

Overview of HOME-ARP Non-Congregate Shelter Projects

Background

HOME-ARP funds may be used to acquire and develop non-congregate shelters (NCS) for individuals and families in qualifying populations, including the acquisition of land and construction, acquisition and/or rehabilitation of existing structures such as motels, hotels, or other facilities. Funds may not be used to pay the operating costs of an NCS. City of Gary must consider the availability of ongoing operating funds for the NCS so that they are viable through the restricted use period. A jurisdiction can limit HOME-ARP non-congregate shelter to specific sub-populations, so long as the limitation does not violate non-discrimination laws. They can also create preferences for qualifying eligible sub-populations. No one can be excluded, however, for not having a specific disability.

During the restricted use period, a HOME-ARP funded NCS can:

- Remain a HOME-ARP NCS in compliance with the requirements of HOME-ARP.
- Be used as a non-congregate emergency shelter under the ESG) program so long as it complies with all requirements that apply when ESG funds are provided for operating costs or essential services in the shelter. (During any period for which ESG funds are provided, the applicable ESG requirements shall govern in the event of any conflict with HOME-ARP requirement).
- Be converted to permanent affordable housing according to the requirements established above.
- Be converted to permanent housing under the McKinney-Vento Homeless Assistance Act.

Admission and Occupancy:

HOME-ARP NCS units may only be occupied by individuals or families who are from one or more of the qualifying populations. Qualifying populations cannot be charged occupancy fees or other charges to occupy an NCS unit unless the jurisdiction determines fees and charges to be customary and reasonable and they comply CoC rules.¹ City of Gary is encouraged to incorporate each HOME-ARP NCS into the CoC's CES. Supportive services may also be provided as needed to qualifying individuals and families served by the HOME-ARP NCS. No individual or family may be denied admission to or removed from a HOME-ARP NCS unit on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the individual or family meets the criteria of one of the qualifying populations.

Eligible Activities

¹ Continuum of Care Rules at 24 CFR §578.77(b)

HOME-ARP funds may be used to acquire and/or rehabilitate or construct NCS units to serve qualifying populations. Acquisition of vacant land or demolition of existing structures may be undertaken only as part of a HOME-ARP NCS project. HOME-ARP NCS units acquired and/or developed with HOME-ARP funds must meet the requirements the HOME-ARP program.

Eligible Costs

HOME-ARP funds may be used for actual costs of acquiring NCS or developing an NCS as follows:

- **Acquisition costs** to acquire improved or unimproved real property.
- **Demolition costs** for demolishing existing structures for the purpose of developing an NCS.
- **Development hard costs**, as defined in the HOME program,² to rehabilitate or construct NCS units, except costs must be for meeting the physical standards .
- **Site improvements** to the project site, including installation of utilities or utility connections, and the construction or rehabilitation of laundry, community facilities, on-site management, or supportive service offices.
- **Related soft costs**, which are reasonable and necessary costs incurred by the participating jurisdiction and owner associated with the financing, acquisition, and development of HOME-ARP NCS projects, including costs identified through the HOME program³ except not including:
 - Costs to provide information services such as affirmative marketing to prospective homeowners and tenants;
 - Costs of funding an initial operating deficit reserve;
 - Costs of project-specific assistance to community housing development organizations, including technical assistance and site control loans or seed money loans.
- **Replacement reserve** to pay the reasonable and necessary costs of replacing major systems⁴ and their components whose useful life will end during the restricted use period. The costs of replacing major systems must be determined through a Capital Needs Assessment or documented in writing after an inspection by the participating jurisdiction or their selected contractor to assess the remaining useful life of major systems expected upon completion of the HOMEARP NCS project. The costs of a replacement reserve must be included in the project budget in the written agreement along with a list of major systems to be replaced with the reserve and projected replacement schedule during the restricted use period (i.e., reserve for replacement analysis). Rehabilitation planned to be completed with HOMEARP NCS reserve funds at a later date must be included in IDIS as a rehabilitation activity at initial commitment.

Prohibited Costs

HOME-ARP funds may not be used to:

- Pay any operating costs of a HOME-ARP NCS project.

² Home program at 24 CFR §92.206(a)

³ Home program at in 24 CFR §92.206(d)

⁴ Major systems include structural support, roofing, cladding, and weatherproofing, plumbing, electrical and HVAC.

- Provide additional HOME-ARP investment in a HOME-ARP NCS project during the restricted use period, except that additional HOME-ARP funds can be invested in the project up to 1 year after project completion in IDIS for eligible costs.
- Pay costs of a conversion of HOME-ARP NCS.
- Provide non-federal matching contributions required under any other federal program.
- Provide assistance for uses authorized under section 9 of the U.S. Housing Act of 1937.⁵
- Provide assistance to eligible low-income housing under HUD mortgage and loan assistance programs.⁶
- Pay for the acquisition of property owned by the participating jurisdiction, except for property acquired by the jurisdiction with HOME-ARP NCS funds, or property acquired in anticipation of carrying out a HOME-ARP NCS project.
- Pay delinquent taxes, fees, or charges on properties to be assisted with HOME-ARP NCS funds.
- Pay for any cost that is not eligible under HOME-ARP.

Commitment:

City of Gary must commit HOME-ARP funds before disbursing funds for an NCS project. They are considered “committed” when the jurisdiction executes a legally binding written agreement that meets the requirements.

If the project is an acquisition-only activity, the jurisdiction may commit HOME-ARP funds if it reasonably expects the project will be operated as HOME-ARP NCS within 6 months of the date of acquisition. Acquisition-only HOME-ARP NCS projects may be performed when the jurisdiction reasonably determines that the units acquired will not require rehabilitation to meet the property standards under HOME-ARP. If the project is not in active use as HOME-ARP NCS within 6 months of the acquisition, HUD may require the jurisdiction to submit a schedule for placing the project into operation within a period determined by HUD or may require the jurisdiction to repay the funds to its HOME-ARP Treasury Account.

For projects that will involve rehabilitation or new construction with or without acquisition, the participating jurisdiction may commit HOME-ARP funds if it reasonably expects development to begin within 12 months of the date of commitment.

Project Development Due Diligence:

Non-congregate shelter projects must meet HOME-ARP requirements for the restricted use period. Before awarding HOME-ARP funds to an NCS project, City of Gary must determine that acquisition and/or development is financially feasible.

The jurisdiction is responsible for maintaining continued operation of the NCS in accordance with HOME-ARP throughout the restricted use period. Therefore, the jurisdiction must consider whether the NCS project has secured or has a high likelihood of securing operating funding because operating costs cannot be paid with HOME-ARP. City of Gary must assess HOME-ARP NCS projects, including a review of information from the owner and/or developer that

⁵ U.S. Housing Act of 1937 (42 U.S.C. §1437g) (Public Housing Capital and Operating Funds).

⁶ HUD Mortgage and Loan Assistance Programs at 24 CFR part 248 (Prepayment of Low-Income Housing Mortgages).

demonstrates the project's financial feasibility throughout the restricted use period. Before awarding funds for HOME-ARP NCS, the jurisdiction must:

- Require that the developer submit evidence of appropriate skills and experience related to the development of shelters or similar facilities.
- Require the owner to submit evidence of prior experience with operating shelters.
- Require an acquisition or development budget, timeline, and sources and uses statement for the acquisition and/or development of the project be submitted for review.
- Require the owner to submit a proposed operating budget, including secured sources for operating costs and any operating gap that will require additional assistance. If there is a gap in the operating budget, the jurisdiction should require the owner to submit a plan for securing additional private, local, state, or federal funding sufficient for successful operation of the project.

Before committing funds, the participating jurisdiction should also determine whether the owner intends to continue operating the project as HOME-ARP NCS or emergency shelter NCS under ESG for the entire full restricted use period or plans to convert the HOME-ARP NCS to permanent affordable housing or CoC permanent housing during the restricted use period, once the minimum use period for HOME-ARP NCS is completed. If a HOME-ARP NCS project owner intends to convert the project to CoC permanent housing or PSH during the restricted use period, the jurisdiction is encouraged to pursue partnership and leveraging opportunities with the CoC early in the planning stage of a HOME-ARP NCS project. In such instances, the jurisdiction should consider the physical design needs of an eventual conversion in its evaluation of the HOME-ARP NCS project.

Property and Habitability Standards

HOME-ARP NCS projects must meet the minimum HOME-ARP property standards prior to occupancy and the ongoing property standards throughout the restricted use period. An "acquisition only" project must meet the minimum property standards described under "Minimum HOME-ARP NCS Property Standards" at the time of acquisition. If the project requires rehabilitation or repair to meet the minimum property standards, the project is considered acquisition and rehabilitation irrespective of the source of funds used for the rehabilitation or repair and must meet the NCS rehabilitation standards under "On-going Property Standards and Inspections" below. In addition, jurisdictions must meet the standards for rehabilitation or new construction, as applicable. The jurisdiction must determine that construction contracts and documents describe the work to be completed in adequate detail to establish a basis for inspection to determine that all work was completed to contracted specifications and that the project met the HOME-ARP NCS property standards.

Project classification as rehabilitation or new construction is determined by the participating jurisdiction's local code requirements based on specific work to be completed. Jurisdictions may also choose to adopt a standard that exceeds the minimum standards described under HOME-ARP. The written agreement must impose the HOME-ARP NCS property standards or the jurisdiction's locally developed standards and require that the jurisdiction or its representatives have access to the property to perform inspections during development and throughout the restricted use period.

Minimum HOME-ARP NCS Property Standards: All HOME-ARP NCS units and common areas must meet all applicable State and local codes, ordinances, and requirements and the

applicable provisions of HUD's Lead Safe Housing Rules. In addition, all HOME-ARP NCS projects must meet minimum safety, sanitation, accessibility, and privacy standards.

For detailed guidance for what is required can be found in the Final HOME-ARP Implementation Notification.⁷

Minimum HOME-ARP NCS Rehabilitation Standards: HOME-ARP NCS rehabilitation projects must meet all applicable state and local codes, ordinances, and requirements, or in the absence of such codes, International Residential Code or the International Building Code (as applicable), and must comply with the Lead Safe Housing Rule. Additionally, City of Gary must consider the remaining useful life of major systems.

For detailed guidance for what is required can be found in the Final HOME-ARP Implementation Notification.⁸

Minimum HOME-ARP NCS New Construction Standards: HOME-ARP NCS projects that are newly constructed must meet all applicable state and local codes, ordinances, and requirements, or in the absence of such codes, the International Residential Code or the International Building Code (as applicable to the type of structure). HOME-ARP funds cannot be used to fund a replacement reserve for newly constructed HOME-ARP NCS.

On-going Property Standards and Inspections: City of Gary must develop ongoing inspection procedures to verify that HOME-ARP NCS projects meet the minimum NCS property standards established under HOME-ARP throughout the restricted use period. Their inspection procedures must require annual inspections that are applied consistently to all HOME-ARP NCS projects. When they identify deficiencies, a follow-up inspection to verify that deficiencies are corrected must occur within 6 months. The jurisdiction may establish a list of non-hazardous deficiencies for which correction can be verified by third-party documentation (e.g., paid invoice or work order) rather than reinspection. If life-threatening deficiencies exist, the owner or operator of the HOME-ARP NCS must correct such deficiencies immediately. In those case, the jurisdiction must re-inspect to verify the deficiency has been corrected within 14 days.

Project Completion

Project completion will occur when:

- All necessary title transfer requirements and construction work has been performed;
- The project complies with the requirements HOME-ARP, including the property standards as evidenced by a final inspection;
- The project is actively operating as a HOME-ARP NCS;
- Final drawdown of HOME-ARP funds has been disbursed; and
- Project completion information is entered into IDIS.

All HOME-ARP NCS projects must be completed within 4 years of the date of commitment of the HOME-ARP funds based on the date of the last signature on the written agreement. If the participating jurisdiction fails to complete a project within 4 years of project completion, it must

⁷ Final Home-ARP Implementation Notice, CPD-21-10, U.S. Department of Housing and Urban Development Community Planning and Development, September 13, 2021, page 60.

⁸ Final Home-ARP Implementation Notice, CPD-21-10, U.S. Department of Housing and Urban Development Community Planning and Development, September 13, 2021, page 60.

comply with the terminated project HOME program requirements.⁹ HOME-ARP NCS rehabilitation and new construction projects must begin operating as active shelters within 6 months after the date of completion of the construction work. If the HOME-ARP NCS project is not in use within 6 months, HUD may require the jurisdiction to submit a schedule for placing the project into operation as an active shelter within a period determined by HUD or may require the jurisdiction to repay the HOME-ARP funds to its HOME-ARP Treasury Account.

Restricted Use Period

HOME-ARP NCS projects must comply with the HOME-ARP requirements for not less than the restricted use period specified below for each type of project. Requirements should be imposed through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with state recordation laws, or other mechanism approved by HUD.

Note: The use restriction should not identify that the property is prioritized for victims of domestic violence, dating violence, sexual assault, stalking or human trafficking.

The use restriction must require that the property is operated as HOME-ARP NCS or non-congregate emergency shelter under ESG for the required restricted use period except that HOME-ARP NCS projects may be converted to permanent affordable housing or CoC permanent housing after being operated as HOME-ARP NCS for the applicable minimum use period prior to conversion as described above. If the HOME-ARP NCS is converted, the participating jurisdiction must amend its use restriction to reflect the change in requirements for the remainder of the restricted use period.

The restricted use period begins at project completion as defined under HOME-ARP and must be imposed for at least the following periods:

- **New Construction:** Newly constructed HOME-ARP NCS units must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 15 years, regardless of the amount of HOME-ARP funds invested in the project.
- **Rehabilitation:** HOME-ARP NCS units which receive any amount of HOME-ARP funds for rehabilitation but are not designated as new construction by the participating jurisdiction's state or local building code requirements must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 10 years.
- **Acquisition only:** Units acquired for use as HOME-ARP NCS that do not require rehabilitation for occupancy must serve the qualifying populations for a restricted use period of 10 years. City of Gary may impose longer restricted use periods but must require the project remain financially viable for the extended period.

Return of Replacement Reserve

HOME-ARP funds may capitalize a replacement reserve for HOME-ARP NCS projects performing rehabilitation. Any unexpended HOME-ARP funds remaining in a project's replacement reserve at the completion of the restricted use period or upon conversion must be used or returned.

⁹ Home program at 24 CFR §92.205(e)(2)

For detailed guidance for what is required can be found in the Final HOME-ARP Implementation Notification.¹⁰

Conversion of Non-Congregate Shelter to Rental Housing

The ARP authorizes the conversion of HOME-ARP NCS units into permanent housing under McKinney-Vento or permanent affordable housing as described in HOME-ARP above, during the restricted use period. But no HOME-ARP funds may be used for conversion.

Detailed guidance for what is allowed and/or required can be found in the Final HOME-ARP Implementation Notification.¹¹

¹⁰ Final Home-ARP Implementation Notice, CPD-21-10, U.S. Department of Housing and Urban Development Community Planning and Development, September 13, 2021, pages 62-63.

¹¹ Final Home-ARP Implementation Notice, CPD-21-10, U.S. Department of Housing and Urban Development Community Planning and Development, September 13, 2021, pages 63-67.