received by HUD or has the Consolidated Program Year begun?
- ✓ For project costs, have all applicable citizen participation requirements been met, including inclusion of projects in a full action plan or “mini” plan?
- ✓ For project costs, is there a planning and tracking system in place to assure that an amount no greater than 25 percent of current year’s grant is expended?
- ✓ Have all authorizations to subrecipients and state recipients been made in writing, and have all applicable HOME requirements been met, including citizen participation?

NOTES

Pre-Award Administrative and Planning Costs

♦ Administrative and planning costs may be incurred as of:

➢ the beginning of the PJ's consolidated program year,

OR

➢ the date the PJ's Consolidated Plan is received by HUD,

...WHICHEVER IS LATER!

Example: If a PJ's program year begins January 1 and the PJ does not have an executed grant agreement, but wants to incur pre-award planning/administrative costs, the following would apply:

- *If the PJ submitted a Consolidated Plan prior to January 1, it can incur costs as of January 1.*
- *If the PJ submitted a Consolidated Plan after January 1, the date the plan was received by HUD is the date it can start incurring pre-award planning/administrative costs.*
- *If the PJ has not submitted a Consolidated Plan, it cannot incur pre-award planning/administrative costs until it does so. (This is an incentive for PJs to submit their Consolidated Plans in a timely manner.)*

Pre-Award Project Costs

♦ Limited project costs may be incurred at ***any time*** during the PJ's program year, provided applicable citizen participation requirements have been met. This means PJs must develop:

➢ a full action plan, ***or***

➢ a "mini" action plan. The mini action plan must fully describe proposed pre-award projects. It must also state that HOME funding of such projects is subject to future availability of funds. These projects must then be included in the subsequent full action plan.

♦ Pre-award project costs may not exceed ***25 percent*** of the current HOME grant without written approval from HUD.

➢ PJs may authorize subrecipients and state recipients to incur pre-award costs, but authorization must be in writing. Citizen participation and all other applicable HOME requirements also must be met.

NOTES

- The total of pre-award project expenses incurred by subrecipients is counted toward the 25 percent cap imposed on PJs.

  Example: If the current year's grant is $1,000,000, the total amount of pre-award project costs may not exceed $250,000. This is true even if the new grant will be more than $1,000,000.

NOTES

PART II: MONITORING, RECORD-KEEPING AND REPORTING

MONITORING

- PJs are responsible for managing the day-to-day operations of their HOME Programs and ensuring that HOME funds are used in keeping with program requirements. Implementation of HOME Program activities by other entities (state recipients, subrecipients, CHDOs, etc.) does not relieve PJs of this responsibility.

- The regulations require that the performance of each contractor and subrecipient receiving HOME funds must be reviewed by PJs at least annually. Good practice suggests that:

  - Any entity receiving HOME funds for an eligible project must be monitored to ensure compliance with applicable program requirements.

  - More frequent reviews may be appropriate based on the length and complexity of the activity being undertaken, and the experience and capacity of the funding recipient.

- PJs must also monitor projects throughout the affordability period for applicable HOME compliance area as outlined in Chapter 6: Homebuyer and Chapter 6: Rental. PJ should also conduct additional oversight of rental projects by analyzing the projects for financial stability, management capacity and other long-term viability issues.

- **Goals**: Three primary goals of monitoring are to:

  - Ensure production and accountability;

  - Ensure compliance with HOME and other Federal requirements; and

  - Evaluate organizational and project performance as well as project viability (financial health, management capacity, etc.)

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Monitoring Plan

♦ PJs should develop a monitoring plan at the beginning of each program year in order to match their available resources for monitoring with the needs and capacity of funded entities. A monitoring plan may include the following:

- Objectives of the monitoring plan;
- Standardized procedures for reporting by funding recipients;
- Standardized procedures for review and monitoring;
- How risk will be identified and addressed;
- Frequency of meetings, monitoring reviews and inspections;
- Pre-monitoring preparation;
- Use of staff and other resources for monitoring;
- Monitoring "checklists"; and
- Sample monitoring letters.

Staffing the Monitoring Responsibilities

♦ PJs may consider several options for conducting monitoring activities, including:

- <u>Institutionalize the task</u>: If the PJ is convinced that there will be a long-term need for project support, it may choose to assign this task to an existing staff member, or to create a new position within its existing organizational structure.
- <u>Collaborate</u>: PJs may consider collaborating with another agency with suitable experience and staff. The other agency may even be carrying out similar monitoring activities for its own projects. This solution is attractive if the agency does not have sufficient time or flexibility, or simply believes that such people and skills will not be needed on a long-term basis.

<u>Example</u>: Twenty of the units in CHIC's completed rental project are occupied by tenants on Section 8 assistance, which was received from HOMEville PHA. The two organizations agree that the PHA will conduct and provide a copy of the annual income certification for each assisted tenant.

- <u>Contract out</u>: Contracting out the monitoring activities to an outside entity can prove helpful in maintaining an

NOTES

unbiased, fresh perspective, and may alleviate pressures on existing staff. Conversely, this approach may undermine the establishment of a partnership with Community Housing Development Organizations (CHDOs).

Program vs. Project Monitoring

- Is funding being provided for ***one specific project***, or ***a program*** involving a number of projects? Monitoring must address both program-wide and project-specific issues.

> **Projects Within Programs**
>
> Remember, each project within a program requires separate documentation.

- For all entities undertaking development, sponsorship or ownership of a project, PJs should require progress reports and regularly scheduled meetings.

Risk Assessment

- For programs and projects, PJs should perform a risk assessment to identify which funding recipients require comprehensive monitoring. High-risk funding recipients include those that are:
  - New to the HOME program;
  - Experiencing turnover in key staff positions;
  - Plagued by past compliance or performance problems;
  - Undertaking multiple HOME-funded activities for the first time; and
  - Not submitting timely reports.
- For experienced funding recipients that are successfully carrying out activities, PJs could plan a more narrowly focused monitoring to examine areas where the regulations have changed, new activities that are being undertaken, or program aspects that led to problems in the past.

> **Monitoring Is Good for Everyone**
>
> Comprehensive monitoring reviews should be conducted periodically, even for funding recipients with strong past performance. Even the most effective and efficient funding recipients can neglect their responsibilities if PJs do not hold them accountable.

NOTES

Desk Reviews

- Desk reviews are a key component of basic PJ monitoring activities. They involve examining information and materials provided to PJs by funding recipients, as a means to track performance and identify potential problem areas.
  - Staff performing desk reviews should examine progress reports, compliance reports and financial information, to adequately assess performance and look for indicators of performance or compliance problems.
  - If questions or concerns arise from the review, staff should gather additional information through telephone calls or additional documents or other written materials.

Program Monitoring

The following steps provide PJs with the basic framework to follow when conducting on-site program monitoring reviews.

- **Step 1: Prepare for the monitoring visit**: Before the monitoring visit, PJs should make sure staff is adequately trained for the task. Staff should be thoroughly familiar with the applicable program rules and the established monitoring protocol. In addition, staff should review the following types of in-house data prior to the visit:
  - Application for funding;
  - Written agreement;
  - Progress reports;
  - Draw-down requests;
  - Cash and Management Information (C/MI) System or Integrated Disbursement and Information System(IDIS) reports;
  - Correspondence;
  - Previous monitoring reviews; and
  - Copies of audits.
- **Step 2: Conduct the monitoring visit**: There are four basic elements to any monitoring visit.
  - Notification: PJs should begin the monitoring process by calling funding recipients to explain the purpose of the visit and to agree upon dates for the visit. A formal notification letter should follow at least several weeks before the planned visit and should include:

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- Confirmation of the dates for the review;
- Scope of the monitoring;
- Information needed for review during the visit; and Staff needed for interviews or other assistance during the review.

- Entrance conference: Entrance conferences are held at the beginning of monitoring visits, usually with the executive director or other top official of the organization, to make sure the subrecipient has a clear understanding of the purpose, scope and schedule for the monitoring.

- Documentation, data gathering and analysis: PJs should keep a clear record of information reviewed and conversations held with subrecipient staff during the monitoring visit. The most efficient and effective way to review all of the necessary documentation and data is with a checklist. Checklists should be based on the HOME Program requirements for each type of project. The information gathered will serve as the basis for conclusions to be included in the monitoring report and follow-up letter. Subrecipients may request identification of sources if any of the conclusions are disputed.

- Exit conference: At the end of the monitoring visit, the reviewers should meet again with key representatives of the subrecipient organization to:
  - Present preliminary results of the monitoring;
  - Provide an opportunity for the subrecipient to correct any misconceptions or misunderstandings;
  - Secure additional information to clarify or support their position; and
  - If applicable, provide an opportunity for the subrecipient to report on steps the organization may already be taking to address areas of noncompliance or nonperformance.

♦ **Step 3: Follow-up**: At the end of the process, the PJ should provide the subrecipient with formal written notification of the results of the monitoring review. This letter should both point out problem areas ***and*** recognize successes.

- The follow-up letter creates a permanent written record of what was found during the review.

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- The letter should outline concerns and findings (see above), and set deadlines for a written response and corrective actions.
- Follow-up procedures are discussed below under "Corrective Actions."

Project Monitoring

- **Overview**: For individual projects, monitoring begins at project pre-development and continues through the period of affordability.
- For example, once construction has started, PJs should:
  - Require progress reports (weekly, monthly, quarterly or with each draw request) that flag any pending or anticipated problems;
  - Hold regular meetings to discuss issues and provide any technical assistance needed; and
  - Make periodic site visits to evaluate progress.
- Other general areas for monitoring review include:
  - Project schedule:
    - Is the project on schedule and have all major milestones been met?
  - If the project has been completed, are required annual reviews and recertifications planned and scheduled for the coming year?
  - Project accomplishments:
    - Is the project meeting standards established in the written agreement?
    - Are costs on target?
    - Are the number of units proposed being produced?
    - If applicable, is the quality of the construction/rehabilitation acceptable?

> **Standardized Language**
>
> Standardized language set forth in the monitoring procedures often helps PJs to develop standardized monitoring letters in a reasonable time frame and with consistency from subrecipient to subrecipient.

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- ✓ If the project is finished, have the HOME-assisted units been rented/sold to income-eligible houses?

- ♦ **Rental housing monitoring**: During the period of affordability, PJs must perform on-site inspections of HOME-assisted rental housing to:
  - ➢ Determine compliance with applicable property standards requirements;
  - ➢ Verify information maintained by property owners concerning leases, tenant incomes, rents and utility allowances;
  - ➢ Verify compliance with provisions of written agreements; and
  - ➢ Assess the financial health, management capacity and long-term viability of the project.

- ♦ On-site inspections of HOME-assisted rental housing developments are required no less than:
  - ➢ Every three years for projects of one to four units;
  - ➢ Every two years for projects with five to 25 units; and
  - ➢ Annually for projects with 26 or more units.

- ♦ The Final Rule allows for inspection of a sufficient sample of HOME-assisted units in a multi-family development, rather than inspecting all of the HOME-assisted units in the development.
  - ➢ A general rule is to inspect at least 15 to 20 percent of the HOME-assisted units in a project, and a minimum of one unit in every building.
  - ➢ If compliance problems are found, more units and records should be inspected.

- ♦ **Tenant-based rental assistance (TBRA) monitoring**: PJs must perform annual on-site inspections of rental housing occupied by tenants receiving HOME-funded TBRA to determine compliance with Section 8 Housing Quality Standards (HQS). PJs must also monitor project files to make sure the correct rents are being used, and that leases contain the proper language.

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Corrective Actions

- PJs are responsible for taking appropriate actions when performance problems arise. Written agreements should be the primary mechanism for enforcement in situations of noncompliance.
- **Intervention stages**: There are three increasingly serious stages of intervention. PJs should start at Stage I, then move through Stages 2 and 3 as the situation requires. A PJ's response to monitoring findings will depend upon the seriousness of the recipient's problems.

<u>Stage 1 - low-level intervention</u>: At this stage, PJs should do one or more of the following:

- Clearly identify problem areas and required corrective actions;
- Plan a strategy with the subrecipient that includes any training or technical assistance that may help to address identified problems;
- Require more frequent or more thorough reporting by the subrecipient; or
- Conduct more frequent subrecipient monitoring reviews.

<u>Stage 2 - moderate-level intervention</u>: After attempting the low-level intervention steps, PJs may need to take increasingly tougher steps, such as:

- Restrict the subrecipient's payment requests;
- Disallow subrecipient expenses (or require repayment); or
- Impose probationary status.

<u>Stage 3 - high-level intervention</u>: At this point, PJs must take the most serious actions to put an end to noncompliance problems. Suggested steps include:

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- Temporarily suspend the subrecipient;
- Do not renew the subrecipient for the next program year;
- Terminate the subrecipient's activity for the current program year; or
- Initiate legal action

RECORD-KEEPING

Overview

The general rule is that PJs must establish and maintain sufficient records to document that program requirements are met. The HOME regulations define the minimum records retention requirements, and are intended to cross-cut with the basic program requirements. Each PJ should establish its own requirements for record-keeping and reporting by nonprofit and other HOME recipients. These requirements should enable the PJ to meet HUD requirements and maintain complete information about the projects for which it provides funding.

- **Recent changes**: Under the Final Rule, the requirements for record-keeping were revised to:
  - Ensure consistency with HOME program requirements;
  - Clarify the record retention periods; and
  - Include new records that must be kept by PJs that exercise any of the three new options allowed in the Final Rule (i.e., multi-family refinancing, presumption of affordability for homebuyer assistance, and locally-established 95 percent of area median purchase price limits).

NOTES

- **Categories**: The regulations use the following record-keeping categories:
  - Records concerning designation as a PJ;
  - Program records;
  - Project records;
  - CHDO records;
  - Financial records;
  - Program administration records; and
  - Records concerning other Federal requirements.

Records That Must Be Maintained

PJ designation: These records must be maintained concerning designation as a PJ:

  - For a consortium, the consortium agreement;
  - For local governments with an allocation of less than \$500,000 (in years in which Congress allocated less than \$1.5 billion) or \$750,000 (in years in which Congress allocated more than \$1.5 billion), records demonstrating that funds were made available to make up the shortfall between the formula allocation and \$500,000 (or \$750,000). (See relevant discussion under “Allocating Funds to PJs” in Chapter 1: Overview of the HOME Program.)

- **Program records**: These program records must be maintained:
  - Efforts to maximize participation by the private sector;
  - Forms of assistance used;
  - Subsidy layering guidelines;
  - Multi-family refinancing guidelines;
  - Procedures for establishing 95 percent of median value;
  - Resale/recapture guidelines;
  - TBRA records, including:
    - ✓ Consolidated Plan TBRA certification,
    - ✓ Market Conditions/Needs Assessment
    - ✓ Selection policies and criteria,

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- ✓ If using preferences for persons with special needs, supporting documentation on categories used,
- ✓ Rent standards and minimum tenant contribution,
- ✓ Compliance with requirement that 90 percent of assisted families have incomes at or below 60 percent of median;

- Compliance with matching requirements; and
- Compliance with set-aside and funding commitment requirements.

- **Project records**: These project records must be maintained:
  - Description of each project:
    - Location (with a map);
    - Form of assistance;
    - Number and identification of units or tenants associated with HOME;
  - Source and application of funds;
  - Compliance with maximum per-unit subsidy limits and subsidy layering guidelines;
  - Compliance with property standards and lead-based paint requirements;
  - Compliance with income-eligibility requirements;
  - For TBRA, compliance with written tenant selection policies, lease provisions and other applicable requirements;
  - For rental projects, compliance with income targeting, affordability and lease requirements;
  - If multi-family or single-family refinancing is provided, compliance with established guidelines and/or requirements;
  - If multi-family new construction, results of the site and neighborhood standards review conducted;
  - For homeownership projects, compliance with maximum property value and affordability requirements; and
  - If pre-award costs, compliance with applicable requirements.

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- **CHDO records**: These CHDO records must be maintained:
  - Written agreements reserving funds for CHDOs;
  - Efforts to identify and encourage CHDOs;
  - Names and qualifications of each CHDO, and amount of set-aside funds reserved and committed;
  - Documentation of compliance with written agreements;
  - Use of CHDO set-aside funds, including funds for capacity-building;
  - Use of HOME for operating expenses and compliance with applicable requirements;
  - Tenant participation plan; and
  - Use of HOME as project-specific assistance, including issues surrounding repayment.
- **Financial records**: These financial records must be maintained:
  - Source and application of funds;
  - Treasury and local HOME accounts;
  - Source and application of program income, repayments and recaptured funds; and
  - Budget control measures, including periodic account reconciliations.
- **Program administration records**: These program administration records must be maintained:
  - Compliance with written agreements;
  - Compliance with applicable uniform administrative requirements; and
  - Inspections, monitoring reviews and audits, and resolution of any findings or concerns.
- **Documentation records**: Records documenting compliance with the following additional Federal requirements must be maintained:
  - Equal opportunity and fair housing;
  - Affirmative marketing and minority/women's business outreach;
  - Environmental review;

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- ➢ Acquisition, relocation, displacement and replacement of housing;
- ➢ Labor standards;
- ➢ Lead-based paint;
- ➢ Conflict-of-interest; and
- ➢ Debarment and suspension.

Record Retention

- ♦ With the effective date of the Final Rule, the record retention period was lengthened to ***five years***. This is in keeping with Consolidated Plan requirements.
- ♦ **Rental**: For rental housing records:
  - ➢ General records must be kept for five years after project completion; and
  - ➢ Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the affordability period ends.
- ♦ **Homeownership**: Homeownership records must be kept for:
  - ➢ Five years after project completion; and
  - ➢ For resale/recapture records, five years after the affordability period ends.
- ♦ **TBRA**: TBRA records must be kept for five years after rental assistance ends.
- ♦ **Written agreements**: Generally, all written agreements must be maintained for five years after the agreement ends.
  - ➢ **Displacement and acquisition**: Displacement and acquisition records must be kept for five years after final payment to displacees.

Access to Records

- ♦ PJs must provide citizens and other interested parties with reasonable access to records. Access must be consistent with applicable state and local laws regarding privacy and obligations of confidentiality.
- ♦ The Consolidated Plan regulations require that PJs provide citizens, public agencies and other interested parties with reasonable and timely access to information and records

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relating to a PJ's Consolidated Plan and the use of assistance under the programs covered by the Consolidated Plan. (NOTE: This requirement must be made a part of PJs' Citizen Participation Plans. See Part I of this chapter: General Administrative Requirements for a broader discussion of these plans.)

> **For States**
>
> Separate guidance will be provided to states at a later time.

- HUD and the Comptroller General of the United States, or any of their representatives, have the right to access any records of PJs, state recipients and subrecipients for auditing, excerpt or transcript purposes.

REPORTING REQUIREMENTS

Background and Overview

- HOME Program regulations require PJs to submit an Annual Performance Report to HUD within 90 days of the close of a PJ's program year. This is in accordance with the Consolidated Plan regulations at 24 CFR Part 91.

- Prior to the 1996 Consolidated Plan program year, PJs submitted a HOME Annual Performance Report (APR). The new version of the report is called the Consolidated Annual Performance and Evaluation Report (CAPER).

> **Format Flexibility**
>
> While some of the required information is available through IDIS reports, HUD has given PJs the flexibility to format and arrange required data in ways that will best communicate with local audiences. For example, maps may be used to illustrate investment of funds geographically.

- The Performance Report incorporates not only the old HOME APR, but also the reporting requirements for the Community Development Block Grant (CDBG), Housing Opportunities for Persons with AIDS (HOPWA) and Emergency Shelter Grants (ESG) programs. Requirements discussed below apply to ***all*** of these programs.

- **Interim guidance**: The February 18, 1998 memorandum, "Consolidated Annual Performance and Evaluation Reporting for Entitlement Grantees for 1997 Program Year," supersedes prior guidance in the December 1996 memorandum on this subject. The requirements discussed in this manual reflect this interim guidance.

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What performance reports must include: The Consolidated Annual Performance and Evaluation Report must include both a summary of programmatic accomplishments and an assessment of progress toward the priority needs and specific[1] objectives set forth in a PJ's Consolidated Plan.

- The report should contain two main reports:
  - ✓ A summary of resources and programmatic accomplishments, and;
  - ✓ The status of actions taken during the year to implement the overall strategy, which includes a self-evaluation of progress during the past year in addressing priority needs and specific objectives.

♦ **Reporting to IDIS**

- It is not necessary that Grantees be operational in IDIS for a full program year before they can use IDIS to report performance information for the entire year.
- Grantees can add activities during the program year that started prior to their entry in IDIS.
- It is current Departmental policy that Grantees should update IDIS information quarterly.

Summary of Resources and Programmatic Accomplishments Report

♦ The Performance Report must identify the Federal resources or funds that were made available to further the objectives of the Consolidated Plan. For each formula grant program, PJs must identify:

- The total amount of funds available (including program income);

The total amount of funds committed during the reporting period;

[1] Note: 24 CFR 91.215 states that a specific objective identifies proposed accomplishments the jurisdiction hopes to achieve in quantitative terms over a specified time period (i.e., one, two, three or more years), or in other measurable terms as identified and defined by the jurisdiction. These specific objectives are comparable to the one-year housing goals previously identified in the CHAS.

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  - The total amount of funds expended during the reporting period; and
  - The geographic distribution and location of expenditures (maps are encouraged).

- For funds made available under CDBG, HOME, ESG and HOPWA for housing activities, the summary of accomplishments must also separately identify:
  - The number of extremely low-, low- and moderate-income renter and homeowner households assisted during the reporting period;
  - The number of homeless families and persons assisted during the reporting period;
  - The number of non-homeless persons with special needs assisted during the reporting period; and The racial and ethnic status of persons assisted through these programs.

- The summary of accomplishments must also include a description of the community development accomplishments for each priority need identified in the PJ's Consolidated Plan.
  - For public services, the summary must include the number of persons served.
  - For public facilities and improvements, the summary must include the number of projects assisted and completed.
  - For economic development projects, the summary must include:
    - ✓ The number of businesses assisted;
    - ✓ The number of jobs assisted; and
    - ✓ The number of extremely low-, low- and moderate-income persons assisted.

Consolidated Annual Performance and Evaluation Report Narrative

- **Status of Actions Taken to Implement the Overall Strategy**: Narrative statements provide the status of actions taken by the PJ during the year to implement the overall strategy. The following narrative statements, which are required by statute, must be included in the Performance Report:

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- Actions taken to affirmatively further fair housing, a summary of impediments to fair housing choice and actions taken to overcome identified impediments;
- Actions taken to address the needs of homeless persons and the special needs of persons that are not homeless, but require supportive housing;
- Actions to address obstacles to meeting underserved needs;
- Actions to foster and maintain affordable housing;
- Actions to eliminate barriers to affordable housing;
- Actions to overcome gap in institutional structures and to enhance coordination.
- Actions to improve public housing and resident initiatives.
- Actions to evaluate and reduce lead-based paint hazards;
- Actions to ensure compliance with program and comprehensive planning requirements;
- Actions to reduce the number of persons living below the poverty level;
- Evaluation of progress in carrying out the PJ's housing strategy, including progress in meeting the specific objective of providing affordable housing to extremely low-, low-, and moderate-income renters and owners during the reporting period;
- Assessment of the relationship of CDBG funds to the priorities and specific objectives identified in the Consolidated Plan, and an evaluation of the extent to which CDBG funds were used for activities that benefited low- and moderate-income persons;
- Nature of and reasons for changes in program objectives, and indications of how the PJ would change its programs as a result of its experiences;
- For the HOME Program, the results of on-site inspections of affordable rental housing;
- For the HOME Program, an assessment of the PJ's affirmative marketing actions and outreach to minority- and women-owned businesses;

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- Progress in obtaining "other" public and private resources that address needs identified in the Consolidated Plan, how Federal resources from HUD were leveraged and how any matching requirements were satisfied;
- Evaluate how activities undertaken address pertinent Strategy Plan objectives and areas of high priority as specified in the Consolidated Plan;
- Summary of citizen comments; and
- Assessment of the PJ's efforts in carrying out the planned actions described in its Action Plan, which shows that the PJ:
  - ✓ Pursued all resources that the PJ indicated it would pursue;
  - ✓ Provided required certifications of consistency for programs that the PJ indicated it would support in a fair and impartial manner; and
  - ✓ Did not hinder Consolidated Plan implementation by action or willful inaction.

- **Additional Narrative Reports Required of HOME Grantees include:**
  - Analysis of the extent HOME funds were distributed among different categories of housing needs identified in the Consolidated Plan.
  - Report on match contributions made using a separate HOME Match Report (HUD Form 40107-A) for the period covered by the Consolidated Plan. This form is not yet available on IDIS, but may be obtained from HUD. Part III of HUD Form 40107 to report contracts and subcontracts with Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs).
  - Results of one-site inspections of affordable rental housing assisted under HOME and as assessments of the HOME PJ's affirmative marketing actions and outreach to minority and women-owned businesses.

Self-Evaluation of Progress

- This section of the report is not as definitive as the previous two. HUD's objective is to get PJs to focus on results, and to

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assess progress in meeting priority needs and specific objectives identified in their Consolidated Plans.

- The overall goal of the HUD programs covered by the Consolidated Plan is to develop viable communities by: (1) providing decent housing and a suitable living environment, and (2) expanding economic opportunities, principally for low- and moderate-income persons. The recent HUD guidance on the performance report states that an evaluation of accomplishments, as well as plans for the future, should be developed with this overall statutory purpose in mind.

- As part of this self-evaluation, PJs may consider the following questions:

  - Are the activities and strategies making an impact on identified needs?
  - What indicators would best describe the results?
  - What barriers may have a negative impact on fulfilling the strategies and the community's vision?
  - Overall, what is the status of grant programs?
    - ✓ Are any activities falling behind schedule?
    - ✓ Are grant expenditures timely?
    - ✓ Do actual expenditures differ substantially from letter of credit disbursements?
  - Are major goals on target?
  - What adjustments to, or improvements in, the community's strategies and activities might better meet identified needs more effectively?

Submission and Review of the Performance Report

- Prior to submitting a Consolidated Annual Performance and Evaluation Report, a PJ must make the report available to the public for examination and comment for a period of at least 15 days.

- Performance Reports must be received by the HUD Field Office no later than 90 days after the close of the PJ's Consolidated Plan program year.

  <u>Example</u>: For a PJ with a program year ending December 31, the report must be submitted to HUD by March 31 of the

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following year. Using this same example, the report would need to be available to the public by March 14.

- ➢ HUD will review the PJ's Performance Reports and determine if they are satisfactory. If a satisfactory report is not submitted, HUD may:
- ➢ Suspend funding until a satisfactory report is submitted; or
- ➢ Withdraw and reallocate funding if HUD determines, after notice and opportunity to comment, that the PJ will not submit a satisfactory report.

- ♦ Following submission, PJs must make copies of the report submitted to HUD available for examination by the public upon request. This should include a summary of comments received as a result of the public participation process.
- ♦ **HOME Program IDIS Reports available**:
  - ➢ **Status of HOME funds report**: summary of funding by fiscal year. Key programmatic indicators provided.
  - ➢ **Match report**: shows required match percentage, funds disbursed and required match for a given fiscal year.
  - ➢ **Status of HOME activities report**: shows current status of HOME activities currently open or closed out within the past twelve months. Information includes address, number of units, funds committed and disbursed and activity status.
  - ➢ **Status of CHDO funds report**: summary of funds reserved, committed and disbursed for each CHDO by fiscal year.

ATTACHMENT 9-1

THE CONSOLIDATED PLAN

Overview

- The Consolidated Plan is a plan of up to five years in length that describes community needs, resources, priorities and proposed activities to be undertaken under certain HUD programs, including Community Development Block Grant (CDBG), HOME, Emergency Shelter Grant and Housing Opportunities for Persons with AIDS (HOPWA).
  - Any entity that receives HOME funds must submit a Consolidated Plan, including an annual Action Plan (see below), to HUD.
  - Effective February 6, 1995, the Consolidated Plan replaced previously required planning and application documents, including the HOME Program Description.
- Each year, PJs must update the Consolidated Plan by submitting a document, referred to as an Action Plan, to HUD. This annual update describes the specific planned uses of the covered HUD programs, including HOME, as well as certain other program requirements.

What the Consolidated Plan Must Include

- To meet the minimum requirements set forth by HUD, a Consolidated Plan must include five main components.
  1. A **description of the lead agency** or entity responsible for overseeing the development of the Consolidated Plan and a **description of the process undertaken** to develop the plan.
  2. A **housing and homeless needs assessment** that includes:
     - ✓ Number and type of families in need of housing assistance;
     - ✓ Disproportionate needs of minority groups (if applicable);
     - ✓ Nature and extent of homelessness;
     - ✓ Number of persons requiring supportive housing;
     - ✓ Size and characteristics of population with HIV/AIDS; and
     - ✓ Estimate of housing units occupied with low- and moderate-income families with lead-based paint hazards.

3. A **housing market analysis** that contains:
   - ✓ Supply, demand, cost and condition of housing;
   - ✓ Housing stock available to persons with special needs;
   - ✓ Description of areas of minority and low-income concentrations;
   - ✓ Number, physical condition and rehabilitation needs of public housing units;
   - ✓ Housing authority's strategy for improving management and operations of public housing and for improving the living environment of families residing in public housing; and
   - ✓ Identification of public housing developments participating in the Comprehensive Grant Program, including a reference to those being funded with other funds covered by the Consolidated Plan.
4. A **strategic plan** (of up to five years in length) that includes the following:
   - ✓ General housing, homeless and special needs priorities and geographic investment among priority needs;
   - ✓ Identification of any obstacles to meeting underserved needs;
   - ✓ Description of how funds made available will be used to address priority needs;
   - ✓ Proposed accomplishments over a specific time period;
   - ✓ Non-housing community development plan;
   - ✓ Neighborhood revitalization strategy (optional);
   - ✓ Strategy to remove or ameliorate barriers to affordable housing;
   - ✓ Actions to evaluate and reduce lead-based paint hazards;
   - ✓ Anti-poverty strategy;
   - ✓ A description of the institutional structure;
   - ✓ A description of activities to enhance coordination between public and private housing providers; and
   - ✓ Public housing resident initiatives.

5. A one-year **Action Plan** which contains:

- ✓ Application form (SF 424),
- ✓ A description of federal and other resources expected to be available,
- ✓ A description of leveraging of sources and how match obligations will be met,
- ✓ A description of the activities to be undertaken, including HOME-funded projects and programs by:
  - Number and type of families that will benefit
  - Priority needs addressed
  - Program income anticipated
  - Proposed accomplishments
  - Target completion dates
- ✓ A description of the geographic distribution of investment,
- ✓ A description of planned homeless and other special needs activities,
- ✓ A description of other actions proposed to:
  - Address obstacles to meeting underserved needs
  - Foster and maintain affordable housing
  - Remove barriers to affordable housing
  - Evaluate and reduce lead-based paint hazards
  - Reduce the number of families in poverty
  - Develop the community's institutional structure
  - Enhance coordination between public and private housing providers and social service agencies
  - Foster public housing improvements and resident initiatives.
- ✓ Appropriate reference to annual revisions to the action plan prepared for the Comprehensive Grant Program by the housing authority,
- ✓ If the housing authority is designated as a "troubled" housing authority, the plan to assist the agency in addressing its problems,
- ✓ Certifications, and
- ✓ HOME-specific requirements (see below).

The HOME Program and the Consolidated Plan

- As stated previously, in order to receive HOME funds as a PJ under the HOME Program, a PJ must have a HUD-approved Consolidated Plan.

- The Plan must include all of the contents listed above, some of which are not directly related to the HOME Program. Below are some of the key required elements of a Consolidated Plan Action Plan One-Year Action Plan which are specific to the HOME Program.

  - Use of HOME funds: Description of the HOME activities to be undertaken.

  - Matching funds: Description of how matching requirements will be satisfied.

  - Leveraging: Explanation of how federal funds will leverage other resources.

  - Recapture/resale provisions: If a PJ plans to use HOME funds for homebuyer activities, it must state the guidelines it will use for resale or recapture.

  - Other forms of investment: If a PJ plans to use a form of investment not described in the HOME regs, it must describe the form of investment (see the section in Chapter 2 entitled "Eligible Forms of Subsidy" for more information).

  - Multi-family refinancing guidelines: If PJ plans to use HOME funds to refinance existing debt secured by multi-family rental properties that is being rehabilitated with HOME funds, it must include a description of the conditions under which it will refinance such debt in accordance with the guidelines of 92.206(b) (See Chapter 6: Rental Housing Activities). Note: There is no similar requirement for single-family refinancing guidelines.

- In addition, the Action Plan must include certain PJ certifications. Of these certifications, the following are HOME Program-specific:

  - Tenant-based rental assistance: If using HOME funds for tenant-based rental assistance, the PJ must certify that tenant-based rental assistance is an essential element of its Consolidated Plan. This means that the Consolidated Plan must clearly demonstrate a need for such assistance through an analysis of housing market conditions, that the assistance will address the need and the choice of this option as a strategy to meet the identified need. If the PJ provides a preference for a specific category of individuals with disabilities, the specific category must be identified in the Consolidated Plan as having an unmet need and the Plan must demonstrate that the preference is needed to narrow the gap in benefits and services received by such persons.

  - Eligible activities and costs: This certification states that the PJ is using and will use HOME funds for eligible activities and costs, and that it will not use HOME funds for prohibited activities.

- Appropriate financial assistance: This certification states that, before committing HOME funds to a project, it will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds, in combination with other federal funds, than necessary to provide affordable housing. This provision is generally referred to as layering. This means that PJs must adopt written layering guidelines and evaluate each project in accordance with its layering guidelines. (See Chapter 6: Rental Housing Activities for more information on layering guidelines.)

Citizen Participation

- HUD requires extensive citizen participation and consultation during the preparation of the Consolidated Plan. PJs must ensure that these requirements are met.

- In addition, each PJ must consult with other public and private agencies that provide assisted housing, health services, social services, child welfare agencies (regarding lead paint), adjacent units of local government (for non-housing community development needs) and local housing authorities.

- Each PJ is required to prepare a Citizen Participation Plan which details the community's procedures for involving the public in its program planning and implementation. (The complete requirements can be found in 24 CFR 91.105.)

- HUD has a minimum set of requirements for citizen participation during the planning process. They are listed below.

  - The PJ must hold at least two public hearings a year to obtain citizens' views and to respond to proposals and questions. They should be conducted (at a minimum) at two different stages of the planning process, for example, when data is being collected for the plan and when a draft plan has been developed.

  - One of the public hearings should be held during the development of the plan. This counts as one of the two required public hearings.

  - The proposed Consolidated Plan must be published. At a minimum, the PJ is required to publish a summary of the proposed plan in one or more newspapers of general circulation, and make copies available in libraries, government offices and public places.

  - A 30-day period for citizen review and comment prior to submitting the plan to HUD is required.

  - Public comments must be given consideration. The plan should include a summary of comments received and reasons that comments/suggestions were not incorporated.

Submission to and Review by HUD

- A PJ's Consolidated Plan and Action Plan must be submitted to the appropriate field office for review and approval at least 45 days before the start of the PJ's program year. HUD will not accept a submission earlier than November 15 or later than August 16 of the federal fiscal year for which the grant funds are appropriated.

- HUD will review the Consolidated Plan upon receipt. The plan is deemed approved after 45 days ***unless*** HUD notifies the PJ before the date that it is disapproved.
  - Within 15 days of a disapproval notice, HUD must provide the PJ with written reasons for disapproval and required corrective actions.
  - The PJ then has 45 days to resubmit its revised Consolidated Plan.
- **Why Consolidated Plans are disapproved**: HUD will approve the plan ***unless***:
  - any portion of the plan is inconsistent with the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12703);
  - the plan is "substantially incomplete," meaning:
    - ✓ It was developed without the required citizen participation or the required consultation,
    - ✓ It does not include all the elements listed in 24 CFR 91.200 through 91.225, or
    - ✓ It contains an inaccurate certification.

<u>Amendments</u>

- There are times when a PJ must amend its Consolidated Plan after it has been approved. The PJ's Citizen Participation Plan must specify the criteria the PJ will use for determining what changes constitute a "substantial amendment" to its Consolidated Plan.
  - The criteria must include changes in the use of CDBG funds from one eligible activity to another.
  - Other criteria PJs may use to define a substantial amendment include:
    - ✓ A change in allocation priorities or its method of distributing funds;
    - ✓ A change resulting in a new activity not included in the Consolidated Plan; or
    - ✓ A change in the purpose, scope, location or beneficiaries of an activity.
- PJs must follow certain citizen participation procedures for amendments, including public notice and comment requirements.

Attachment 9-2

Provisions of 24 CFR Part 85 Applicable to PJs and Other Governmental Entities Acting as Recipients or Subrecipients Under the HOME Program

85.6 Additions and exceptions
85.12 Special grant or subgrant conditions for “high risk” grantees
85.20 Standards for financial management systems
85.22 Allowable costs
85.26 Non-federal audit
85.32 Equipment
85.33 Supplies
85.34 Copyrights
85.36 Procurement
85.44 Termination for convenience
85.51 Later disallowances and adjustments
85.52 Collection of amounts due

Provisions of 24 CFR Part 84 Applicable to Nonprofit Organizations Acting as Subrecipients Under the HOME Program

84.2 Definitions
84.5 Subawards
84.13 Debarment and suspension; Drug-Free Workplace
84.16 Resource Conservation and Recovery Act
84.21 Standards for financial management systems
84.22 Payment
84.26 Non-Federal audits
84.27 Allowable costs
84.28 Period of availability of funds
84.30 Purpose of property standards
84.31 Insurance coverage
84.34 Equipment
84.35 Supplies and other expendable property
84.36 Intangible property
84.37 Property trust relationship
84.40 Purpose of procurement standards
84.41 Recipient responsibilities
84.42 Codes of conduct
84.43 Competition
84.44 Procurement procedures
84.45 Cost and price analysis
84.46 Procurement records
84.47 Contract administration
84.48 Contract provisions
84.51 Monitoring and reporting program performance
84.60 Purpose of termination and enforcement
84.61 Termination
84.62 Enforcement
84.72 Subsequent adjustments and continuing responsibilities
84.73 Collection of amounts due

ATTACHMENT 9-3

PROGRAM INCOME CASE STUDY

Middle City received an allocation of $500,000 in HOME Program funds from HUD. Middle City allocated $200,000 of the funds to its homeowner rehabilitation program. This program provides direct loans with interest rates ranging from two to five percent, depending upon income to eligible owner occupants for the repair or rehabilitation of their homes. Through the repayment of principal and interest on the loans, this program generates approximately $25,000 in program income. In accordance with the HOME Program requirements, this program income is placed in the PJ's HOME Investment Trust account, and is used, prior to the drawdown of HOME funds from the U.S. Treasury, for other HOME-eligible housing activities.

Middle City also provided a total of $300,000 to two different CHDOs for eligible CHDO set-aside activities. The first project, which received $150,000 in HOME funds, was undertaken by Middle City Housing (MCH). This project involved the construction of a new multi-family rental property containing 25 apartments. Middle City -- the PJ -- provided the HOME funds to MCH in the form of a low-interest, deferred payment loan. The principal and interest on the loan would have to be repaid beginning in the third year of the project's operation. The loan repayments to the PJ would be considered program income, placed in the PJ's HOME Investment Trust account and expended for other HOME-eligible activities prior to the drawdown of additional HOME funds from the U.S. Treasury.

The second CHDO project, developed by another CHDO known as Community Builders, Inc., involved the acquisition and rehabilitation of single-family housing. Upon completion of the rehabilitation, the CHDO sold the housing units to eligible low-income homebuyers. Middle City provided $150,000 in HOME funds for the rehabilitation, and was allowing Community Builders, based on its track record and capacity, to retain project proceeds generated when the units were purchased by eligible homebuyers with private first mortgage financing. No additional HOME funds were provided to the purchasers, and resale restrictions were placed on the units according to HOME Program requirements. (If recapture provisions were used, any HOME subsidy recaptured during the period of affordability on each unit would be considered program income and must be used for HOME-eligible activities.) The use of the proceeds, identified as additional acquisition and rehabilitation of housing for sale to low-income homebuyers, had been stipulated in the written agreement between Middle City and Community Builders. The proceeds were not considered program income, and would not have to be spent prior to the expenditure of additional HOME Program funds.