## CHAPTER 9

### PROGRAM AUDITS AND PROGRAM CLOSEOUT

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CHAPTER 9
PROGRAM AUDITS AND PROGRAM CLOSEOUT

OVERVIEW

In accordance with the state of Montana’s Consolidated Plan and guidelines adopted by the state, the following language provides requirements under which the MDOC HOME Program operates.

This chapter provides guidance on federal and state audit requirements (Part I) and program closeout procedures (Part II) for local governmental entities and CHDO Grantees.

Since federal audit requirements are determined on a case-by-case basis, Grantees should review Part I of this chapter carefully and contact their HOME Program Officer with any questions or clarifications.

Part II of this chapter describes the steps required to submit program closeout reports. Program closeout should not be confused with project completion discussed in Chapter 3, Financial Management. Program closeout is the process during which MDOC reviews and approves all submitted Project Completion Reports; reviews all applicable administrative actions to be taken; and determines that all work required of the Grantee has been completed in accordance with the terms and conditions of the HOME contract.

PART I: PROGRAM AUDITS

I. OVERVIEW

This section provides an overview of federal and state audit requirements. Grantees are encouraged to use this section to determine when a Single Audit (explained in the Federal Audit Requirements section) is required to meet federal regulations. If a federal Single Audit is required or if state law requires a Government Auditing Standards audit, Grantees must reference the applicable Federal and State laws, regulations and auditing standards listed in Exhibit 9-A, Applicable Audit Requirements.

If a federal Single Audit is not required, the HOME Program may arrange a limited-scope” audit as part of the monitoring process. A limited scope audit, if required, will be arranged and paid for by the MDOC HOME program.
II. AUDIT REQUIREMENTS

Any Grantee that expends $500,000 or more in its fiscal year in all Federal awards shall have a single audit conducted for that year in accordance with OMB Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations. A single audit is defined as an audit that includes an evaluation of both the organization’s financial statements and its compliance with federal awards.

A. FEDERAL

<table>
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<th>Expenditure of All Federal Awards Audit Requirement</th>
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<td>Less than $500,000 in fiscal year</td>
<td>Exempt from federal audit requirements, but records must be available for review or audit by appropriate state and federal officials</td>
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<tr>
<td>$500,000 or more in fiscal year</td>
<td>Single Audit required</td>
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According to A-133, an award is expended when activity related to the award occurs. Expenditures include normal allowable expenditures as well as the receipt of property and the receipt or use of program income/CHDO Proceeds.

Audits of federal financial assistance must be made annually, unless there is a local statutory requirement for less frequent audits. Local governments in Montana, as stated in the Montana Single Audit Act, may have biennial audits that cover the prior two years.

The single audit must be completed and all necessary reports must be submitted to the appropriate agencies within nine months after the end of the audit period. Federal regulations require the Grantee to submit a Reporting Package to the HOME Program within the above time frame. A Reporting Package shall include:

1) Financial statements and schedule of expenditures of Federal awards
2) Summary Schedule of prior audit findings
3) Auditor's report
4) Corrective action plan (if applicable)

B. STATE (Local Governments Only)

Local governments receiving HOME funds must comply with Montana audit requirements. According to Section 2-7-503(3)(a), MCA, the governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in excess of $500,000 shall cause an organization-wide audit to be made at least every two years. The audit must cover the entity's preceding two fiscal years. The audit must commence within nine months from the close of the last fiscal year of the audit period.
III. AUDIT TRACKING

Due to the variety of audit situations, audit requirements are determined on a case-by-case basis. To determine whether a federal single audit will be required, the Grantee prepares a Schedule of All Federal Financial Assistance (Exhibit 9-B) at year-end. Preparation of the Audit Tracking System (Exhibit 9-C) also provides a systematic way to monitor the audit requirements related to HOME projects.

IV. AUDIT COSTS

The cost of audits required and made in accordance with the provisions of OMB Circular A-133 are allowable charges to federal assistance programs. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of OMB Circular A-87, Cost Principles for State and Local Governments.

Generally, the percentage of audit costs charged to the HOME Program should equal the percentage of HOME funds expended in relation to total funds expended by the Grantee during the fiscal year. For example, if total federal funds expended equal $500,000 of which $250,000 consisted of HOME funds, the Grantee could charge 50 percent of the Single Audit costs to the HOME program. Many Grantees choose to pay for the audit costs from other sources. In doing so, Grantees are able to close out projects in a timelier manner. Grantees choosing to pay for an audit from project soft costs must distribute a proportionate share to each activity under the project.

HOME Grantees expending less than $500,000 per year of combined federal funds may not charge audit costs to the HOME Program. However, the HOME Program may require a limited-scope audit to monitor a HOME Grantee. In these cases, the limited-scope audit will be paid for and arranged by the HOME Program.

V. GRANTEE RESPONSIBILITIES

HOME Grantees must prepare a Schedule of Federal Financial Assistance (Exhibit 9-B) for each year HOME funds are spent. If an audit is required under the federal Single Audit Act of 1984 (P.L. 98-502) as amended and the OMB Circular A-133, Grantees shall comply with the following requirements of that circular:

- Auditee Responsibilities
- Auditor Selection
- Financial Statements
- Audit Findings Follow up
- Report Submission

Note: These requirements include provisions to extend opportunities to small business and minority-owned firms.
Local government Grantees must consider both the audit provisions of Title 2, Chapter 7, Part 5, MCA and Circular A-133 requirements.

VI. AUDITOR RESPONSIBILITIES

Audits required under the federal Single Audit Act of 1984 (P.L. 98-502) as amended by the Single Audit Act of 1996 and OMB Circular A-133 shall comply with the scope, reporting, findings, working papers and major program determination requirements of that circular.

For local government entities, all audits performed under section 2-7-503, MCA, must be conducted in accordance with Government Auditing Standards, issued by the comptroller general of the United States [see ARM 8.94.4111(3)], that are applicable to financial audits. Those standards incorporate generally accepted auditing standards as adopted by the American Institute of Certified Public Accountants.

VII. HOME PROGRAM RESPONSIBILITIES

The HOME Program is responsible for the following activities:

- Providing a description of the federal award, including the CFDA title, number, award name/number and award year. The Home Investment Partnership Program's (HOME) CFDA number is 14.239. This number is included on the first page of the grant contract with MDOC
- Advising Grantees of Federal requirements
- Monitoring and compliance review of the Grantee
- Ensuring that the Single Audit Act requirements are met
- Reviewing audit findings and following up on any necessary corrective actions in a timely manner
- Requiring each Grantee to allow access to records by the appropriate people

VIII. ILLEGAL ACTS OR IRREGULARITIES

If an auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to the appropriate Grantee officials. For local government Grantees, this notification also should include the local county, city or town attorney. The Grantee, in turn, shall promptly notify the HOME Program of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

XI. AUDIT FINDINGS FOLLOW UP

The Grantee is responsible for follow-up and corrective action on all Federal Single Audit findings. As part of this responsibility, the Grantee shall prepare a summary schedule of prior audit findings and a corrective action plan for the current year’s audit
findings. The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit’s schedule of findings and questioned costs relative to Federal awards and in the prior audit’s summary schedule of prior audit findings.

The Grantee also shall prepare a corrective action plan to address each Federal Single Audit finding included in the current year auditor’s reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned and the anticipated completion date.

MDOC must issue a management decision on audit findings within six months after receipt of the Grantee’s audit report and ensure the Grantee takes appropriate and timely corrective action.

Note for local government Grantees: Per MCA 2-7-515, local governments, within 30 days of receipt of an audit report required by the State of Montana, shall notify the Montana Department of Administration (MDOA) Local Government Services Bureau Audit Review Section (phone 406-841-2907) as to what action they plan to take on any deficiencies or recommendations contained within the report. The HOME program will cease all payment requests if a grantee fails to respond and correct deficiencies noted in an audit report.

PART II: PROGRAM CLOSEOUT

As stated in the Chapter Overview, program closeout is different from project completion. Project completion means that:

✓ All necessary title transfer requirements and construction work have been performed
✓ The project complies with HOME regulations (including property standards)
✓ The final draw down has been disbursed for the project
✓ The project completion information has been submitted and approved by the MDOC HOME Program and HUD (see Chapter 3, Financial Management, for more detail)

Program closeout is the process during which MDOC reviews and approves all submitted Project Completion Reports, determines all match requirements have been met, confirms that all monitoring and audit findings have been resolved, reviews all applicable administrative actions to be taken, and determines that all work required of the Grantee has been completed in accordance with the terms and conditions of the HOME contract. Grantees must submit Exhibit 9-D at program closeout.

Keeping accurate and up-to-date records and files helps the Grantee comply with the closeout requirements easily. All information needed to complete Exhibit 9-D should be in the Grantee’s files and little, if any, additional information gathering should be necessary.
I. PROGRAM CLOSEOUT PROCESS

Program Closeout involves completing the following steps:

STEP 1 -- Notify Home Program Officer

When a Grantee is ready to proceed with Program Closeout, it should contact its HOME Program Officer to discuss closeout procedures.

STEP 2 -- Conduct Final Monitoring

MDOC may conduct a final monitoring visit prior to program closeout. This visit may be waived if the program has been previously monitored and found to be in substantial compliance. The purpose of the final monitoring visit is to ensure that any specific program or administrative issues identified through earlier monitoring visits have been satisfactorily resolved.

STEP 3 -- Finalize Program Income Plan, Recaptured Funds, or CHDO Proceeds Plan

Grantees wishing to retain and use CHDO Proceeds after closeout must have a current CHDO Proceeds Plan. The CHDO Proceeds Plan should have been submitted as part of the Grantee’s final Management Plan. As part of the closeout process, Grantees should review the CHDO Proceeds Plan and update it as needed. If at any time the plan is updated or changed, a revised copy of the CHDO Proceeds Plan must be submitted to the HOME Program for approval.

Grantees wishing to retain and use program income and/or recaptured funds must have an open competitive grant or be approved as a Qualified Entity for the Single Family Noncompetitive Program. If the Grantee does not have an open competitive HOME grant and/or is not a Qualified Entity, any program income and/or recaptured funds generated from any previous HOME-funded activity must be returned to the HOME Program.

Program income, recaptured funds, and CHDO proceeds requirements are discussed further in this chapter under the Program Income, Recaptured funds and CHDO Proceeds section.

STEP 4 -- Prepare Certification of Completion and Status of Funds Report

The Grantee must complete Exhibit 9-D, CERTIFICATION OF COMPLETION AND STATUS OF FUNDS REPORT. The grantee must include either the CONDITIONAL CLOSEOUT CERTIFICATION (page 2) or FINAL CLOSEOUT CERTIFICATION (page 3). The HOME Program cannot give final closeout approval until the final audit report, including review of the HOME funds (if required), has been completed by the grantee’s auditor.
The following criteria must be met at the time a Grantee’s project is closed out:

- All funds must have been drawn down and expended on eligible costs. Funds not drawn down and expended must be returned to the HOME program.
- Match requirements must have been met by the Grantee.
- All Project Completion Reports and supporting documentation must have been submitted.
- Applicable audit reports must have been submitted by the Grantee to MDOC.

If the audit does not cover the entire final HOME funds expended, the Conditional Closeout may be submitted by the Grantee, with the date of the final audit indicated on the Conditional Closeout Certificate.

After all the HOME funds are audited, the Grantee can request final closeout approval by submitting a Final Closeout Certificate.

MDOC retains the right to recover funds based on findings in the final audit. If the audit computation of the HOME grant balance indicates that draws exceeded actual program expenditures, action may be taken which requires the Grantee to reimburse the HOME Program for the excess amount. For unsettled third party claims against HOME funds, the Grantee must resolve the claims and submit a revised CERTIFICATION OF COMPLETION.

II. PROGRAM INCOME, RECAPTURED FUNDS, CHDO PROCEEDS, AND REPAID FUNDS

The HOME program is authorized by Title 11 of the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. 12701 et seq.). The purpose of HOME is to expand the supply of affordable housing for low and very low income families. The Act requires that any repayment of HOME funds drawn from the HOME Investment Trust Fund, and any payments of interest or other return of investment of such funds shall be used for HOME eligible housing.

A. RECAPTURED FUNDS AND PROGRAM INCOME

Definitions

Recaptured Funds are HOME funds which are recouped by the participating jurisdiction (the State) or subrecipient, State recipient or CHDO (i.e., MDOC HOME Grantees) when HOME-assisted homeownership housing does not continue to be the principal residence of the assisted homebuyer/owner for the full affordability period as required by 24 CFR 92.254(a)(4). Recaptured funds represent a return of the original HOME investment.

Program Income means gross income received by HOME Grantees that is directly generated from the use of HOME funds (including HOME program income). Following is a list of examples. Note that this is not an exclusive list.
• Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds

• Gross income from the use or rental of real property, owned by the HOME Grantee that was acquired, rehabilitated, or constructed with HOME funds less costs incidental to generation of the income (NOTE: Rental income from property owned by entities other than the HOME Grantee does not constitute program income)

• Payments of principal and interest on loans made using HOME funds (for example, a local government receives a grant of HOME funds, which it loans to the developer, owner, etc. of the HOME-assisted property)

• Proceeds from the sale of loans made with HOME funds

• Proceeds from the sale of obligations secured by loans made with HOME funds

• Interest earned on program income pending its disposition

• Any other interest or return on the investment permitted under 24 CFR §92.205(b) of HOME funds (NOTE: this does not include recaptured funds, repayments, or CHDO proceeds)

Income generated by a project that is funded with program income is also HOME program income. Interest earned on funds retained by HOME Grantees is also constitutes HOME program income

Use of Program Income or Recaptured Funds

Only Grantees with an open competitive grant or a Qualified Entity (for the Single Family Noncompetitive Program) currently under contract with the HOME Program may retain and use program income or recaptured funds, with HOME Program approval. The addition of program income/recaptured funds to a project funded by a competitive grant may not increase the HOME portion of the project budget beyond the maximum grant amount established in the application guidelines under which the grant was awarded. Any program income or recaptured funds retained by a HOME Grantee or Qualified Entity must be disbursed by that HOME Grantee or Qualified Entity before it requests additional HOME funds.

Grantees or Qualified Entities must submit drawdown requests, along with all applicable backup documentation, for any program income or recaptured funds used. Activities assisted with HOME program income or recaptured funds are treated the same as those assisted with the HOME allocation. All HOME program rules and requirements apply, including MDOC requirements (e.g., completion and submittal of set-up forms, draw requests, completion forms, environmental site-specific checklists, and lead-based paint notices, to name a few. Also, if a significant period of time has passed and/or conditions have changed from the completion of the original ERR, a new one must be completed. NOTE: In accordance with HUD guidance, the HOME Program may not authorize the establishment of multiple HOME accounts for the same HOME Grantee in order to create "de facto" revolving loan funds; HOME Program rules do not permit the establishment of revolving loan funds. (The program income or recaptured
funds must be used for the same type of activity that generated the program income or recaptured funds.)

Any funds recaptured/returned must go to the Grantee (for competitive grants) or Qualified Entity (for single family noncompetitive grants), not any other third party, loan servicer, etc., that may be assisting the Grantee or Qualified Entity.

At the point a Grantee no longer has an open grant or a Qualified Entity is no longer qualified to access the Single Family Noncompetitive Program, any program income and recaptured funds on hand and any future funds received MUST be returned to the HOME Program unless another option for use is pre-approved in writing by the HOME Program. The Grantee or Qualified Entity may not “grant” the program income or recaptured funds to another entity.

Reporting Requirements

The HOME Program requires quarterly reporting of program income/recaptured funds and CHDO proceeds. Once program income or recaptured funds has been used for HOME-eligible activities, the applicable period of affordability starts over and program income or recaptured funds continues to be reported on for the new activity. Program income and recaptured funds retain their identity as federal HOME funds in perpetuity.

In accordance with HUD guidance, the HOME Program must monitor Grantee or Qualified Entity program income/recaptured funds. If a Grantee or Qualified Entity is accumulating a substantial amount of funds, the HOME Program will take appropriate actions to address this performance issue. These actions may include requesting that the Grantee or Qualified Entity return the funds to the HOME Program.

Grantees are required to submit a quarterly program income report to the HOME Program that includes previous balance, receipts, and disbursement of program income. Exhibit 9-E, HOME PROGRAM INCOME / RECAPTURED QUARTERLY REPORTING FORM, must be used by the grantee to report program income activity. Exhibit 9-F provides a handful of scenarios which would generate program income.

B. CHDO PROCEEDS

Definition

CHDO Proceeds are any proceeds resulting from the CHDO's investment of its CHDO set-aside funds (i.e., CHDO performing a CHDO-eligible activity) that the HOME program permits the CHDO to retain. Proceeds which the CHDO is permitted to retain are not HOME program income and, therefore, are not subject to the HOME requirements, except as described below. (An example is when a CHDO receives a grant of HOME funds for a CHDO-eligible activity, which it loans into the HOME-assisted property.)
• CHDO Proceeds can only be generated from the funds set aside specifically for CHDO activities. CHDO activities include ownership, sponsorship and development of affordable housing. Homebuyer assistance and homeowner rehabilitation programs are **NOT** CHDO activities and therefore generate program income or recaptured fund, **NOT** CHDO proceeds.

• Rental income generated by a CHDO-owned project does not constitute CHDO Proceeds. The rental income is simply operating income for the project.

**Use of CHDO Proceeds**

• The CHDO must use any CHDO proceeds which it is authorized to retain, for HOME-eligible or other housing activities to benefit low-income families, as required by 24 CFR §92.300(a)(2).

• The standards for financial management systems of 24 CFR §84.21, including controls for the receipt of CHDO proceeds, must be met.

• CHDO proceeds which are retained by a CHDO are not subject to the requirements of the HOME regulations, except for 24 CFR §92.300(a)(2). Thus, the Davis-Bacon Act, National Environmental Policies Act, and Uniform Relocation Assistance and Real Property Acquisition Policies Act do not apply to the use of CHDO proceeds.

• Because CHDO proceeds are derived from the expenditure of HOME funds, any activities which are funded with CHDO proceeds may **NOT** be contributed as match.

• CHDO proceeds must be used for HOME-eligible or other affordable housing activities, which will benefit low-income persons. This may include emergency repairs, project operating costs, reserves, refinancing, operating expenses, or homebuyer counseling.

• After CHDO Proceeds are used once on a HOME eligible activity, there are no further HOME requirements, i.e. funds generated from CHDO proceeds are not CHDO proceeds or program income / recaptured funds.

• CHDO proceeds must be used within a Grantee’s jurisdiction.

• A written agreement (CHDO Proceeds Plan) must exist between the CHDO and MDOC that specifies:
  ✓ how the funds will be spent
  ✓ when the funds will be spent
  ✓ what records the CHDO will maintain
  ✓ what reports the CHDO will submit to MDOC

The terms of the written agreement regarding CHDO proceeds apply so long as the grantee continues to receive and disburse CHDO proceeds, regardless of the affordability period imposed by the CHDO.
CHDO Proceeds Reporting Requirements

CHDO Grantees must identify the source and application of the CHDO proceeds. The CHDO Grantee must identify the source of the funds by the grant year and contract number. The CHDO Grantee will need to obtain HOME Program staff approval for CHDO Proceeds expenditures. The CHDO Grantee will also need to coordinate with HOME Program staff to document the use of the funds. The documentation must include the amount of funds disbursed and the details of the disbursement. Grantees must know CHDO proceeds balances on at least a monthly basis.

If a CHDO Grantee has both CHDO proceeds and program income/recaptured funds, it must submit separate reports for the program income/recaptured funds and the CHDO proceeds. This is necessary because the range of potential uses is wider for CHDO proceeds than for program income.

Grantees must use CHDO proceeds on hand before requesting more funds from MDOC. MDOC reserves the right to demand the return of CHDO proceeds to MDOC, if the Grantee does not use the funds in a timely manner and/or does not use the funds for eligible activities.

Grantees cannot accumulate substantial amounts of CHDO proceeds. If Grantees have an open grant, CHDO proceeds must be reported with each draw request.

Grantees are required to submit a quarterly CHDO proceeds report to the HOME Program that includes previous balance, receipts, and disbursement of CHDO Proceeds. Exhibit 9-G, HOME CHDO PROCEEDS QUARTERLY REPORTING FORM, must be used by the grantee to report CHDO Proceeds activity. Exhibit 9-H provides a handful of scenarios which would generate CHDO Proceeds.

C. REPAID FUNDS

REPAID FUNDS are HOME funds which must be repaid to the HOME Program and HUD because the funds were invested in a project which was terminated before completion (either voluntarily or involuntarily), or invested in housing which failed to comply with the affordability requirements specified in 24 CFR §92.252 (rental housing) or 24 CFR §92.254 (homeownership). Repayments can also include the repayment of project specific CHDO technical assistance, site control, and seed money loans pursuant to 24 CFR §92.301, when the HOME Program does not waive loan repayment and the project is terminated before completion.

III. LONG TERM AFFORDABILITY

A program cannot be completely closed out until all the requirements for affordability have been fulfilled. Many of the projects within the HOME program must remain affordable for five, ten, fifteen, or twenty years after the money has been drawn down and the Project Completion Report has been submitted.
Period of affordability refers to the length of time HOME assisted units must remain affordable. Deed restrictions or covenants running with the land or other approved mechanisms will ensure the period of affordability, depending on the amount of HOME dollars invested per unit in the project. After the required affordability period, the property may be sold without HOME restrictions.

The monitoring requirements for long-term affordability are discussed in Chapter 10, PROGRAM MONITORING. The HOME Program will notify a Grantee when the period of affordability for a project is about to expire. Once the period of affordability has expired, the Grantee’s obligations to the HOME Program regarding regular, on-site visits and annual recertification of tenants’ income no longer apply. The project then will be managed in accordance with the policies established by the Grantee. The Grantee will record the release of any liens, deed restrictions, or covenants running with the land used to enforce the affordability criteria. Files required throughout the affordability period can be closed out after three years following termination of the period of affordability.
EXHIBITS

EXHIBIT 9-A: Applicable Audit Requirements

EXHIBIT 9-B: Schedule of Expenditure of Federal Awards

EXHIBIT 9-C: Audit Tracking System

EXHIBIT 9-D: Certification of Completion and Status of Funds Report (page 1)
Conditional Closeout Certification (page 2)
Final Closeout Certification (page 3)

EXHIBIT 9-E: HOME Program Income / Recaptured Funds Quarterly Reporting Form

EXHIBIT 9-F: Scenarios that Generate Program Income

EXHIBIT 9-G: HOME CHDO Proceeds Quarterly Reporting Form

EXHIBIT 9-H: Scenarios that Generate CHDO Proceeds

EXHIBIT 9-I: Program Income and/or Recaptured Funds Returned to MDOC Form