



MEMO

To: Local Program Administrators (LPAs) with open NYS HOME Local Program contracts that require the filing of a recapture note and mortgage to secure the HOME investment.

From: Ann Petersen, Director, NYS HOME Local Program

Subject: Clarification on what to include in the lien amount

Federal regulations require the NYS HOME Local Program to establish recapture requirements. This ensures that HOME funding is recovered if the HOME assisted unit does not continue to be the principal residence of the recipient for the duration of the period of affordability. [24CFR Part 92.254(5)(ii)(A)(5)].

HUD regulations state that the HOME amount subject to recapture is the amount of HOME assistance that **directly enables the homebuyer or homeowner to buy or newly construct or repair the dwelling unit. This is known as the direct subsidy.**

HUD regulations further state that the recapture amount should not include indirect costs of staff and overhead related to carrying out the project and other costs of producing the unit. [24CFR Part 92.207 (5)(b)].

Based on the above, the NYS HOME Local Program is clarifying to all LPA's that the lien amount should not include administrative, staff costs of project delivery or soft costs.

The Housing Trust Fund Corporation does not wish for low income households to be responsible for the ancillary costs of managing housing programs intended to help them attain decent, safe, sanitary, and affordable conditions. Therefore softs costs, administrative, and, staffing costs, while needed to provide the service, should not be included in the lien amount. Only include **project costs** in the lien amount.

Why? HUD allows LPA's to invoice for administrative and staff costs of project delivery, the owner/home beneficiary should not be charged again for this service. Project costs typically include down payment/closing cost assistance (acquisition) and/or new construction or rehabilitation of residential housing (materials and labor).

For a description of eligible project costs by HOME Local activity, see the NYS HOME Local Program Budget Policy attached to this memo.

If you have questions, please contact your NYS HOME Local Program Manager as assigned to your contract by the HTFC.