Chapter 5: ADDITIONAL HOUSING PROGRAMS

HOME Investment Partnerships Program

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Administering Agency: The Office of Affordable Housing Programs (OAHP) in HUD's Office of Community Planning and Development (CPD)

Year Started: 1990

Population Targeted: Households with income less than 80% of area median income (AMI); when used to assist renters, 90% of a jurisdiction's HOME-assisted rental units must be occupied by households with income less than 60% AMI.

Funding: Congress appropriated $1.5 billion for FY23. This is the same as FY22, which was a $150 million increase over FY21 and FY20 funding of $1.35 billion, an increase from FY19 funding of $1.25 billion.

The HOME Investment Partnerships (HOME) Program is a federal block grant intended to expand the supply of decent, affordable housing for lower-income people.

PROGRAM SUMMARY

The HOME Program was authorized in 1990 as part of the "Cranston-Gonzalez National Affordable Housing Act." HOME is a federal block grant to about 640 participating jurisdictions (PJs), which are states and certain localities that use the funds to provide affordable housing to low- and moderate-income households. States and localities use the funds for a variety of homeownership and rental activities. In general, all HOME money must benefit people with low or moderate incomes, tenant rents must generally be capped at a fixed percentage of the area median income (AMI), and units must be occupied by income-eligible households for a set period. The HOME Program regulations are at 24 CFR Part 92. Numerous changes to the HOME regulations were finalized on July 24, 2013. NLIHC has a summary of key changes.

Eligible Activities

HOME dollars can be used as a grant or a loan to meet a variety of development costs such as: buying existing housing or vacant land for affordable housing; building new housing; rehabilitating existing housing; demolishing structures to make way for affordable housing; relocation; making site improvements; and paying soft costs, such as engineering plans, attorneys' fees, title search, and fair housing services. HOME can also be used to help people purchase or rehabilitate a home by offering loans, loan guarantees, or down payment assistance. Tenants can be given grants for security deposits and rental assistance so that they pay no more than 30% of their income for rent and utilities. Although tenant-based rental assistance (TBRA) agreements are limited to two-year terms, they can be renewed without limit.

PJs may spend no more than 10% of their HOME allocation for overall program planning and administration, but there is no limit on the use of HOME funds for project-specific administrative costs. Among other limitations, PJs cannot spend HOME dollars on public housing modernization, operation, or preservation, because public housing has its own separate funding accounts.

Community Housing Development Organizations

At least 15% of a participating jurisdiction's HOME funds are set aside exclusively to be spent on housing that is developed, sponsored, or owned by Community Housing Development Organizations (CHDOs). Up to 10% of this CHDO set-aside can be used to provide loans for project-specific technical assistance and site control, such as feasibility studies and consultants, as well as for seed money to cover pre-construction costs, such as architectural plans and zoning approval. Until recently, if a PJ failed to commit any portion of the minimum 15% CHDO set-aside within two years, the PJ and its low-income residents would lose that amount of money. However, the FY19, FY20, FY21, FY22 appropriations acts suspended the two-year deadline to commit CHDO set-aside funds. Consequently, a PJ can choose to not use some or all of the 15% CHDO set-aside and after two years use those untapped CHDO funds for other HOME-eligible uses. This temporary suspension of the two-year commitment rule could make it easier for other nonprofits to access more HOME dollars; or, it could simply enable a PJ to avoid funding of such community-based nonprofits for other developers. Both the House and Senate FY23 proposed appropriations bills retain this suspension.

The FY19, FY20, FY21, FY22 appropriations acts also suspended the two-year commitment rule for non-CHDO funds, as do the proposed FY23 bills.

Up to 5% of a PJ's HOME funds can be given to CHDOs for operating expenses; this amount is separate and apart from the minimum 15% CHDO set-aside and does not count against a PJ's 10% cap on administrative uses.

Any nonprofit can receive a HOME grant or loan to carry out any eligible activity, but not every nonprofit is a CHDO. As of the 2013 regulation changes, in order to be considered a CHDO, a nonprofit that is a developer or sponsor must have paid employees on staff who have housing development experience. However, nonprofits seeking to keep or obtain CHDO status can do so while allowing those that own rental housing to operate it even if the nonprofit does not have development expertise. The 2013 HOME regulation amendments introduced other changes that might make it more difficult for existing small and rural CHDOs to continue (see *Forecast for 2023* below for more).

The HOME statute requires a CHDO to be accountable to low-income community residents through significant representation on the organization's governing board. However, the regulations merely require that one-third of a CHDO's board members be elected representatives of low-income neighborhood organizations, residents of low-income neighborhoods, or other low-income community residents. Since a low-income neighborhood can be one where only 51% of the residents have income less than 80% of AMI, it is possible that more affluent people with very different priorities could be on a CHDO board. Also, because the regulations allow community to be defined as broadly as an entire city, county, or metropolitan area, it is possible to construct a CHDO that is not accountable to low-income residents in a HOME project's neighborhood.

Formula Allocation

A formula based on six factors reflecting measures of poverty and the condition and supply of the rental housing stock determines which local jurisdictions are PJs. Jurisdictions that do not meet the formula's threshold can get together with neighboring jurisdictions to form a consortium in order to get HOME funding.

Each year, the formula distributes 60% of the HOME dollars appropriated by Congress to local governments and consortia; the remaining 40% is allocated to states. The state share is intended for small cities, towns, and rural areas not receiving HOME money directly from HUD. Local PJs are eligible for an allocation of at least $500,000 (in years when Congress appropriates less than $1.5 billion, such as FY20 and FY21, PJs are to receive a minimum of $335,000. However, the FY20 and FY 21 appropriations bills suspended this provision). Each state receives the greater of its formula allocation or $3 million. Every HOME dollar must be matched by 25 cents of state, local, or private contributions, which can be cash (but not Community Development Block Grant funding), bond financing proceeds, donated materials, labor, property, or other noncash contributions.

Beneficiaries

When HOME is used to assist renters, at least 90% of a PJ's HOME-assisted rental units must be occupied by households with income less than 60% of AMI; the remaining 10% of the rental units can benefit those with income up to 80% of AMI, known as low-income households. If a rental project has five or more HOME-assisted units, then at least 20% of the HOME-assisted units must be occupied by households with income less than 50% of AMI, known as very low-income households. When HOME is used to assist people who are homeowners or who will become homeowners, all that money must be used for housing occupied by households with income less than 80% of AMI. These are minimum standards required by law. Advocates should work to convince their PJ or state to improve HOME's targeting to people with extremely low income, those with income less than 30% of AMI.

Affordability

Maximum rents that may be charged to assisted households are not based on a household's actual income. Instead, maximum rents are, with one exception, based on a fixed amount. To qualify as affordable rental housing, rent may be no greater than the lower of the fair market rent (FMR) or 30% of the adjusted income of a hypothetical household with an annual income of 65% of AMI. In projects with five or more HOME-assisted units in which at least 20% of the HOME-assisted units must be occupied by households with very low incomes, rent is considered affordable if it is less than 30% of the income of a hypothetical household with an annual income at 50% of AMI, or less than 30% of their adjusted income. Actual rent limit figures are posted on the HUD Exchange HOME program webpage.

Newly constructed rental projects must remain affordable for 20 years. Existing rental housing that is either purchased or rehabilitated must remain affordable for 15 years if more than $40,000 is spent per unit, 10 years if between $15,000 and $40,000 is spent per unit, and five years if less than $15,000 is spent per unit.

Homeowner-assisted units are considered affordable if, in general, the value of the home after assistance is less than 95% of the median area purchase price. Homeowner units must remain affordable for the same periods mentioned above. PJs must have resale or recapture provisions. A resale provision is intended to ensure continued benefit to low-income households during the affordability period by requiring purchase by an income-eligible household if an original homeowner sells before the end of the affordability period. A recapture provision must ensure that all or a portion of HOME assistance is recouped if an owner sells or is foreclosed upon during the affordability period.

As of the close of FY22 on September 30, 2022, HOME delivered 1,356,919 completed physical units and provided another 370,108 tenant-based rental assistance contracts since 1992. Out of the 1,356,919 physical units, 40% (542,728) were rental units, 19% (259,639) were homeowner rehabilitation and/or new construction units, and 41% (554,552) were homebuyer units.

At the time of initial occupancy, households with incomes less than 30% of AMI occupied 44% of the physical rental units. Households with incomes less than 30% of the AMI occupied 30% of the homeowner units, and 6% of the homebuyer units. Twenty-seven percent of the rental units had households assisted with Housing Choice Vouchers. In addition, 79% of the tenant-based rental assistance units were occupied by extremely low-income people.

FORECAST FOR 2023

Congress appropriated $1.5 billion for FY23. This is the same as FY22, which was a $150 million increase over FY21 and FY20 funding of $1.35 billion, an increase from FY19 funding of $1.25 billion.

OAHP intended to have listening sessions with stakeholders toward the end of FY22 to consider improvements to the HOME regulations. However, listening sessions did not transpire but could take place in 2023.

Senator Catherine Cortez Masto (D-NV) was preparing a bill in 2022 to modify the HOME statute. Although the bill was not introduced before the end of the 117th Congress, NLIHC anticipates a bill will be introduced in 2023 in the new 118th Congress. NLIHC provided several recommendations for the Senator to consider. The four most important recommendations were

1. **CHDO Definition**
   a. To continue to emphasize accountability to low-income people and neighborhoods, NLIHC urged the bill to not eliminate the word “significant” in the phrase “maintains significant representation.”
   b. NLIHC learned from small, nonprofit community development organizations that the regulation’s requirement that at least one-third of a CHDO’s board of directors be low-income residents was too difficult for many such organizations to achieve. A draft of the Cortez Masto bill responded to this concern by explicitly instructing HUD to modify the regulatory definition of CHDO by removing the one-third low-income board member requirement, replacing it with “maintaining meaningful representation…on its governing board or an advisory committee to its governing board.”
   c. The 2013 HOME regulation changes required a CHDO to have a full-time developer on staff, something that most small, neighborhood-based organizations do not have the financial capacity to do. In response to NLIHC’s urging, the draft bill would instruct HUD to further modify the regulatory definition of CHDO regarding an entity’s “demonstrated capacity” by allowing a community development organization to engage housing development consultants or volunteers on an as-needed basis.
2. **Improve income targeting.** NLIHC urged the bill to cap affordable rental units at 60% AMI, not 80% AMI and require 30% of units to be affordable to households at or below 30% of AMI. Targeting eligible rental uses exclusively for people at 60% AMI would be an improvement over current targeting and put the program more in line with other housing programs. The deeper targeting to serve ELI households will ensure that these funds are more effectively deployed to address those with the greatest needs and to address the underlying causes of the housing crisis.

The HOME Coalition, a broad group of organizations, submitted a letter to HUD with many recommended changes to the HOME program regulations. While NLIHC accepted many of the proposed changes, NLIHC did not sign on to the letter due to differences regarding several CHDO provisions.

TIPS FOR LOCAL SUCCESS

At the local level advocates will want to continue to be actively involved in the Consolidated Plan’s Annual Action Plan public participation process in order to influence the type of housing, location, and beneficiaries of HOME dollars.

Advocates can best influence how HOME dollars are allocated if they know how a jurisdiction has spent its previous allocations. To monitor their local PJ’s accomplishments, advocates can access several useful reports on the Grantee Reports and Plans webpage on the HOME program homepage of HUD’s Exchange website.

- Open Activities Report is a monthly list of each HOME project in a PJ that is still “open,” indicating tenure type (renter or homeowner), type of activity (such as rehabilitation, acquisition, or new construction), ZIP code, number of units, commitment date, and amount budgeted and spent.
- Vacant Unit Report identifies units marked vacant in HUD’s reporting system, showing whether the project is completed and its street address.
- National Production Report offers cumulative information since 1992.
- HOME Units Completed within LIHTC Projects by State provides the number of HOME units completed within Low-Income Housing Tax Credit projects by state since 2010. The report also provides a breakdown of overall HOME funds disbursed for LIHTC projects and the average amount of HOME funds disbursed per LIHTC project.

- HOME Units Completed by State provides the number of HOME units completed since 1992 by state. The report also provides a breakdown of completed HOME units by tenure type and the amount of HOME funds committed and disbursed.
- HOME Units Completed by Congressional District provides the number of HOME units completed since 1992 by congressional district. The report also provides a breakdown of completed HOME units by tenure type and the amount of HOME funds committed and disbursed.

WHAT TO SAY TO LEGISLATORS

The major responsibility of advocates is to continue pushing for increased federal appropriations. Advocates should ask Members of Congress to fully fund the HOME program at $2.5 billion.

FOR MORE INFORMATION

National Low Income Housing Coalition, 202-662-1530, www.nlihc.org.

HOME program on HUD Exchange, https://www.hudexchange.info/programs/home.

HOME regulations, 24 CFR part 92 are at: https://bit.ly/3VFW2xF.