



HOME FACTS - Vol. 6 No. 1, April, 2015

Topic

This issue of HOME FACTS describes significant changes regarding the community housing development organization (CHDO) reservation requirement and a new CHDO expenditure requirement promulgated by the July 24, 2013, HOME final rule (24 CFR Part 92) and explains how HUD will determine compliance with these requirements. This guidance is only applicable to HOME grants from 1992-2014. Further guidance will be issued for FY 2015 and future HOME grants.

NOTE: One of the most significant changes made by the 2013 HOME final rule was the elimination of non-project specific reservations to CHDOs. The term CHDO reservation in the rule and this HOME FACTS refers to a commitment to a specific project to be owned, developed, or sponsored by a CHDO. It is critical that PJs remain cognizant of this change to ensure that they meet the 24-month CHDO reservation deadline.

Requirement

The **CHDO reservation requirement** is established at Section 231 (42 U.S.C. 12771) of Title II of the National Affordable Housing Act of 1990, as amended, which states: *"(a) For a period of 24 months after funds under subtitle A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations..."*

The **CHDO expenditure requirement** is established in the HOME regulations at 24 CFR § 92.500(d)(1)(C), which states that, HUD will reduce or recapture: *"Any funds in the United States Treasury account that were committed to community housing development organization projects that are not expended within 5 years after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement."*

DEFINITIONS

- **CHDO Reservation:** HOME funds are reserved to a CHDO when a participating jurisdiction (PJ) enters into a legally binding written agreement committing funds to a specific project in accordance with the definition of "commitment" at 24 CFR § 92.2. The funds must be provided to a CHDO, its wholly-owned subsidiary, or a limited partnership or limited liability company of which a CHDO or its wholly-owned subsidiary is respectively the sole general partner or sole managing member. See 24 CFR § 92.300 (a) – (f) for further explanation.
- **CHDO Expenditure:** A CHDO expenditure is an expenditure to pay eligible costs of CHDO activities under 24 CFR § 92.300 of the HOME regulations.

COMPLIANCE WITH DEADLINE REQUIREMENTS

CHDO Reservation Requirement

- **CHDO Reservation Deadline:** The CHDO reservation deadline occurs 24 months after the last day of the month in which HUD notifies the PJ of HUD's execution of the form HUD-40093 "Funding Approval and HOME Investment Partnerships Agreement." **NOTE:** the date on the

award letter and the date of the Field Office CPD Director’s signature must be the same as the Congressional Release Date. This date, called the Date of Obligation, is entered in Cells 10 and 13 of the executed form HUD-40093, “Funding Approval and HOME Investment Partnerships Agreement,” or superseding form.

For example, if a PJ’s date of obligation for its FY 2013 HOME formula allocation is September 5, 2013, then its CHDO reservation deadline for CHDO funds through 2013 is September 30, 2015. This date is shown on the *HOME Deadline Compliance Status Report* in the “CHDO-C” row under the “Deadline Date” column (as shown in red in the example below).

<u>±</u>	<u>Deadline Date</u>	<u>Original Allocation</u>	<u>Adjustments⁺⁺</u>	<u>Requirement Amount</u>	<u>Total C.R.orD⁺ through Deadline</u>	<u>%</u>	<u>Shortfall</u>
C	9/30/2015	\$24,300,126	\$209,639	\$24,090,487	\$23,730,850	98.51	\$359,637
CHDO-C	9/30/2015	\$24,244,164	\$73,460	\$3,563,165	\$3,506,211	14.46 #	\$56,954
CHDO-D	7/31/2015	\$21,937,969	\$73,460	\$3,217,235	\$3,140,842	14.32 #	\$76,393
D	7/31/2015	\$21,993,931	\$209,639	\$21,784,292	\$21,914,879	100.00	\$0

- Determining Compliance with the CHDO Reservation Requirement:** To determine compliance with the CHDO reservation requirement, HUD compares the PJ’s cumulative CHDO reservation requirement (i.e., 15 percent of its cumulative original allocations not including American Dream Downpayment Initiative (ADDI) allocations) minus any CHDO deobligations or other CHDO adjustments from program inception through the deadline year to its cumulative project-specific commitments to CHDOs from program inception through its CHDO reservation deadline. CHDO reservations include only project-specific commitments to CHDOs under 24 CFR § 92.300(a)(1), project-specific commitments for CHDO pre-development loans under 24 CFR § 92.301, and commitments to CHDO capacity building activities under 24 CFR § 92.300(b). CHDO operating fund commitments are not CHDO reservations are not part of the CHDO set-aside and do not count toward CHDO reservation requirements.

In the example below, the PJ’s original allocation (blue), which already has any ADDI funds removed from it, is multiplied by 15 percent. The resulting product is further reduced by any adjustments in the CHDO-C row (purple). The difference is the CHDO reservation requirement (orange). The PJ’s total CHDO reservations (green) are subtracted from the CHDO reservation requirement (orange). If the difference is a negative number, there will be a \$0 in the shortfall column of the CHDO-C row. If the difference is a positive number, then the PJ currently has a shortfall (red) in its CHDO reservation requirement. The shortfall is the amount that remains to be reserved to CHDOs before the PJ’s CHDO reservation requirement deadline, which in this case is September 30, 2015. This amount may be subject to deobligation by HUD.

<u>±</u>	<u>Deadline Date</u>	<u>Original Allocation</u>	<u>Adjustments⁺⁺</u>	<u>Requirement Amount</u>	<u>Total C.R.orD⁺ through Deadline</u>	<u>%</u>	<u>Shortfall</u>
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D	7/31/2015	\$21,993,931	\$209,639	\$21,784,292	\$21,914,879	100.00	\$0

CHDO Reservation Requirement Calculations	
Original Allocation	\$24,244,164
Multiply by	15%
Product	\$3,636,625
Subtract adjustments from product	\$73,460
Difference = CHDO Reservation Requirement	\$3,563,165
Total CHDO Reservation subtract from Requirement	\$3,506,211
Difference = \$0 (Requirement Met) or Shortfall	\$56,954

- Standards for Meeting the CHDO Reservation Requirement:** A PJ meets the CHDO reservation requirement if its cumulative CHDO reservations are equal to or greater than its cumulative CHDO reservation requirement (15 percent of its cumulative original allocations (minus any ADDI allocations)) minus any CHDO deobligations.
- Adjustments to the CHDO Reservation Requirement:** If HUD has previously deobligated CHDO funds from a PJ for failure to meet its CHDO reservation requirement, the PJ's cumulative CHDO reservation requirement amount is reduced by these prior CHDO deobligations. See the purple box in the example above.

If the U.S. Treasury recaptured CHDO funds from a PJ pursuant to the 8-year expiration of funds under the National Defense Authorization Act of 1991, the PJ's cumulative CHDO reservation requirement amount will be reduced by the total of all CHDO funds recaptured due to expiration. See the purple box in the example above.

If HUD reduced a PJ's HOME grant in lieu of repayment for ineligible CHDO activities, the PJ's cumulative CHDO reservation requirement amount will not be reduced because the amount of CHDO funds committed to the activity remains the same, even though HUD cancels the activity.

Prior deobligations for failure to meet commitment or expenditure deadlines or for repayment of ineligible non-CHDO HOME activities do not affect the CHDO reservation requirement since the CHDO reservation requirement is based on the PJ's original allocation.

- Reducing the CHDO Subfund:** A PJ must meet the 15 percent CHDO reservation requirement on a cumulative basis for grants received through FY 2014. Consequently, a PJ does not have to satisfy the 15 percent CHDO requirement with each grant year's funds, but can over-reserve in one year and under-reserve in another as long as the PJ reserves a cumulative average of 15 percent over the period it has participated as a PJ in the HOME program. HUD's Integrated Disbursement and Information System (IDIS) automatically places 15 percent of a PJ's formula allocation in the CHDO reservation (CR) subfund each year when the grant is entered in IDIS. If a PJ chooses to under-reserve CHDO set-aside funds in one year because it has already met its cumulative CHDO reservation requirement, IDIS must be adjusted to release the funds from the CHDO reservation (CR) subfund and to make them available for other eligible HOME activities (EN).

A PJ that wishes to reduce one or more years of its CHDO set-aside subfund must submit a request in writing to its Field Office and must state the specific dollar amount and grant year(s) of the requested reduction. The PJ should also include its plans for the funds once the reduction is complete. The Field Office staff must recommend approval or disapproval of

the request and forward the request to the Director of OAHF's Financial and Information Services Division for adjustment in IDIS.

Prior to forwarding its recommendation to Headquarters, Field Office staff must review the *IDIS PR25 Status of CHDO Funds by Fiscal Year Report* and the *IDIS PR27 Status of HOME Grants Report*, to verify that funds requested to be reduced are not subgranted to CHDOs or committed to activities. More information on requesting a reduction to the CHDO set-aside (CR) subfund can be found in *HOME FACTS*, Volume 1, Number 2 (May 2008) at: <https://www.hudexchange.info/resources/documents/HOME-FACTS-Vol1-No2-PJ-Process-to-Request-Reduction-to-CHDO-Set-Aside.pdf>.

NOTE: HUD will only process requests for CR subfund reductions for HOME grants through FY 2014. Beginning with the FY 2015 HOME grants, HOME deadline requirements will no longer be calculated using a cumulative method. Rather compliance with HOME deadline requirements will be calculated based on each specific grant. Therefore, a PJ will be required to meet its 15 percent CHDO reservation requirement for each HOME grant from FY 2015 forward and a reduction in the CR subfund for any grant beginning with the FY 2015 grant would result in a deobligation of funds.

CHDO Expenditure Requirement

- **CHDO Expenditure Deadline:** The CHDO expenditure deadline occurs five years after the last day of the month in which HUD notifies the PJ of HUD's execution of the form HUD-40093, "Funding Approval and HOME Investment Partnerships Agreement." **NOTE:** The date on the award letter and the date of the Field Office CPD Director's signature must be the same as the Congressional Release Date. This date, called the Date of Obligation, is entered in Cells 10 and 13 of the executed form HUD-40093, "Funding Approval and HOME Investment Partnerships Agreement," or superseding form.

For example, if a PJ's date of obligation for its FY 2010 HOME formula allocation is July 13, 2010, then its CHDO expenditure deadline for CHDO funds through 2010 is July 31, 2015. This date is shown on the *HOME Deadline Compliance Status Report* in the "CHDO-D" row under the "Deadline Date" column (as shown in red in the example below).

<u>+</u>	<u>Deadline Date</u>	<u>Original Allocation</u>	<u>Adjustments⁺⁺</u>	<u>Requirement Amount</u>	<u>Total C.R.orD⁺ through Deadline</u>	<u>%</u>	<u>Shortfall</u>
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D	7/31/2015	\$21,993,931	\$209,639	\$21,784,292	\$21,914,879	100.00	\$0

- **Determining Compliance with the CHDO Expenditure Requirement:** To determine compliance with the CHDO expenditure requirement, HUD compares the PJ's cumulative CHDO expenditure requirement (i.e., 15 percent of its cumulative original allocations not including ADDI allocations) minus any CHDO deobligations or other CHDO adjustments from program inception through the deadline year to its cumulative expenditures for CHDO projects from program inception through its CHDO expenditure deadline. CHDO expenditures include only disbursements for project-specific commitments to CHDOs under 24 CFR § 92.300(a)(1), project-specific commitments for CHDO pre-development loans under 24 CFR § 92.301, and commitments to CHDO capacity building activities under 24 CFR § 92.300(b). CHDO operating funds are not part of the CHDO set-aside and expenditure of these funds do not count toward the CHDO expenditure deadline.

In the example below, the PJ's original allocation (blue), which already has any ADDI funds removed from it, is multiplied by 15 percent. The resulting product is further reduced by any adjustments in the CHDO-D row (purple). The difference is the CHDO expenditure requirement (orange). The PJ's total CHDO expenditures (green) are subtracted from the CHDO expenditure requirement (orange). If the difference is a negative number, there will be a \$0 in the shortfall column of the CHDO-D row. If the difference is a positive number, then the PJ currently has a shortfall (red) in its CHDO expenditure requirement. The shortfall is the amount that remains to be expended by the PJ for CHDO activities before the PJ's CHDO expenditure requirement deadline, which in this case is July 31, 2015. This amount may be subject to deobligation by HUD.

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CHDO Expenditure Requirement Calculations	
Original Allocation	\$21,937,969
Multiply by	15%
Product	\$3,290,695
Subtract adjustments from product	\$73,460
Difference = CHDO Expenditure Requirement	\$3,217,235
Total CHDO Expenditure subtract from Requirement	\$3,140,842
Difference = \$0 (Requirement Met) or Shortfall	\$76,393

- **Standards for Meeting the CHDO Expenditure Requirement:** A PJ meets the CHDO expenditure requirement if its cumulative CHDO expenditures are equal to or greater than its cumulative CHDO expenditure requirement (15 percent of its cumulative original allocations (minus any ADDI allocations)) minus any CHDO deobligations or other CHDO adjustments.
- **Adjustments to the CHDO Expenditure Requirement:** If HUD deobligated CHDO funds from a PJ for failure to meet its CHDO expenditure requirement, its cumulative CHDO expenditure requirement amount will be reduced by the total of all prior CHDO deobligations.

If the U.S. Treasury recaptured CHDO funds from a PJ pursuant to the 8-year expiration of funds under the National Defense Authorization Act of 1991, its cumulative CHDO expenditure requirement amount will be reduced by the total of all CHDO funds recaptured due to expiration.

If HUD has reduced a PJ's HOME grant in lieu of repayment for ineligible CHDO activities, the PJ's cumulative CHDO expenditure requirement amount will not be reduced because the CHDO expenditure for the activity is not cancelled even if the activity is cancelled by HUD.

Prior deobligations for failure to meet commitment or expenditure deadlines or for repayment of ineligible non-CHDO HOME activities do not affect the CHDO expenditure requirement since the 15 percent CHDO expenditure requirement is based on the PJ's original allocation.

The Office of Affordable Housing Programs (OAHP) uses IDIS data to determine each PJ's compliance with the CHDO reservation and CHDO expenditure requirements. At times, a PJ may not have entered all eligible CHDO reservations or CHDO expenditures into IDIS on or before its deadline. Consequently, HUD allows PJs to submit documentation of CHDO reservations and CHDO expenditures executed or completed prior to the applicable deadline date(s), but not yet entered in IDIS at the time of the deadline for HUD review. The following is a list of acceptable documentation for each requirement. There may be other acceptable documents that are unique to a PJ. The Field Office staff should contact its OAHP Desk Officer to determine the acceptability of any unique documentation.

Documents submitted for review must be executed and dated by no later than the date of the CHDO reservation or CHDO expenditure deadline. Documents must reflect valid CHDO reservations or CHDO expenditures for eligible HOME activities and costs not entered in IDIS by the deadline date. The definition of commitment at 24 CFR § 92.2 also requires the date of the signature of each person signing an agreement. This can also be accomplished through an executed and sealed notary acknowledgment.

Acceptable CHDO Reservation Documentation

Regardless of whether a CHDO reservation has been entered into IDIS or not, all project-specific commitments to CHDOs must meet all of the requirements for committing HOME funds prior to executing the legally binding written agreement. Specifically, the PJ must:

- have an identifiable project
- secure all necessary financing
- have a budget
- examine the sources and uses and determine that costs are reasonable
- complete underwriting and subsidy layering requirements
- assess the current neighborhood market demand
- assess the experience and financial capacity of the CHDO
- establish a completion schedule
- have a reasonable expectation that construction will start within 12 months
- complete the Environmental Review requirements

PJs are required to maintain documentation of compliance with ALL commitment requirements in the project file.

- **CHDO Reservations in IDIS:** CHDO reservations in IDIS are represented by activities funded with CHDO set-aside (CR) subgrants, CHDO predevelopment loan (CL) subgrants, and CHDO capacity building (CC) subgrants.

Entering a commitment in IDIS before it meets the definition of "commitment" at § 92.2 is a violation of the HOME regulations. In such cases, HUD will recalculate the PJ's compliance with the 24-month commitment requirement and it may result in the repayment of HOME funds.

NOTE: A CR, CL, or CC subgrant itself does not count as a CHDO reservation. The subgranted funds must be committed to specific activities in order to be counted as commitments in IDIS. In addition, the recipient of CR, CL, and CC activities must be a CHDO in order for the funds to be considered committed to an activity.

- **CHDO Reservations not yet in IDIS:** For CHDO reservations not yet entered into IDIS, HUD will accept a legally binding written agreement dated and signed by both parties between the PJ and a CHDO committing a specific amount of HOME funds to a specific project to be developed, sponsored, or owned by a CHDO or for project-specific technical assistance and site control loans. HUD also accepts as evidence of a CHDO reservation, during the first 24 months a jurisdiction is a PJ, a written agreement committing funds for CHDO capacity

building signed by the PJ, the entity providing the CHDO capacity building assistance, and the CHDO. Like other written agreements, the signatures of all parties signing written agreements for CHDO set-aside or CHDO capacity building funds must be accompanied by the execution date.

NOTE: Neither written agreements between a PJ and a CHDO for CHDO operating costs nor activities funded with CHDO operating (CO) subgrants in IDIS are considered CHDO reservations for the purpose of determining compliance with the 15 percent CHDO reservation requirement.

ACCEPTABLE CHDO EXPENDITURE DOCUMENTATION

- **CHDO Expenditures in IDIS:** CHDO expenditures in IDIS are represented by CR, CL, and CC disbursements from the HOME Investment Trust Fund Treasury account. These include requests for draws of these fund types from the Treasury account that are pending (i.e., draws that have not yet been approved) or that have not yet been processed by HUD's Line of Credit Control System (LOCCS).
NOTE: The voucher creation date for CHDO expenditures in IDIS must be on or before the date of the CHDO expenditure requirement deadline.
- **CHDO Expenditures not yet in IDIS:** HUD also counts HOME Program costs for activities that are owned, developed, or sponsored by CHDOs that are to be paid with HOME funds, as recorded in the financial records of the PJ, state recipient, or CHDO (i.e., paid invoices, vouchers, etc.), but not yet reflected in IDIS as CHDO expenditures.
- The *HOME Deadline Compliance Status Report* is the monthly status report, issued by the Office of Affordable Housing Programs (OAHP) and posted to the HOME website on HUD Exchange (<https://www.hudexchange.info/home/>) that provides HUD and HOME participating jurisdictions (PJs) with the data necessary to make determinations of compliance with the CHDO reservation and CHDO expenditure requirements. This report identifies the amounts required to be reserved to CHDOs and expended for CHDO projects, as well as progress toward meeting the CHDO reservation (CHDO-C) and CHDO expenditure (CHDO-D) requirements through the "As of date" on the report, as reported in the Integrated Disbursement and Information System (IDIS).
- The *IDIS PR49 Report HOME Deadline Compliance Status Report* is similar to the monthly *HOME Deadline Compliance Status Report* posted to the HOME website and can generally be used to track compliance with the PJ's HOME deadline requirements in near real time. The *IDIS PR49 Report* shows data as of the close of IDIS the previous night (i.e., the night before the report is run). However, the *IDIS PR49 Report* may not always match the posted *HOME Deadline Compliance Status Report*.
- The *IDIS PR27 Report – Status of HOME Grants Report* provides detailed data on the current status of each PJ's fiscal year HOME grants and subfunds. Review of the *IDIS PR27 Report* helps Field Office and PJ staff to determine fiscal years in which there is little to no CHDO reservations or CHDO expenditures. This report can be used in conjunction with the *HOME Deadline Compliance Status Report* and the *IDIS PR49 Report* when a PJ has not met its CHDO reservation or CHDO expenditure requirements. If a deobligation of CHDO funds is required, review of the *IDIS PR27 Report* can help identify funds available for deobligation.

If the HOME CHDO reservation or CHDO expenditure requirements are not met by a PJ, HUD will deobligate that portion of allocated funding that did not meet the requirement. These funds may only be reallocated by competition as described in 24 CFR § 92.452 and § 92.453. However, because deobligated CHDO funds typically expire before an amount sufficient to conduct a nationwide competition is accumulated, these funds are usually not reallocated.

QUESTIONS

HOME PJ staff with questions regarding the CHDO reservation requirement or the CHDO expenditure requirement should contact their HUD CPD Representative in their local HUD Field Office. HUD staff with questions should contact the Office of Affordable Housing Programs.