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Q. Can a participating jurisdiction (PJ) use its community housing development organization (CHDO) set-aside funds for non-CHDO HOME projects?

A. Under certain circumstances, a PJ may use its CHDO set-aside funds to assist non-CHDO HOME projects. Provisions in recent appropriations laws permit PJs to use CHDO set-aside funds for non-CHDO projects if a PJ has not committed its CHDO set-aside funds to a project owned, developed, or sponsored by a CHDO within 24 months from HUD's obligation of the PJ's HOME grant. In order to do so, the PJ must request that HUD permit the CHDO set-aside funds be used for non-CHDO HOME projects.

Background

Section 233 of Title II of Division G of the Consolidated Appropriations Act, 2019 (P.L. 116-6) suspended the 24-month CHDO reservation requirement set forth in Section 231(b) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (42 USC 12771(b)). Specifically, Section 233 of P.L. 116-6 stated, "Section 231(b) of such Act shall not apply to any uninvested funds that otherwise were deducted or would be deducted from the line of credit in the participating jurisdiction's HOME Investment Trust Fund in 2018, 2019, 2020, or 2021 under that section." The 2020, 2021, 2022, 2023, and 2024 appropriations acts added 2022, 2023, 2024, 2025, and 2026 respectively, to the years covered by the suspension. Section 242 of Title II of Division K of the Consolidated Appropriations Act, 2017 (P.L. 115-31) suspended the 24-month commitment deadline requirement set forth in Section 218(g) of NAHA (42 U.S.C. 12748(g)). Section 242 of P.L. 115-31 stated that "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. The 2018, 2019, 2020, 2021, 2022, 2023, and 2024 appropriations acts added 2022, 2023, 2024, 2025, and 2026 respectively, to the years covered by the suspension.

The combined effect of the suspension of the 2-year commitment deadline at Section 218(g) of NAHA and the suspension of the 24-month CHDO reservation requirement at Section 231(b) of NAHA means that HUD will no longer deobligate a PJ's CHDO set-aside funds that remain uncommitted to CHDO projects after 24 months of HUD obligating the PJ's grant or HOME funds that become uncommitted from a CHDO project after the 24-month deadline.

The 2019 - 2023 appropriations laws do not suspend Section 231(a) of the HOME statute, which requires "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." Consequently, CHDO set-aside funds cannot be used for non-CHDO projects during this 24-month period.

Because the suspension of section 231(b) has been accomplished through annual appropriations, there is no guarantee that the suspension will continue in future years. If the suspension is not continued in a future HOME appropriation, HUD will provide guidance to PJs about how it will determine PJs' compliance with the 24-month CHDO reservation requirement.

Reducing the CHDO Set-aside After 24 Months

If a PJ has uncommitted CHDO set-aside funds after 24 months and would like to use some or all of those uncommitted funds for non-CHDO HOME projects, it may submit a request for redesignation of the funds to its Field Office. The Field Office will submit the request to the Office of Affordable Housing Programs (OAHP), which will determine whether the request is approvable. If the request can be approved, OAHP will redesignate the funds so that they are no longer CHDO set-aside funds. The PJ can then commit the funds to any eligible HOME project.