



HOME-ARP Guidelines

Nonprofit Operating Assistance

Summary

This guide is in accordance with [HUD Notice CPD-21-10, Requirements for the Use of Funds in the HOME-American Rescue Plan Program \(HOME-ARP\)](#). Arkansas Development Finance Authority (ADFA) may authorize (up to 5%) of its HOME-ARP allocation funds to pay operating costs of CHDOs and other non-profit organizations who serve the Qualifying Population as defined in the [HOME-ARP Notice](#), and who are committed to carry out one or more of the HOME-ARP Activities (Development of HOME-ARP Non-Congregate Shelter (NCS) and/or provide HOME-ARP Supportive Services (SS)).

To qualify for the HOME-ARP Operating Expense Assistance, applicants will be required to simultaneously submit a HOME-ARP Activity application for one or more of the HOME-ARP Activities or have already been committed to a HOME-ARP Activity.

QUALIFYING POPULATIONS

1. Homeless¹
 - A. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - 1) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - 2) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
 - 3) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
 - B. An individual or family who will imminently lose their primary nighttime residence, provided that:
 - 1) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

¹ [As defined in 24 CFR 91.5 Homeless \(1\), \(2\), or \(3\)](#)

- 2) No subsequent residence has been identified; and
 - 3) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- C. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- 1) Are defined as homeless under section [Federal Register :: Runaway and Homeless Youth, 637 of the Head Start Act \(42 U.S.C. 9832\);section 12471 of Title 34, Crime Control and Law Enforcement, section 41403 of the Violence Against Women Act of 1994 \(42 U.S.C. 14043e-2\), section 330\(h\) of the Public Health Service Act \(42 U.S.C. 254b\(h\)\), section 3 of the Food and Nutrition Act of 2008 \(7 U.S.C. 2012\), Section 17\(b\) of the Child Nutrition Act of 1966 \(42 U.S.C. 1786\(b\)\), or Section 725 of the McKinney-Vento Homeless Assistance Act \(42 U.S.C. 11434a\);](#)
 - 2) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - 3) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - 4) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

2. At risk of Homelessness²

A. An individual or family who:

- 1) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

[As defined in 24 CFR 91.5 At risk of Homelessness](#)²

- 2) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition in this section; and
- 3) Meets one of the following conditions:
 - a. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - b. Is living in the home of another because of economic hardship;
 - c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
 - d. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
 - e. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
 - f. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - g. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;
- B. A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under [34 U.S.C Section 11279\(2\)](#), [Section 637\(11\) of the Head Start Act \(42 U.S.C. 9832\(11\)\)](#), [Section 41403\(6\) of the Violence Against Women Act of 1994 \(42 U.S.C. 14043e-2\(6\)\)](#), [section 12473 of Title 34](#), [Section 330\(h\)\(5\)\(A\) of the Public Health Service Act \(42 U.S.C. 254b\(h\)\(5\)\(A\)\)](#), [Section 3\(l\) of the Food and Nutrition Act of 2008 \(7 U.S.C. 2012\(l\)\)](#), or [Section 17\(b\)\(15\) of the Child Nutrition Act of 1966 \(42 U.S.C. 1786\(b\)\(15\)\)](#); or
- C. A child or youth who does not qualify as "homeless" under this section but qualifies as "homeless" under section [725\(2\) of the McKinney-Vento](#)

[Homeless Assistance Act \(42 U.S.C. 11434a\(2\)\)](#), and the parent(s) or guardian(s) of that child or youth if living with her or him.

3. Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking³

For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

Domestic violence⁴

Includes felony or misdemeanor crimes of violence committed by:

- A. current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
- B. A person with whom the victim shares a child in common;
- C. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- D. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
- E. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence⁵

Violence committed by a person:

[As defined by HUD for HOME-ARP in CPD-21-10 page IV.A.3.](#)³

[Defined in 24 CFR 5.2003](#)⁴

[Defined in 24 CFR 5.2003](#)⁵

- A. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- B. here the existence of such a relationship shall be determined based on consideration of the following factors:
 - 1) The length of the relationship;
 - 2) The type of relationship; and
 - 3) The frequency of interaction between the persons involved in the relationship.

Sexual assault⁶

any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking⁷

engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- A. Fear for the person's individual safety or the safety of others; or
- B. Suffer substantial emotional distress.

Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:

- A. Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- B. Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, using force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

4. Other Populations:

Other populations where providing supportive services or assistance under [Section 212\(a\) of NAHA \(42 U.S.C. 12742\(a\)\)](#) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

[Defined in 24 CFR 5.2003](#)⁶
[Defined in 24 CFR 5.2003](#)⁷

- A. Other Families Requiring Services or Housing Assistance to Prevent Homelessness is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in [24 CFR 91.5](#), but are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance, to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.
- B. At Greatest Risk of Housing Instability is defined as household who meets either paragraph 1) or 2) below:
- 1) has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);
 - 2) has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at [24 CFR 91.5](#):
 - a. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - b. Is living in the home of another because of economic hardship;
 - c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance; (D)Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
 - d. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
 - e. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - f. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan

5. Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above. are eligible to receive HOME-ARP assistance.

ELIGIBLE COSTS

ADFA may provide operating expense assistance to non-profit organizations, who serve the Qualifying Population as defined in the [HOME-ARP Notice](#), and who are committed to carry out one or more of the HOME-ARP Activities (Development of HOME-ARP Non-Congregate Shelter (NCS) and/or provide HOME-ARP Supportive Services (SS). The operating expense assistance application must be submitted with an application for NCS Housing or SS.

In any fiscal year, operating expense assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, for that fiscal year, or \$50,000. In no instance will ADFA provide more than \$300,000 in operating assistance expense funds, per application.

Operating Expense Assistance

Operating Expense Assistance is defined as reasonable and necessary costs of operating the non-profit organization.

Eligible costs include:

- Employee salaries, wages, compensation, and benefits
- Employee education, training, and travel
- Rent
- Utilities
- Communication costs
- Taxes
- Insurance
- Equipment, materials, and supplies

HOME-ARP funds used for operating expenses must be used for the “**general operating costs**” of the nonprofit organization. These operating costs must not have a particular final cost objective, such as a project or activity, and/or must not be directly assignable to a HOME-ARP activity or project.

For example, HOME-ARP funds for Operating Expenses **may not** be used for staffing costs to provide Supportive Services or develop HOME-ARP NCS (as operating costs to develop HOME-ARP NCS are paid for by a developer fee, which is a project delivery or soft cost). **Additionally, all costs related to operating a non-congregate shelter (e.g., allocable overhead and staffing costs, insurance, utilities) cannot be paid with HOME-ARP funds.**

The actual costs of implementing a specific activity or project, including staff costs to deliver supportive services are considered HOME-ARP project delivery costs or

project soft costs and are not eligible costs under Nonprofit Operating Expense Assistance. All project delivery costs are allocable to a HOME-ARP project, including direct project and related delivery costs integral to developing the project or providing the activity. ***HOME-ARP project delivery costs may be paid, if eligible, by HOME-ARP funds provided under a written agreement for that specific activity or project and must not be paid with nonprofit Operating Expense Assistance.***

Limitation

National Affordable Housing Act (NAHA) and HOME regulations limit the amount of operating expense assistance that an organization can receive annually.

In any fiscal year, operating expense assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, for that fiscal year, or \$50,000. In no instance will ADFA provide more than \$300,000 in operating expense assistance funds, per application.

To implement the above limitations on assistance, HUD has established separate fund types in IDIS for Operating Expense Assistance. This will facilitate accurate tracking and ensure that ADFA does not exceed the limits established in NAHA and ARP.

COMMITMENT OF OPERATING ASSISTANCE

To receive HOME-ARP Operating Expense Assistance, ADFA will require a legally binding written agreement between ADFA and the non-profit organization to be funded. Additionally, ADFA will require the non-profit organization funded to submit annual financial statements and documentation verifying services were provided for HOME-ARP qualifying populations.

OTHER FEDERAL REQUIREMENTS

HOME-ARP funds are federal financial assistance and, therefore, are subject to requirements applicable to such funds. PJs must comply with the following requirements: [24 CFR part 92, subpart H, 92.352](#) - Environmental review; [92.353](#) - Displacement, relocation, and acquisition; and [92.355](#) - Lead-based paint.

Other Federal Requirements and Nondiscrimination

The requirements in [24 CFR 92.350](#) apply to the HOME-ARP program. PJs must comply with the Federal requirements set forth in [24 CFR part 5, subpart A](#), including: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; drug-free work; and housing counseling and the nondiscrimination requirements at section 282 of NAHA. The requirements in section 282 of NAHA are waived in connection with the use of HOME-ARP funds on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108). PJs must also comply with the Violence Against Women Act (VAWA) requirements set forth in [24 CFR 92.359](#).

Affirmative Marketing and Minority Outreach

The requirements in [24 CFR 92.351](#) apply to HOME-ARP activities.

National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and Related Laws

The environmental requirements in [24 CFR 92.352](#) apply to eligible activities under this Notice. The environmental effects of each activity carried out with HOME-ARP funds must be assessed in accordance with the provisions of NEPA and the related authorities listed in HUD's implementing regulations at [24 CFR part 58](#). The applicability of the provisions of [24 CFR part 58](#) is based on the HOME-ARP project, as a whole (i.e., all individual project activities, such as acquisition and rehabilitation, aggregated according to the requirements at [24 CFR 58.32](#)), not on the type of the cost paid with HOME-ARP funds. In accordance with the provisions in [24 CFR part 58](#), activities undertaken with HOME-ARP funds are subject to environmental review by a PJ. The PJ (referred to as the "Responsible Entity" or "RE") must assume responsibility for environmental review, decision making, and action for each activity that it carries out with HOME-ARP funds, in accordance with the requirements at [24 CFR Part 58](#).

Conflicts of Interest

HOME-ARP is subject to the following conflicts of interest requirements:

Conflicts of Interest: PJs and subrecipients engaging in any of the activities defined this Notice shall be subject to the conflicts of interest provisions at [24 CFR 92.356](#), including but not limited to the conflicts of interest exception process defined in [24 CFR 92.356\(d\)-\(e\)](#).

Written Standards of Conduct: PJs and subrecipients must maintain written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under this Notice and [2 CFR 200.318](#). The written standards of conduct must also provide for internal controls and procedures to require a fair and open selection process for awarding HOME-ARP funds pursuant to this Notice. These standards must include provisions on if and how Continuum of Care board members may participate in and/or influence discussions or resulting decisions concerning the competition or selection of an award or other financial benefits made pursuant to the HOME-ARP Notice, including internal controls on when funds may be awarded to the organization that the member represents.

Requesting Exceptions to Organizational Conflicts of Interest: Any request for an exception to the organizational conflicts of interest provisions in this Notice shall be in writing and shall be considered by HUD only after the PJ has provided the following:

- a. A written disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

b. An opinion of the PJ's attorney that the interest for which the exception is sought would not violate State or local law.

Granting Exceptions to Organizational Conflicts of Interest: HUD shall determine whether to grant an exception to the organizational conflicts of interest on a case-by-case basis when it determines that the exception will serve to further the purposes of HOME-ARP. HUD shall consider the following factors, as applicable, in determining whether to grant such an exception:

- a. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available
- b. Whether undue hardship will result to the PJ, State recipient, subrecipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
- c. Whether conditioning approval on changes to the PJ, State recipient, or subrecipient's policies or procedures can adequately address the organizational conflict of interest; and
- d. Any other factors relevant to HUD's determination, including the timing of the requested exception.

Written Agreement Requirements

Before disbursing any HOME-ARP funds to any entity, the PJ must enter into a written agreement with that entity pursuant to [24 CFR 92.504](#). A written agreement cannot commit to providing HOME-ARP funds after the end of the HOME-ARP budget period.

The written agreement must require compliance with the requirements of the CPD 21-10 Notice.

The written agreement provisions in [24 CFR 92.504](#) that reference the requirements of [24 CFR 92.350](#), [24 CFR 92.351](#), and [24 CFR 92.359](#) are not waived and apply for all HOME-ARP written agreements.

Non-Profit Operating Expense Assistance: The requirements at [24 CFR 92.504\(c\)\(6\)](#), apply to the use of HOME-ARP funds for non-profit operating expense assistance. The written agreement must describe the amounts and uses of HOME-ARP funds for operating expenses, The non-profit organization must also receive HOME-ARP funds to carry out a HOME-ARP project, such as NCS or SS and the agreement must provide that the organization is expected to carry out the HOME-ARP project within 24 months of the date of receiving the funds for operating expense assistance. The agreement must specify the terms and conditions upon which this expectation is based and the consequences of failure to receive funding for a project.

The PJ must identify the scope of assistance, eligible uses and costs, and a budget for the operating expenses.

Audit: Audits must be conducted in accordance with [2 CFR part 200, subpart F](#).

Applicability of Uniform Administrative Requirements: The requirements of [2 CFR part 200](#), as amended apply to PJs and subrecipients receiving HOME-ARP funds, except for the following provisions: [2 CFR 200.306](#), [200.307](#), [200.308](#) (not applicable to participating jurisdictions), [200.311](#) (except as provided in [24 CFR 92.257](#)), [200.312](#), [200.329](#), [200.333](#), and [200.334](#). The provisions of [2 CFR 200.305](#) apply as modified by [24 CFR 92.502\(c\)](#) and this Notice. If there is a conflict between definitions in [2 CFR part 200](#) and [24 CFR part 92](#), the definitions in [24 CFR part 92](#), govern. Moreover, if there is a conflict between the provisions of [2 CFR part 200](#) and the provisions of this Notice, the provisions of this Notice govern.

Where regulations in [24 CFR part 92](#) refer to specific regulations of [2 CFR part 200](#) that were or are renumbered or revised by amendments to [2 CFR part 200](#), the requirements that apply to the use of HOME-ARP funds are the applicable requirements in [2 CFR part 200](#), as amended, notwithstanding the renumbered regulatory reference.

Integrated Disbursement and Information System (IDIS): The PJ will use IDIS to administer its HOME-ARP funds. The PJ will request disbursements of HOME-ARP funds from its Treasury account and collect and report information on the use of HOME-ARP funds through IDIS. (For purposes of reporting in IDIS, a HOME-ARP project is an activity.) The PJ must report all program income in IDIS.

The requirements of [24 CFR 92.502\(c\)\(3\)](#) do not apply to HOME-ARP funds.

In accordance with this Notice, a HOME-ARP written agreement providing HOME-ARP funds to a nonprofit must be signed and dated by the PJ and nonprofit organization for HOME-ARP Operating Expense Assistance. This must occur before any HOME-ARP funds are disbursed.

Project Records: PJs are required to retain the following records for HOME-ARP-assisted projects:

Records (i.e., written agreements) demonstrating compliance with the written agreement requirements in the [Section VIII.B](#) of the [CPD 21-10 Notice](#).

For HOME-ARP-assisted nonprofit operating expense assistance activities:

- i. Records concerning the use of funds for nonprofit operating expense assistance must be maintained to enable HUD to determine whether the PJ has met the requirements of [Section VI.F](#) of the [CPD 21-10 Notice](#).
- ii. Written agreement between the PJ and the nonprofit organization providing nonprofit operating expense assistance must be retained for five years after the agreement terminates.

Access to records: The PJ must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws and any other applicable grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

The subrecipient may create a program participant identifier code or number that can be used on a file and maintained internally, in such a way that the number itself does not inadvertently identify the program participant, (i.e., no use of initials, date of birth, or other pieces of information that might suggest the identity of the program participant). The “key” or “cypher” for the program participant identifier code would itself be confidential and would not leave the provider. In the circumstance of HUD programs, the Unique Personal Identification Number which is generated within the comparable database could be used with auditors to identify records of services to distinct individuals, subject to the below requirement.

HUD and the Comptroller General of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers, or other records of the PJ, state recipients, and subrecipients, in order to make audits, examinations, excerpts, and transcripts. If a provider of services or operator of an NCS is subject to state or local laws or other federal grant programs that require that HUD not be given access to records detailing PII of victims, then auditors or evaluators may be given access to representative files without any sharing of individual identifying information.