HOME FACTS - Vol. 2 No. 2, February 2009

Topic

The purpose of this issue of HOME *FACTS* is to notify all HOME participating jurisdictions (PJs) about the September 30, 2009, expiration of the right to draw down Fiscal Year (FY) 2002 HOME grant funds. As of that date, any unexpended balances in FY 2002 grants will be recaptured by the United States Treasury. This deadline and expenditure requirement has been established by the U.S. Treasury, and is in addition to the HOME program's regulatory 5-year disbursement requirement.

Background

The FY 2002 appropriations bill for the Departments of Veterans Affairs and Housing and Urban Development (HUD), and several independent agencies (Public Law 107-73, November 26, 2001) set that year's HOME appropriation at "$1,846,040,000 to remain available until September 30, 2004." This meant that HUD had three years from the beginning of FY 2002 (October 1, 2001) to obligate each PJ's FY 2002 HOME grant by entering into the HOME Investment Partnerships Agreement with the PJ. This three-year period is known as the period of availability of the funds.

The National Defense Authorization Act of 1991(Public Law 101-510, November 5, 1990) established rules governing the availability of appropriations for expenditure. This legislation mandates that on September 30th of the fifth fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

Since the FY 2002 HOME appropriation was the first time HOME funds had an identified three-year period of availability subject to the National Defense Authorization Act, FY 2002 HOME grants are the first HOME funds subject to the expenditure deadlines of that Act. It is important to understand that the National Defense Authorization Act essentially provides FY 2002, and future, HOME grants with a statutory and non-waiveable eight-year expenditure deadline for that specific grant year's funds. This is different from the HOME Program's five-year expenditure deadline requirement which is regulatory and calculated cumulatively, taking into consideration expenditures from all HOME grants awarded to the participating jurisdiction, not just those from a single grant year.

Any HOME funds appropriated in FY 2002 will not be available for PJs to expend after September 30, 2009. HOME funds remaining in your FY 2002 grant after this date will be recaptured by the United States Treasury. Unexpended HOME funds in grants from 1992 through 2001 are not subject to these rules. However, beginning with the FY 2002 appropriation, each annual HOME grant is subject to this eight-year expenditure rule. So, for example, FY 2003 HOME funds will no longer be available to you after September 30, 2010.

IDIS Processing

To prevent the loss of FY 2002 grant funds, you must expend that year's entire grant on or before September 30, 2009. However, IDIS drawdown processing can often prevent you from expending these funds when there are prior year funds available to draw.

IDIS uses a First-In First-Out (FIFO) technique for both committing funds to activities and drawing funds. This means that funds are committed and drawn from the "oldest" available funds first.

When a commitment or draw request is entered, IDIS searches for the "oldest" funds first by grant program - for the purposes of this guidance HOME, then by source year of funds, recipient of funds (e.g., PJ, a specific CHDO, subrecipient, or state recipient), and type of funds (e.g., EN, AD, CR, or SU). In this way, HOME funds are committed and drawn from the oldest grant year to the newest grant year by recipient and fund type. Consequently, when a draw is made against previously committed funds for a specific activity, it is more than likely that the actual funds tapped for the draw will not come from the same source year(s) of funds used for the commitment. Furthermore, in order for you to be able to draw down all of your FY 2002 funds, all prior year funding must first have been drawn down for those recipients and fund types having FY 2002 funds committed to them. You may not even be aware that some of your pre-2002 HOME commitments are "parked" with specific recipients or within certain fund types - thus effectively blocking off your access to these FY 2002 HOME funds for draws.

While it is not possible to illustrate all potential scenarios of how IDIS funding and drawdown processing may affect a PJ's ability to draw its unexpended FY 2002 HOME funds, the example below may help to explain how some of your HOME funds may remain unspent and subject to recapture by the Treasury:

Example:

A PJ subgrants $100,000 from each of three fiscal years' (2000, 2001, and 2002) CR funds to CHDO X. (CR is the code for "CHDO set-aside" funds in IDIS.) When the PJ funds a $50,000 CR activity (activity #100) with the CHDO X subgrants, the $50,000 will be committed from the FY 2000 subgrant. Later the PJ funds activity #200 with $100,000 of CR funds - from the $50,000 remaining in the 2000 subgrant to CHDO X and $50,000 of the FY 2001 subgrant. The PJ then funds activity #300 with $150,000 of CR funds to CHDO X - all of the remaining $50,000 from the 2001 subgrant and $100,000 from the FY 2002 subgrant are committed to this third activity for CHDO X.

Let's say the PJ draws down all $150,000 for activity #300 first. According to the FIFO rules in IDIS, the funds will first be drawn from the FY 2000 ($100,000) and FY 2001 ($50,000) subgrants to CHDO X. It will not come from FY 2002 funds despite the fact that it was the FY 2002 funds that were committed to this CR activity. Later draws against activities funded with the PJ's CR subgrants to CHDO X will come from the oldest available grant. If the PJ does not draw any funds for activities #100 and #200, the remaining committed balances ($50,000 (FY 2001) and $100,000 (FY 2002)) will remain available to draw even though other FY 2002, FY 2003, FY 2004 etc. funds are being drawn down for activities undertaken by two other CHDOs - Y and Z that are moving more quickly. Because of FIFO rules, the $50,000 of FY 2001 CR funds to CHDO X must be drawn before the $100,000 of FY 2002 funds. Therefore, in this example, to prevent the loss of its FY 2002 balance ($100,000), the PJ would need to expend all of the remaining $150,000 committed to CHDO X - including the $50,000 committed using the older FY 2001 funds.

Grant Balances Report

In an effort to assist PJs in identifying FY 2002 and older grant balances, the Office of Affordable Housing Programs (OAHP) has developed a report identifying each PJ that has a grant balance for FY 2002 and earlier. The report also identifies balances in specific subfunds and subgrants to recipients that are included in each PJ's overall grant balance. The report provides data on the: 1) fiscal year of the available funds; 2) PJ; 3) source of funds (e.g. PJ or state recipient); 4) recipient of funds (e.g. PJ, CHDO, subrecipient, state recipient); 5) fund type (e.g. EN, AD, CR, or SU); 6) authorized amount; and 7) balances available to draw and commit. The report will be updated and posted weekly on HOME's

Expiring Funds Reports web page.

Questions or Assistance

If you have any questions regarding the treatment of HOME funds under the National Defense Authorization Act or need assistance in identifying remaining grant balances, please contact Peter Huber at 202-708-2684.