

## **4. PROGRAM INCOME, CHDO PROCEEDS & RECAPTURED FUNDS**

Funds generated from the investment of HOME funds are subject to HOME rules that can vary depending on the classification of the proceeds as Program Income, CHDO Proceeds or Recaptured Funds.

The chart attached to this Chapter summarizes the differences between program income, CHDO proceeds and recaptured funds.

### **4.1 Home Program Income**

Program income is the income received by an awardee directly generated from the use of HOME funds. 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;
- Income from the use or rental of real property owned by awardee that was acquired, rehabilitated or constructed with HOME funds, minus the costs incidental to generating that income;
- Payments of principal and interest on loans made with HOME;
- Proceeds from the sale of loans or obligations secured by loans made with HOME;
- Interest on program income; and
- Any other interest or return on the investment of HOME.

Note: Income generated by a project which is funded with program income, is also program income.

Program income is not:

- Operating revenues and income from rental housing projects not owned by the Participating Jurisdiction or its subrecipients
- Proceeds generated by a Community Housing Development Organization (CHDO) project that the CHDO is permitted to keep and reuse as CHDO proceeds.
- Funds recaptured as a result of a homebuyer property being sold within the HUD-imposed affordability period.

HOME rules require program income to be returned to the PJ, unless the PJ elects to allow a subrecipient to retain and reuse the program income while it is actively administering a program under agreement with the PJ. No program income or recaptured funds may be retained and reused by a for-profit or nonprofit developer, except in the case of CHDO Proceeds as described below.

Department policy is that all HOME program income must be returned to the Department, unless:

- The Department offers the option to the subrecipient to retain and reuse program income explicitly in the HOME Contract; and
- The awardee submits and the Department approves a program income reuse plan prior to release of funds.

All HOME program income must be used in accordance with the HOME program rules, whether returned to the Department or retained by a subrecipient. Program income never loses its identity as federal funds regardless of the number of times it is reinvested in projects.

Depending on the terms of the agreement, HOME program income that is retained by the awardee must be expended by the awardee before drawing down additional HOME funds, or may be accumulated during a program year and committed first for eligible activities in the subsequent program year prior to the commitment of remaining funds not yet drawn.

#### **4.1.1 Program Income Reuse Plan**

A subrecipient that is authorized to retain and reuse program income must have a program income reuse plan approved by the Department that details the specific uses and service area of program income (all uses must be HOME-eligible).

Up to 10% of program income may be used for administrative expense.

The Department must approve all amendments to the plan.

Subrecipients must submit Program Income Reports to the Department twice a year. See Chapter 5 – Reporting.

## **4.2 CHDO Proceeds**

The HOME Final Rule permits Participating Jurisdictions to allow CHDOs to retain certain proceeds from CHDO projects that otherwise must be returned to the PJ as program income. The retention of CHDO Proceeds by the CHDO is a PJ option, not a requirement.

CHDO proceeds can be the proceeds resulting from a CHDO set-aside project including:

- The permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan;
- The sale of CHDO sponsored rental housing to a second non-profit;
- The sale of CHDO developed homeownership housing; or
- The principal and interest from a loan to a buyer of CHDO developed homeownership housing.

CHDO proceeds are not:

- HOME funds recouped by a CHDO when HOME assisted homeownership housing does not continue to be the principal residence of the assisted homebuyer for the full HUD-imposed affordability period, which must be returned to the Department; or
- Rental operating income generated from a CHDO-owned project, which are not CHDO proceeds and can be retained by the CHDO or ownership entity.

All CHDO proceeds must be returned to the Department, unless:

- The Department provides the option to the CHDO to retain CHDO proceeds as part of the HOME Contract; and
- The awardee submits and the Department approves a CHDO proceeds reuse plan detailing use and service area prior to release of funds.

#### **4.2.1 CHDO Proceeds Reuse Plan**

A CHDO proceeds reuse plan must:

- Detail the specific uses of CHDO proceeds (all uses must be HOME-eligible or are housing activities that benefit low-income persons);
- Contain provisions that require the Department to approve all amendments to the plan; and
- Be approved by the Department prior to release of funds.

### **4.3 Recaptured Funds**

Recaptured funds are HOME funds recouped by a subrecipient when HOME assisted homeownership housing does not continue to be the principal residence of the assisted homebuyer for the full affordability period.

All recaptured funds must be returned to the Department, unless:

- The Department offers the option to the awardee to retain recaptured funds along with program income (HOME Contract); and
- The awardee submits and the Department approves a program income reuse plan that includes the reuse of recaptured funds.

All recaptured funds must be used in accordance with the HOME program rules.

Recaptured funds must be expended by the awardee before drawing down additional HOME funds or may be accumulated and committed first in the subsequent program year. Unlike program income, recaptured funds may not be used for administrative costs.

The amount of the recapture for any particular homeowner is determined by the awardee's recapture requirements as stated in the agreement and legal documents with the homeowner, consistent with the program's guidelines approved by the Department.

#### **4.3.1 Program Income & Recaptured Funds Reuse Plan**

In order to retain and reinvest recaptured funds, an awardee's program income & recaptured funds reuse plan must:

- Detail the specific uses and service area of recaptured funds (all uses must be HOME-eligible, and no recaptured funds may be used for administrative expenses);
- Contain provisions that require the Department to approve all amendments to the plan; and
- Be approved by the Department prior to release of funds.

In addition, subrecipients must track and report program income and recaptured funds separately. Recaptured funds can be used like program income with the exception that they may not be used for any administrative costs since they represent a return of the original HOME investment.

## Comparison of Program Income, CHDO Proceeds & Recaptured Funds Requirements

	<b>Program Income</b>	<b>CHDO Proceeds</b>	<b>Recaptured Funds</b>
<b>Definition</b>	The gross income directly generated from the use of HOME funds, including loan repayments, interest, sales and other proceeds	Proceeds resulting from a CHDO set-aside project, if the PJ permits the CHDO to retain and reuse the funds (otherwise these must be returned as program income)	HOME funds recovered when homeownership housing does not continue to be the principal residence of the assisted homebuyer for the full affordability period under the terms of a recapture deed of trust
<b>Examples</b>	Proceeds from the sale/lease of property, rental income from property owned by a State Recipient or subrecipient, repayment of loan principle or interest, or proceeds from the sale of loans	Net proceeds from the sale of property, principle and interest received from the payment on HOME loans	Funds repaid under the terms of a recapture deed of trust as a result of a homebuyer property being sold within the affordability period
<b>(Re)use of Funds</b>	<p>Program income must be used for HOME-eligible activities and meet all HOME rules.</p> <p>Program income never loses its identity as program income regardless of the number of times it is reinvested in projects.</p>	CHDO proceeds must be used for HOME-eligible or other housing to benefit low-income families, as approved by the PJ	Recaptured funds must be used for HOME-eligible activities and meet all HOME rules

	<b>Program Income</b>	<b>CHDO Proceeds</b>	<b>Recaptured Funds</b>
<b>Who can reuse the funds</b>	<p>PJ (Department) or a subrecipient (or State Recipient), if permitted by agreement</p> <p>If subrecipient allowed to reuse by agreement, must have program income reuse plan approved by the Department.</p>	<p>CHDOs, if permitted by agreement, otherwise returned to PJ as program income</p> <p>The Department must approve the use by the CHDO</p>	<p>PJ or subrecipient (or State Recipient), if permitted by agreement</p> <p>The Department must approve the use of the recaptured funds as part of program income reuse plan</p>
<b>Administrative requirements</b>	<p>Funds may be used or accumulated during a program year and committed for reuse in the next program year</p> <p>Program income must be reported to the Department</p> <p>The Department may allow awardees to use up to 10% of the program income for administrative costs</p>	<p>CHDO proceeds received and reused must be reported to the Department</p>	<p>Funds may be used or accumulated during a program year and committed for reuse in the next program year</p> <p>Recaptured funds must be reported to the Department</p> <p>Recaptured funds may not be used for administrative costs</p>