



U.S. DEPARTMENT OF HOUSING and URBAN DEVELOPMENT
Community Planning and Development

Special Attention:

All CPD Division Directors
All CPD Field Office Staff
All HOME Participating Jurisdictions

NOTICE: CPD-18-10

Issued: **August 27, 2018**

Expires: **This NOTICE is effective until it is amended, superseded, or rescinded**

Cross Reference: 24 CFR Part 92

P.L. 115-31, 31 U.S.C. § 1552,

42 U.S.C. §§ 218, 231

SUBJECT: Suspension of 24-Month HOME Commitment Requirement for Deadlines Occurring in 2016, 2017, 2018, 2019, and 2020

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Attachment 1 – Waiver of 24 CFR 92.500(d)(1)(ii) Commitment Requirement for HOME Funds Provided to State Recipients or Subrecipients

I. PURPOSE

This notice explains Section 242 of Title I of Division K of the Consolidated Appropriations Act, 2017(Public Law 115-36) and Section 235 of Title II of Division L of the Consolidated Appropriations Act, 2018 (Public Law 115-141) (collectively the “Appropriation Acts”), which suspended the 24-month commitment requirement for HOME Investment Partnerships Program (HOME) funds. The Acts suspended the commitment requirement for funds with deadlines occurring in 2016, 2017, 2018, 2019, and 2020. This notice will also explain the treatment of other HOME deadline requirements for deadlines occurring in these years.

II. BACKGROUND

Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 U.S.C. 12701-12840) (NAHA), as amended, requires that the participating jurisdiction (PJ) place HOME funds under binding commitment within 24 months after receiving its grant. NAHA also states that the PJ loses its right to draw down HOME funds that are not committed to affordable housing within 24 months. This requirement is implemented at 24 CFR § 92.500(d) of the HOME regulations.

HUD determines a PJ’s compliance with the 24-month commitment requirement using the HOME Deadline Compliance Reports, which are generated monthly by HUD, and posted on the [HOME webpage](#) on HUD Exchange. These reports track the amount of HOME funds each PJ commits through data entered by the PJ in the Integrated Disbursement and Information System (IDIS). PJs use these reports to monitor their progress toward meeting the 24-month commitment deadlines, as well as other program deadlines.

The Appropriation Acts suspended the 24-month commitment requirement for deadlines occurring in 2016, 2017, 2018, 2019, and 2020. Section 242 of Title I of Division K of the 2017 Appropriations Act states:

Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) shall not apply with respect to the right of a jurisdiction to draw funds from its HOME Investment Trust Fund that otherwise expired or would expire in 2016, 2017, 2018, or 2019 under this section.

Section 235 of Title II of Division L of the Consolidated Appropriations Act, 2018 states:

Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) shall not apply with respect to the right of a jurisdiction to draw funds from its HOME Investment Trust Fund that otherwise expired or would expire in 2016, 2017, 2018, 2019, or 2020 under that section.

Consequently, HUD will not enforce the 24-month HOME commitment requirement for deadlines occurring in calendar years 2016, 2017, 2018, 2019, and 2020.

III. DEADLINES SUSPENDED

Because of the Appropriation Acts, HUD is not enforcing the following HOME requirements for deadlines occurring in 2016, 2017, 2018, 2019, and 2020:

A. Commitment Requirement (HOME Investment Trust Fund Treasury account)

The HOME regulation at § 92.500(d)(2)(iii) requires the PJ to commit all fiscal year (FY) 2014 and prior year allocations by the commitment deadline for the FY 2015 allocation, which is 24 months after the last day of the month in which HUD notified the PJ of HUD's execution of the FY 2015 HOME Investment Partnership Agreement.

In addition, § 92.500(d)(1)(i) requires the PJ to commit FY 2015 and subsequent year funds from a specific fiscal year allocation within 24 months after the last day of the month in which HUD notifies the PJ of HUD's execution of the specific fiscal year HOME Investment Partnership Agreement.

B. Commitment Requirement (HOME Investment Trust Fund local account)

The HOME regulation at §92.503(d) states that beginning with its FY 2017 Annual Action Plan year, a PJ must commit funds deposited in its HOME Investment Trust Fund local account (i.e., all program income, repayments, and recaptured funds) by no later than the 24-month deadline of the subsequent grant year's HOME allocation.

For example, program income, repayments, and recaptured funds received by the PJ during its 2017 program year are required to be included in the PJ's FY 2018 annual action plan and committed before the 24-month commitment requirement deadline for its FY 2018 HOME grant.

While HUD will not enforce the 24-month commitment requirement for funds in the PJ's HOME Investment Trust Fund local account for deadlines occurring in 2016, 2017, 2018, 2019, and 2020, the HOME regulation at §92.503(d), which requires the PJ to commit funds in its local HOME account at the beginning of its program year before committing funds in its HOME Treasury account, remains in effect.

For example, in accordance with the regulation, IDIS required the PJ to commit all local account funds it received in its 2016 program year, before permitting it to commit FY 2017 HOME funds from its Treasury account, except for Community Housing Development Organization (CHDO) set aside funds required to be committed under § 92.300(a), which can be committed before local account funds in accordance with § 92.503(d).

IV. DEADLINES NOT SUSPENDED

Although the Appropriation Acts suspended the 24-month commitment deadline, it did not suspend the HOME statutory and regulatory requirements described below. Therefore, these deadlines remain in place and will continue to be enforced by HUD.

A. CHDO Reservation Requirement

Section 231 of NAHA requires that 15 percent of each HOME allocation be reserved to housing developed, sponsored, or owned by CHDOs within 24 months after HOME funds have been made available to the PJ. This requirement is implemented at § 92.300(a), which states that funds are reserved when a PJ enters into a written agreement with a CHDO committing funds to a specific local project, as the term is defined in § 92.2. HUD will continue to use the HOME Deadline Compliance Status Report posted to the [HOME webpage](#) on HUD Exchange to determine whether PJs meet this requirement. Any HOME CHDO set-aside funds that are not committed to CHDO projects by the 24-month CHDO reservation requirement deadline will be deobligated by HUD.

B. HOME Expenditure Deadline Requirement

1. Fiscal Year 2014 and earlier HOME allocations

The PJ must expend all funds from FY 2014 and prior year allocations in its HOME Investment Trust Fund Treasury account within 5 years after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Partnership Agreement for that specific fiscal year allocation (§ 92.500(d)(2)(i)(C)). HUD will determine the PJ's compliance with the 5-year expenditure requirement for all FY 2014 and previous years' HOME allocations using the HOME Deadline Compliance Status Reports. Any funds that are not expended before the deadline will be deobligated by HUD.

2. Fiscal Year 2015 and later HOME allocations

The HOME interim rule published on December 2, 2016 eliminated the 5-year expenditure requirement for FY 2015 and subsequent years' HOME allocations.

C. Expiration of HOME Grant

1. Fiscal Year 2014 and earlier HOME allocations

Beginning with FY 2002 appropriations, HOME grants became subject to 31 U.S.C. 1552, which sets forth procedures for closing appropriation accounts that are available for definite periods. The fiscal year appropriation account is required to be closed five years after the end of the period of availability for obligation. Any remaining unexpended funds "expire" and are cancelled. HOME appropriations from

FY 2002 to FY 2014 have 8 fiscal years until expiration. This period is based on 3 fiscal years during which HUD may obligate funds to the PJ (i.e., period of availability in the appropriation act) plus 5 years. In addition, FY 2014 and earlier HOME allocations remain subject to the 5-year HOME expenditure requirement described at § 92.500(d)(2)(i)(C).

2. Fiscal Year 2015 and later HOME allocations

Since FY 2015 appropriations, HOME funds have a period of 9 fiscal years until expiration. This period is based on 4 fiscal years during which HUD may obligate funds to the PJ (i.e., period of availability in the appropriation act) plus 5 years. The HOME regulation at § 92.500(d)(1)(iii) states that, for FY 2015 and subsequent allocations, HUD will recapture any HOME funds in the United States Treasury account that are not expended (i.e., drawn down) at least seven business days before the end of the fiscal year five years after the end of the period of availability for each allocation. For example, the PJ must draw down (and expend the drawdown within 15 days as required by § 92.502) the entire amount of its FY 2015 HOME grant no later than seven business days before September 30, 2023. Any funds not drawn down by this deadline will be recaptured by the U.S. Treasury. HUD does not have the authority to return funds that are recaptured by the Treasury due to expiration. Therefore, the PJ is strongly encouraged to draw down (and expend) HOME funds timely. HUD tracks the PJ's compliance with this requirement through the HOME Deadline Compliance Status Reports.

D. Commitment Requirement (State Recipients and Subrecipients)

The HOME regulation at § 92.500(d)(1)(ii), states that HUD will reduce or recapture any funds from a specific fiscal year's HOME allocation that are committed to a State recipient or subrecipient but that are not committed to a specific local project within 36 months after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Partnership Agreement for the specific fiscal year allocation. Pursuant to the attached waiver of § 92.500(d)(1)(ii), HUD will not enforce this requirement for all PJs committing funds to subrecipients or state recipients with funds having commitment deadlines suspended by the Appropriation Acts. See Attachment 1 to this notice.

V. REPORTS

HUD revised the HOME Deadline Compliance Status Reports to remove all commitment requirement deadlines, except for the CHDO reservation requirement deadline.

A. Pre-2015 Deadline Compliance Status Report

This report, issued monthly by the Office of Affordable Housing Programs (OAHP), provides HUD with the information necessary to determine the PJ's compliance with the CHDO reservation and expenditure requirements for pre-2015 HOME funds.

OAHP posts the report by the 15th day of each month to the HOME webpage on HUD Exchange at: www.hudexchange.info/programs/home/home-deadline-compliance-status-reports/.

This report identifies the amounts of pre-2015 HOME funds required to be reserved to CHDOs and expended by the PJ by its respective deadlines; as well as the PJ's progress reserving funds to CHDOs and expending HOME funds through the date of the report or the PJ's deadline(s), whichever is earlier, as reported in IDIS.

B. Deadline Compliance Status Report – Grant Specific (and IDIS PR49)

This report provides HUD with the information necessary to determine the PJ's compliance with the grant-specific CHDO reservation and expenditure requirements for FY 2015 and subsequent years' HOME allocations.

OAHP posts this report by the 15th day of each month to the HOME webpage on HUD Exchange at: www.hudexchange.info/programs/home/home-deadline-compliance-status-reports-grant-specific/. IDIS users can also run the Grant Specific HOME Deadline Compliance Status Report - IDIS PR49 - at any time using Microstrategy in IDIS.

This report identifies the amount of each fiscal year allocation that the PJ must reserve to CHDOs and expend by its CHDO reservation and expenditure requirement deadlines. It also shows the PJ's progress reserving funds to CHDOs and expending HOME funds, as reported in IDIS.

C. Status of HOME Grants Report (IDIS PR27)

The Status of HOME Grants Report – IDIS PR27 provides detailed information about the PJ's fiscal year HOME allocations and local account funds. Review of the IDIS PR27 report helps HUD and PJ staff to determine the PJ's progress committing HOME funds, reserving CHDO set-aside funds, and expending HOME funds by each fiscal year allocation.

This report is used in conjunction with the appropriate Deadline Compliance Status Report when the PJ has not met its CHDO reservation and/or expenditure requirements to verify that the requirements were not met by the PJ. If HUD determines a deobligation of funds is necessary because of noncompliance with the CHDO reservation or expenditure requirements, HUD reviews the IDIS PR27 report to identify funds available for deobligation.

VI. QUESTIONS REGARDING THIS NOTICE

For questions about the guidance provided in this notice, HUD Field Office staff should contact their Desk Officer in the Office of Affordable Housing Programs. A HOME PJ should contact its local HUD Field Office.

Attachment 1



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All CPD Field Division Directors

FROM: Neal Rackleff, Assistant Secretary, D

SUBJECT: Waiver of 24 CFR 92.500(d)(1)(ii)
Commitment Requirement for HOME Funds Provided to State
Recipients or Subrecipients

Section 218(g) of the Cranston- Gonzalez National Affordable Housing Act of 1990, as amended, (42 U.S.C. 12748) (NAHA) requires that a participating jurisdiction (PJ) place HOME Program funds under binding commitment within 24 months after receiving its grant. NAHA also states that the PJ loses its right to draw down HOME funds that are not committed to affordable housing within 24 months. This requirement is implemented at 24 CFR § 92.500(d) of the HOME regulations. On December 2, 2016, HUD issued an interim rule changing the method it uses to determine compliance with the 24-month commitment requirement from a cumulative calculation to a grant-specific measurement. In the interim rule, HUD added language at § 92.500(d)(1)(ii) requiring funds committed to a State recipient or subrecipient to be committed to a specific local project within 36 months after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Partnership Agreement for the specific fiscal year allocation.

Section 242 of Title I of Division K of the Consolidated Appropriations Act, 2017 (Public Law 115-36) and Section 235 of Title II of Division L of the Consolidated Appropriations Act, 2018 (Public Law 115-141) (jointly referred to herein as "the Acts") suspended the 24-month commitment requirement for HOME grants with deadlines occurring in 2016 through 2020. Because the Acts suspended Section 218(g) for these grants, HUD has ceased enforcing the 24-month commitment requirement and PJs may retain and commit funds after 24 months. The requirement that funds committed to a State recipient or subrecipient be committed in turn to a specific local project within 36 months of the date the PJ's grant is obligated is not included in Section 218(g) of NAHA. However, HUD has determined that enforcing the 36-month commitment requirement for these funds is inconsistent with the intent of the Acts. Specifically, enforcement of the 36-month commitment requirement would subject PJs that use State recipients and subrecipients to administer their HOME programs to stricter requirements than other PJs and could result in HUD deobligating substantial amounts of HOME funds from these PJs.

To provide fair implementation of the statutory suspension of the commitment requirement, I find that good cause exists pursuant to 24 CFR 5.110 to waive § 92.500(d)(1)(ii) to eliminate the requirement that HOME funds committed to a State recipient or subrecipient be committed to a specific local project within 36 months after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Partnership Agreement for the specific fiscal year allocation. This waiver is applicable to all fiscal year HOME grants for which Congress suspends the 24-month commitment deadline.