

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
An Internal Audit of the HOME Fund - Tracking Program

Audit Report # 18-003

**Executive Summary**

The Office of Internal Audit (OIA) assessed the policies, processes and procedures in place for allocating and tracking HOME funds for fiscal years 2011 – 2017. We reviewed and tested a sample of contracts for accuracy and consistency, from fund origination to allocation through the reservation and housing contract systems to the individual contract that received funds.

Based on the fieldwork performed, OIA concludes that the HOME policies, processes and procedures are generally performed accurately and according to applicable rules.

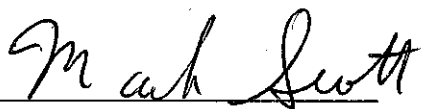
**Findings and Recommendations**

No Exceptions were noted

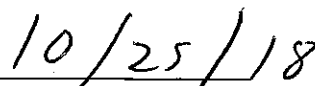
**Objective, Scope and Methodology**

Based upon our risk assessment and other factors, we selected the HOME Fund - Tracking Program for review and testing. This audit was identified in the Fiscal Year 2018 Annual Audit Plan and included the objectives to evaluate and test the HOME Program's policies, processes and procedures in place for fund allocation, contract assignment, fund expenditures, project completion and fund expiration per individual contract.

The current audit covered HOME Fund - Tracking contracts that have been verified and tracked as of July 2018.



Mark Scott, CPA, CIA, CISA, CFE, MBA  
Director, Internal Audit



Date Signed



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

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October 25, 2018

*Writer's direct phone # 512.475.3813*  
*Email: mark.scott@tdhca.state.tx.us*

Board Members of the Texas Department of Housing and Community Affairs ("TDHCA")

RE: REVIEW OF THE HOME FUND – TRACKING PROGRAM

Dear Board Members:

This report presents the results of the Office of Internal Audit ("OIA") "*Review of HOME Program Fund Tracking*." This audit was identified in the Fiscal Year 2018 Annual Audit Plan and was conducted in accordance with applicable audit standards. It included the objectives of evaluating and explaining the HOME Program; and evaluating the fund tracking, administrative, and internal control procedures related to the program.

Our scope included a review of the Texas Government Code (TGC), and the Texas Administrative Code (TAC). We also reviewed policies, processes, and procedures in HUD guidance found at HUDexchange, Federal Register, various reports, and other related documents. Based upon our preliminary understanding of the HOME Program, we identified critical points and risk; in order to develop audit objectives and an audit plan including methodology.

The Texas Department of Housing and Community Affairs (TDHCA) administers the HOME Program on behalf of the State of Texas, primarily in rural parts of the state.

HOME Fund Tracking was selected for audit because the HUD guidance has had many changes on how obligations, commitments and expenditures are processed for fiscal years FY2014 and prior, FY 2015, FY2016, FY2017 and future dates. On July 13, 2013, HUD issued a rule that would require TDHCA to process HOME funds following grant fund accounting rules, rather than cumulative accounting for the funds. Under the new grant fund reporting requirements, TDHCA would lose funds (have them lapse) if they were not spent in the specified period. This was a change from the cumulative accounting procedures, for the HOME funds that had been in place.

Congress has recently appropriated FY2018 HOME funds to TDHCA. Because these funds have not been available, they are not included in the HOME funds reviewed for this audit. The audit covered activities and processes in place for fiscal year 2017 and prior.

## BACKGROUND

The HOME and Homelessness Programs Division awards funds to assist units of general local government, public housing authorities, nonprofits, and local agencies in the provision of assistance to low-income Texans, with a focus on housing and housing-related assistance and services. **TDHCA does not provide any services directly to individuals.**

The HOME Investment Partnerships Program (HOME Program or HOME) was authorized in 1990 and is funded by the U.S. Department of Housing and Urban Development (HUD). Authorized under Section 218 of the Cranston-Gonzalez National Affordable Housing Act (the Act), the purpose of the program is to expand the supply of decent, safe, affordable housing, and strengthen public-private housing partnerships between units of local general governments, public housing authorities, nonprofits, and for-profit entities.

The program provides formula grants for four primary purposes:

1. production of new single or multifamily housing units,
2. rehabilitation of single or multifamily housing,
3. direct homeownership assistance, and,
4. time-limited tenant-based rental assistance (for up to two years with possibility of renewal).

All HOME funds must be used to benefit families and individuals who qualify as low-income at or below 80 percent of area median income. The HOME program provides state and local governments with the discretion to determine the type of housing product in which they will invest, the location of these investments, and the segment of their population that will be housed through these investments.

HOME funds are allocated by HUD to TDHCA with various restrictions, deadlines and requirements. The funds have to be spent within a certain period of time. Because HOME projects span over several years, the timing of the expenditure requirements is complex. There are various milestones such as obligation of funds, expenditure of funds, project completion and other milestones with deadlines. The HOME Program has employed a cumulative fund accounting model whereby funds of a particular type could be expended by states, with limits based on cumulative totals, that had to be used up in a certain number of years. The “moving” (the HOME program used the term “swapping”) of funds from year to year was easier under the cumulative method than under grant-fund accounting requirements, as will be discussed below.

“Moving” funds would entail, for example, if a project had money assigned to it, and was later rendered not feasible. Under grant accounting, funds have to be spent within a specific time period, or else they will lapse. In 2013, based on a Governmental Accountability Office (GAO) audit, with the aim of achieving tighter controls over HOME fund expenditures, HUD announced that it would require grant-based accounting for the HOME Program. Grant-based accounting works more readily in TDHCA programs such as energy assistance, where electric bills are paid, and that payment is the end of the transaction. For HOME funds, the expenditures on projects span several grant periods.

There was concern expressed by TDHCA management about the implementation of grant-based accounting. Subsequent to the issuance of the grant-based requirement that resulted from the GAO report, a reprieve, or temporary waiver was given by HUD to TDHCA. For the planning for the 2018 internal audit plan, OIA was asked to review TDHCA's readiness in the event that the waiver period would end and TDHCA would have to follow grant based accounting for HUD.

Sec. 218(g) of the Act covers the expiration of the right to draw funds, and is interpreted by HUD to apply to all HOME funds. Funds have a four year obligation life and project completion deadline. The expenditure deadline has been eliminated since the funds expire five years after the period of obligation, giving funds a nine year life.

Per Sec. 218(g), HOME funds must be placed under "binding commitment" within 24 months after the last day of the month in which funds are made available to the state.

Prior to revisions the HOME Final Rule stated that funds must be recaptured, if not spent, within five years after the last day of the month in which HUD notifies the state of their execution of the agreement. Effective August 23, 2013, HUD established an expenditure deadline in regulation at 24 CFR 92.500(d)(1)(C) which required recapture of any funds that are not expended within five years after the last day of the month in which HUD notifies the state of their execution of the agreement. Changes to the HOME Final rule effective August 23, 2015 changed the expenditure deadline in 92.500(d)(1)(iii) for HOME funds from FY 2015 and later to allow for expenditure by Sept 30 of the fifth year after the period of availability of the allocation from HUD, granting a bit more time, but maintaining an expenditure deadline for FY2015 and later funds.

Subsequently, on December 2, 2016, HUD published an Interim Final Rule (the Interim Final Rule superseded the Final Rule, in one of those peculiarities of policy making), effective January 1, 2017, which eliminated the 5-year expenditure deadline for FY2015 and later funds, thereby eliminating the requirement for any funds which may be subject to grant-based accounting as described later on. The last year of funds for which an expenditure deadline applies is FY2014 HOME funds.

The Interim Final Rule also established an additional commitment deadline which requires subrecipients to commit HOME funds to specific activities within 36 months of the last day of the month in which HUD notifies the state of their execution of the agreement. Although this rule is not statutory, it does pose additional risk if HOME funds are distributed in a contract rather than through an agreement.

Under either the cumulative or the grant-based accounting scenario, there is a set-aside requirement for Community Housing Development Organizations (CHDOs). For both the impending grant-accounting requirement and the CHDO requirement, TDHCA has maintained a tracking system. OIA has reviewed these tracking systems.

### **Cumulative Accounting Method Summary**

Prior to the GAO decision, HUD set a cumulative commitment and expenditure deadline for HOME funds. In practice, HUD enforced the commitment and expenditure deadlines as follows:

### **Commitment**

The HOME Commitment deadline is statutory and included HOME Funds are granted to the state and an award letter is executed. The date of the award letter determines the commitment deadline, which falls on the last date of the month twenty-four months after the agreement date. For example, if the agreement was finalized on May 3, 2013, the commitment deadline would be May 31, 2015. In this example, HUD would review the total amount of HOME funds committed from all years on May 31, 2015, and as long as that amount met or exceeded the amount of HOME funds granted to the state as of May 3, 2013, the commitment deadline was considered “met,” and HUD would not review the commitments again until the commitment deadline for 2014 HOME funds. It was a cumulative point in time review, and funds committed from subsequent funding years (2015 & 2016) would count to meet this deadline. This practice was mirrored in HUD’s Integrated Disbursement and Information System (“IDIS”), which did not track funds on a year-by-year basis, only cumulatively.

### **Expenditure**

Since the GAO grant-based requirements only apply to FY2015 and later funds, the last expenditure deadline is cumulative for FY2014 as described under the Commitments section above.

Note that under the cumulative method, treatment of program income is not the same as it is under grant-based accounting. Under the cumulative method, program income must be expended before any additional HOME funds are drawn from treasury. For example, if 2012 HOME funds are committed to a project and the project drew funds on August 3, 2014, TDHCA was required to expend the balance of the program income in the local account before any 2012 funds could be drawn.

Under grant-based accounting, HUD made changes to the treatment of program income to offset potential negative effects of receipt of program income in the Interim Final Rule. The Interim Final Rule allows for program income to be retained in the local account and programmed for use in the One-Year Action Plan, thereby taking the fiscal year identity of the fund year with which the program income is identified.

### **Grant Based Accounting Method Summary**

Under grant-based accounting, funds are expended from the same fiscal year funding under which they are committed. This means that if FY2016 funds are committed to a project, then FY2016 funds will be pulled from when the project requests a reimbursement. FY2015 and later funds requires that HUD track funds on a year-by-year basis rather than cumulatively. To determine whether the commitment requirement was met, HUD had to make sweeping changes to IDIS, which previously did not track funds on a year-by-year basis. Changes to this tracking were required to include verification that funds were committed on or before the commitment deadline in real-time, as opposed to a point-in-time review on the deadline itself. The check would be on-going, so any time that funds committed to a project were de-obligated from the project after the commitment deadline; they would be recaptured immediately from TDHCA by HUD.

### **Statutory Relief from Commitment Deadlines**

The Consolidated Appropriations Act of 2017 (“2017 Appropriations Act”) appropriated \$950M to the HOME Program for FY2017. Sec. 242 of the 2017 Appropriations Act states 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 Investment Trust Fund that otherwise would expire in 2016, 2017, 2017, or 2019 under that section.” This language eliminates the statutory 24 month commitment deadline outlined in Section 218(g) of the Act for FY2014-FY2019 funds.

The Consolidated Appropriations Act of 2017 also included this language in Section 234, but extended the term to 2020.

Note that HUD has not interpreted this to mean that the reservation deadline enumerated in Section 231 of the Act is not applicable; they contend that the CHDO set-aside is still subject to a 24 month deadline.

### **Regulatory Relief from Expenditure Deadline**

The expenditure deadline for FY 2015 and later funds has been withdrawn per the Interim Final Rule. The final expenditure deadline will be in 2019.

### **Waiver of CHDO Set-Aside**

On October 13, 2017, HUD issued a notice of available waivers to all HOME grantees whose jurisdiction included areas impacted by Hurricanes Harvey, Irma, and Maria. A waiver of the CHDO set-aside requirement for FY2016, 2017, and 2018 was included in the available waivers, and TDHCA accepted this waiver on October 25, 2017. TDHCA continues to allocate funds to CHDOS, but these funds will utilize non-CHDO funds and are therefore not subject to the CHDO reservation deadline in Section 231 of the Act. Non-CHDO funds may be utilized for any CHDO eligible activity.

### **Eligible Activities**

HOME Program funds support a variety of eligible activities including Homeowner Rehabilitation, Homebuyer Assistance, Contract for Deed, Tenant-Based Rental Assistance, Single Family Development, and Multifamily Development. In addition, TDHCA has set aside funding for Disaster Relief and Persons with Disabilities, among other set-asides.

Single family activities are administered through TDHCA’s HOME Single Family Division, while multifamily activities are administered through TDHCA’s Multifamily Finance Division.

## **HOME Program Rules**

### **TDHCA Rules and Standards**

- [Title 10, Texas Government Code, Chapter 2306 – TDHCA Governing Statute \(TX Legislature Web site\)](#)
- [10 TAC Chapter 1 – TDHCA Administration General Policies and Procedures \(SOS Web site\)](#)
- [10 TAC Chapter 2 – TDHCA Enforcement Procedures \(SOS Web site\)](#)

- [10 TAC Chapter 20 - Single Family Programs Umbrella Rule \(SOS Web site\)](#)
- [10 TAC Chapter 21 – Minimum Energy Efficiency Requirements for Single Family Construction Activities \(SOS Web site\)](#)
- [10 TAC Chapter 23 - Single Family HOME Program Rule \(SOS Web site\)](#)
- [Search for Previous State of Texas HOME Rules \(SOS Web Site\)](#)
- [HOME Homeownership Value Limits \(Effective 4/1/2018\) \(XSLX\)](#)
- [Texas Minimum Construction Standards \(PDF\)](#)

### **HOME Federal Rules and Regulations (Links to HUD's [www.hudexchange.info](http://www.hudexchange.info))**

- [24 CFR Part 92 - Home Investment Partnerships Program Final Rule](#)
- [HOMEfires Notices](#)
- [Community Planning and Development \(CPD\) Notices](#)

### **FEDERAL REGISTER**

#### **Testing**

We documented the fund tracking process from awarded amount, through understanding the allocation formula, the reservation and contract system procedures, and tested seven sample contracts through the fund allocation tree for:

- allocation amount
- contract allocation
- expenditure timelines
- closing timelines
- exchange of funds in projects
- confirmed amounts matched between HCS and IDIS systems
- commitments within timeline for each year
- correct rules in place for each year
- CHDO set aside if applicable to that contract, though a waiver is currently in place for CHDO funds
- 9 year fund life, 4 obligation, 5 expiration
- 4 year project completion timeline
- 10% administrative costs limit
- De-obligation of funds

Our testing noted no instances of non-compliance. We did note the following opportunities for improvement in the data used to perform the HOME fund administration:

18-003.2 The Housing Contracting System (HCS) report has two columns, Obligation Expiration and Expenditure Expiration that contain dates that are not accurate for the FYs they relate to. On testing the seven contracts, we did not see these particular dates used, which might have resulted in possible funds lapsed, but OIA notes that the reports should be evaluated for data to be correct.

The HOME Program responded on October 24, 2018, *"HHPD has contacted IS regarding the columns on the source of funds page and program funds page, and has confirmed that these columns were part of the original scope of the design of the system, but never performed any function as anticipated and will be removed. There is a current work order in place."*

OIA extends our sincere appreciation to management and staff of the HOME Program for their cooperation and assistance during the course of this audit.

Sincerely,



Mark Scott, CPA, CIA, CISA, CFE, MBA  
Internal Audit Director

MS/CK