



CITY OF ATLANTA
DEPARTMENT OF GRANTS AND COMMUNITY DEVELOPMENT
55 TRINITY AVENUE, S.W. SUITE 3500 – ATLANTA, GEORGIA 30303
404-330-6390 - TDD: 404-658-7820
<http://www.atlantaga.gov>

Home Investment Partnership Program

Policies & Procedures Manual

Department of Grants & Community Development

Table of Contents

CHAPTER 1: INTRODUCTION.....	6
1.1 Purpose	6
1.2 Scope	Error! Bookmark not defined.
1.3 Goals.....	7
1.4 Definitions	8
1.5 HUD Income Limits	11
CHAPTER 2: Administrative & Management Overview	12
2.1 Getting Started.....	12
2.2 Critical Success Factors.....	12
2.3 Program Draws	14
2.4 Uniform Administrative Requirements	14
2.5 Religious Organizations	15
2.6 Program Income	15
2.7 Recaptured Funds	16
2.8 Integrated Disbursement and Information System (IDIS).....	16
2.9 Audit Requirements.....	17
CHAPTER 3: Subrecipient Oversight.....	17
3.1 Roles and Responsibilities (PJ and Subrecipient)	17
3.2 Financial Management	19
3.3 Reporting	20
3.4 Reimbursements	22
3.5 Monitoring.....	22
CHAPTER 4: Application and Approval Process.....	24
4.1 Application Process and Requirements	24
4.2 Intake and Review Process	25
4.3 Conflict of Interest.....	25
4.4 Consolidated Plan.....	25
4.5 Commitment of Funds.....	26
4.6 Written Agreements.....	26
CHAPTER 5: General Requirements of the HOME Program	27
5.1 Applicant Eligibility	Error! Bookmark not defined.
5.2 Eligible Activities and Subsidy	27

5.3 Prohibited Activities.....	29
5.4 Eligible Allocation and Funding Categories	29
5.5 Eligible Beneficiaries	30
5.6 Underwriting and Subsidy Layering Guidelines	30
5.7 Resale/Recapture Provisions	32
5.8 Recapture Provisions	34
5.9 Refinancing Policy	36
5.10 Period of Affordability	37
5.11 Project Subsidy Limits	38
CHAPTER 6: Matching Requirements	42
6.1 Basic Facts about Match.....	42
6.2 Keys to Understanding the Match Requirement.....	42
6.3 Eligible Forms of Match.....	43
6.4 Meeting the Match Obligation.....	49
CHAPTER 7: Other Federal Requirements.....	51
7.1 Environmental Reviews.....	52
7.2 Equal Employment Opportunity and Contracting	54
7.3 Non-Discrimination and Equal Access.....	62
7.4 Acquisition and Relocation.....	64
7.5 Lead Based Paint	67
7.6 Violence Against Women Reauthorization Act (VAWA) of 2013	71
CHAPTER 8: Minimum Property Standards by Activity Type	74
8.1 New Construction.....	74
8.2 Rehabilitation	75
8.3 Frequency of Inspections.....	76
8.4 Acquisition of Standard Housing	76
8.5 Manufactured Housing	77
8.6 Broadband Infrastructure.....	77
8.7 Tenant-Based Rental Assistance	77
CHAPTER 9: Homebuyer Activities	79
9.1 Development Activities	79
9.2 Forms of Financial Assistance.....	79
9.3 Eligible Costs.....	80

9.4 Eligible Properties	82
9.5 Income Verification	83
9.6 Principal Residence Requirement.....	83
CHAPTER 10: Rental Housing Activities	86
10.1 Eligible Activities.....	86
10.2 Reduction of Units.....	87
10.3 Terminated Projects.....	87
10.4 Eligible Costs.....	87
10.5 Prohibited Fees	88
10.6 Property Types.....	89
10.7 Property Standards.....	90
10.8 Long-Term Affordability.....	91
10.9 Designating HOME Assisted Units	91
10.10 Rent and Occupancy Requirements	92
10.11 Income Eligibility and Targeting Requirements.....	93
10.12 Determining and Verifying Income Eligibility of HOME Tenants	94
10.13 Addressing Increases in Tenant Income during the Affordability Period.....	95
10.14 Leases	98
10.15 Inspections.....	100
10.16 Record Keeping.....	100
10.17 Other Federal Requirements.....	102
10.18 Using the Low-Income Housing Tax Credit (LIHTC) with HOME Funds	104
CHAPTER 11: Homeowner Housing Activities- Owner Occupants	109
11.1 Eligible Activities.....	109
11.2 Forms of Financial Assistance.....	110
11.3 Loan Documentation and Payments	111
11.4 Eligible Costs.....	111
11.5 Eligible Properties	114
11.6 Maximum Property Value	114
11.7 Property Standards.....	115
11.8 Ownership Requirements	115
11.9 Affordability Period Terms and Conditions	115
CHAPTER 12: Tenant-Based Rental Assistance (TBRA).....	117

12.1 Introduction to Tenant-Based Rental Assistance (TBRA)	117
12.2 Eligible Activities and Costs	117
12.3 Ineligible Costs (Activities).....	117
12.4 TBRA Assistance	118
12.5 Marketing & Outreach.....	119
12.6 Application for Rental Assistance	119
12.7 Selection of TBRA Recipients	120
12.8 Issuance of Rental Subsidy Assistance Approval and Unit Approval Process.....	124
12.9 Environmental Review, Property and Occupancy Standards	125
12.10 Lease Requirements.....	127
12.11 Annual Housing Quality Standards (NSPIRE) Unit Inspections.....	129
12.12 Recordkeeping and Reporting	131
CHAPTER 13: Community Development Organizations (CHDOs)	132
13.1 CHDO Activities	132
13.2 IDIS	133
13.3 Environmental Reviews.....	134
13.4 File Documentation	134
13.5 Monitoring and Evaluation.....	134
13.6 Performance Review/Capacity Building	134
13.7 Further Information	135
CHAPTER 14: Record Keeping, Reporting and Monitoring Requirements.....	135
14.1 Overview	135
14.2 Records that Must Be Maintained	135
14.3 Reporting Requirements.....	138
14.4 Monitoring Requirements.....	138
CHAPTER 15: Procurement	141
15.1 Overview of Procurement Requirements	141
15.2 General Procurement Requirements.....	141
15.3 Types of Procurement	143
Appendix	143
Appendix A: HOME Income and Rent Limits.....	144
Appendix B: City of Atlanta’s Conflict of Interest Policy	144
Appendix D: Construction Environmental Review Request Form	151

Appendix E: Non-Construction Environmental Review Request 152

Appendix F: Temporary Relocation Guidelines..... 153

Appendix G: Rehabilitation Standards 156

Appendix H: Rental Market Study Guidelines..... 167

Appendix I: CHDO Requirements Checklist 170

Version	Date	Author	Description	Approved By
1.0	2021-01-01	Nicole Barnes	Initial creation of the Policy	Deborah Lonon
2.0	2024-4-17	Maria Young Gerald Reid	Policy revision	Deborah Lonon

CHAPTER 1: Introduction

1.1 Purpose

The HOME Investment Partnership (HOME) Program was created by Title II of the Cranston- Gonzalez National Affordable Housing Act of 1990. Its purpose is to foster the expanded production of decent affordable housing to lower income households, to leverage private sector participation and to strengthen the ability of local and state governments in providing housing and expanding the capacity of non-profit housing providers.

HUD published a Final Rule in the Federal Register on July 24, 2013, to amend the HOME Program regulations. These amendments to the HOME regulations represent the most significant changes to the HOME Program in seventeen years. The 2013 HOME Final Rule is applicable to projects for which HOME funds were committed on or after August 23, 2013. This manual is not meant to be a substitute for HOME Program regulations, but as a supplement to them. This manual is not exhaustive regarding all considerations affecting the use of HOME Program funds. While careful consideration and due care have been used in developing the manual, HOME Program participants are encouraged to consult DGCD staff and the 2013 HOME Final Rule and amendments for the latest guidance and resources on new requirements. * See [Home Final Rule 2013](#)

Under the HOME Investment Partnerships Program (HOME), the Department of Housing and Urban Development (HUD) allocates funds by formula among eligible State and local governments to strengthen public-private partnerships to provide more affordable housing. The City of Atlanta as a designated Participating Jurisdiction (PJ) may use HOME funds to carry out housing strategies through first-time homebuyer assistance, acquisition, demolition, relocation, rehabilitation, new construction of single family and multifamily rental housing, and tenant-based rental assistance. While the HOME program provides for a variety of activities, the City of Atlanta uses funds for the following activities: construction/rehabilitation of rental units, homebuyer assistance, tenant-based assistance, homeowner rehabilitation, single family and multifamily housing development and operational support for Community Housing Development Organizations (CHDO). The HOME program targets low-income

households in the Atlanta Metropolitan Statistical Area Median Income (AMI). For additional information about the HOME Program, call Department of Grants and Community Development at 404-330-6390. (For translation services, contact iSpeak Atl. More information about translation accommodations available at www.welcomingatlanta.com).

1.2 Goals

The HOME Investment Partnerships Program 24 CFR Part 92.1 (b) identifies the four purposes of the HOME program:

- Provide decent affordable housing to lower income households
- Expand the capacity of nonprofit housing providers
- Strengthen the ability of state and local governments to provide housing
- Leverage private sector participation

The Department of Grants and Community Development (DGCD) promotes the development of affordable housing and community development policies City wide. Our office provides fiscal oversight and management for development contracts, programs, and economic development related initiatives. DGCD works with both public and private partners to improve the lives of residents by encouraging investment in highly distressed and under-invested communities. We provide financing for affordable housing developments, support for neighborhood-based commercial developments, and design/implementation strategies to retain legacy residents.

Responsibilities of the Federal Programs Department:

The Department of Grants & Community Development manages a variety of federally funded programs to include, but not limited to, the following:

- Community Development Block Grants-Entitlement (CDBG)
- HOME Investment Partnership Program-Entitlement (HOME)
- CPD HUD formula and recovery/competitive Housing Opportunities for Persons With AIDS (HOPWA)
- Emergency Solutions Grant (ESG)
- Section 8 Moderate Rehabilitation Program
- Neighborhood Stabilization Program (NSP-1 & NSP-3)
- CARES Funding (ESG-CV, CDBG-CV)

Website <https://www.atlantaga.gov/government/departments/grants-and-community-development>

Distribution Process

The HOME funds are distributed in accordance with the City's Consolidated Plan and/or substantial amendments. The City distributes HOME funds city wide to eligible applicants using a competitive process. DGCD serves as the fiscal agent and is responsible for the financial, administrative, and overall federal programs compliance, including the distribution process of grants awarded to the City of Atlanta. The Department releases an annual application for Entitlement Grants in Spring of each year and currently manages an open application for developers seeking CHDO and Housing Development HOME funds. HOME development applications will move to an annual cycle in the near future.

Administration

DGCD is designated as the agency responsible for administering the HOME program. DGCD works collaboratively with the Office of Grants Management, Grant Accounting, and the Mayor's Office of Human Services on the HOME program. Below is the breakdown of the various responsibilities per City Office.

1.3 Scope

1.4 Definitions

Annual Income - the gross amount of income of all adult household members, including non-related individuals, that is anticipated in the coming twelve (12) month period.

Applicant - any eligible person or entity, public or private, nonprofit and for-profit, proposing to acquire, rehabilitate, and/or build housing utilizing HOME program funds.

Appraisal - an estimated value of a piece of property by a licensed real estate appraiser. The three appraisal techniques employed by an appraiser (for the project) to estimate the value of the real estate are: market data, income, and the cost approach. For appraisals of vacant land, the tool used will be the market data approach.

Audit - a complete and current financial statement that has been audited by a certified public accountant (CPA) licensed by the State of Georgia. Current means not more than twelve (12) months from the date the audit was performed.

City - the City of Atlanta, Georgia.

Community Housing Development Organization (CHDOs) - a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves.

Consolidated Plan – a plan designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the CPD formula block grant programs. The Consolidated Plan is carried out through Annual Action Plan, which provides a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.

Contact Person - a person with the decision-making authority for the application, with whom the Department will correspond with concerning the application.

Conversion – the transforming/rehabilitating of an existing structure (that is not currently used for housing) into affordable housing.

Department/DGCD - the Department of Grants and Community Development.

Developer - any individual, association, corporation, joint venture, or partnership which possesses the requisite skills and experience to successfully produce affordable multifamily and/or single-family affordable housing.

Disabled Person - a household composed of one or more persons, at least one of who is an adult, who has a disability. A person is considered to have a disability if the person has a physical, mental, or emotional impairment that: 1. is expected to be of long continued and indefinite duration; 2. substantially impedes his or her ability to live independently; 3. is of such a nature that such ability could be improved by more suitable housing conditions.

Draw - the disbursement of funds to a HOME Project.

Elderly - a person sixty-two (62) years of age or older.

Elderly Household - a household of one or more persons wherein at least one-half of the residents are elderly.

Eligible Person or Household - one or more persons, or a family, determined to be of low or very low income, irrespective of race, creed, religion, national origin, or sex.

Family or Family Household - a household composed of one or more persons.

Financial Statements - balance sheets, income statements, and expense statements for the last quarter ending immediately preceding the application deadline. Financial statements may be internally prepared but must include year-to-date and annual information.

General Contractor - a duly licensed entity or individual licensed by the State of Georgia who agrees, for a specific period, to furnish all materials, labor and services relation to the renovation or new construction of a building or buildings.

HOME or HOME Program - the HOME Investment Partnership Program pursuant to the HUD regulations.

HOME Assisted Unit - the specific unit(s) funded with HOME funds.

HOME Note - a unilateral agreement containing an express and absolute promise to pay to the Department a principal sum of money for the HOME Program loan. The note will be secured by a security deed.

HOME Project - any project that receives financial assistance from the Department under the HOME Program. A project is a site or sites together with any building or building located on the site(s) that are under common ownership, management and financing and are to be assisted with HOME funds as a single undertaking under this part. The project includes all the activities associated with the site and building.

HUD - the US Department of Housing and Urban Development.

HUD Regulations - the regulation of HUD in 24 CFR Part 92 issued under the authority of Title II of the National Affordable Housing Act of 1990.

Income Certification - all households that receive HOME assistance must be income eligible as defined in 24 CFR Part 5. HOME income certifications may be dated not earlier than six (6) months prior to eligibility. Certification involves types of income that can be counted, evaluating the income, and verifying the income through third parties. Two months of source documentation should be obtained for verification of income. (Also see Annual Income definition)

Infill Housing - the insertion of additional housing units into an already established subdivision or neighborhood. These can be provided as additional units built on the same lot, by dividing existing homes into multiple units, or by creating new residential lots by further subdivision or lot line adjustment. Units may also be built on vacant lots. Infill housing does not include creating housing in large vacant areas where housing, public facilities or businesses do not already exist.

Letter of Commitment - an executed letter or contract from the funding sources verifying that the applicant has a commitment of funds for the project. This letter must include the amount of funds, any conditions and their expiration, whether funds will be provided as loans or grants, loan to value ratios, term and interest rate of loans. This letter may not be provided until all necessary financing has been secured, a budget and a schedule for the construction or rehabilitation have been established, and the underwriting and subsidy layering requirements have been met.

Leveraged Resources - cash, waivers, land equity, confirmed loan commitments, or project specific donations that, at a minimum, are equal to ten (10%) percent of the HOME funds provided for down payment and closing costs.

Low Income - income which does not exceed 80% of the median income for that area, as determined by HUD, with adjustments for family size.

Needs Analysis - research done to review market conditions in a specific area and a study of the economic forces of supply and demand and their impact on real estate returns, risks, and values.

Marketing Plan - a document that consists of actions to provide information and attract eligible persons from all racial, ethnic and gender groups in the housing area to the available housing.

Nonprofit - a corporation exempt from income tax under CHAPTER 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended, and registered with the Georgia Secretary of State.

Participant - any applicant that has been awarded HOME Program funds.

Participating Jurisdiction - a jurisdiction that has been so designated by HUD in accordance with § 92.105. The Department of Grants and Community Development is the PJ for the City of Atlanta, GA.

Pre-Qualified Homebuyers - an individual or family who has completed a housing counseling course and whose income the applicant has certified according to the federal guidelines for income qualifications and has received preliminary approval from a lending institution for the primary mortgage.

Principle - any applicant, owner, developer, guarantor, financial guarantor, or any other person, corporation, partnership, joint venture, or other entity, including any affiliate thereof, or any other person, firm, corporation, or entity of any kind whatsoever that is involved directly or indirectly with a project that receives a HOME award.

Project Completion - all necessary title transfer requirements and construction work has been performed; the final draw down has been disbursed for the project, and the project completion information has been submitted to and received by the Department, and the activity has been closed out in the Integrated Disbursement Information System (IDIS). The project completion date must be within four (4) years of the commitment of HOME funds.

Project Costs - the sum of all costs incurred in the development of a project. All costs shall be subject to the approval by the Department as reasonable and necessary.

Project Start Date - the rehabilitation or new construction activities must be started by the developer within twelve (12) months of the commitment of HOME funds.

Vacant Properties - vacant structures and vacant land that are unoccupied and not in use (free from any activity).

Very Low-Income - income which does not exceed 50% of the median income for the area, as determined by HUD with adjustments for family size.

1.5 HUD Income Limits

- HUD is required by law to set income limits that determine the eligibility of applicants for HUD assisted programs. The income limits are updated annually. HOME Income limits are calculated using the same methodology that HUD uses for calculating the income limits for the CHAPTER 8 program, in accordance with CHAPTER 3(b)(2) of the US Housing Act of 1937, as amended. HUD develops income limits based on median family income, with adjustments to family size.
- HUD updates income limits annually. Current Adjusted HOME income limits for the City of Atlanta, MSA are provided by DGCD to local affordable housing agencies annually. HOME Income limits and HOME Program rents can also be found on HUD Exchange and the DGCD webpage.
- HOME regulations for income are defined in 24 CFR Part 92.203(d)(1) and establish what types of income are included 24CFR Part 92.203(a)(1)(i) & (a)(2), and whose income should be included when determining eligibility for a HOME assisted program. All income verifications must use at least 2 months' source documentation. (HUD eliminated the use of the Census Long Form income definition on 8/23/2013 and is no longer permitted).
- Under the new program requirements (HOME Final Rule), the Grantee (DGCD) must implement one definition of income for each HOME-assisted program type that it administers.

- Under HUD’s income policies, low-income families are defined as those whose incomes do not exceed 80% of the median family income for the area. Very low-income families are defined as those whose incomes do not exceed 50% of the median family income for the area. Extremely low-income families are defined as those whose incomes do not exceed 30% of the median family income for the area. Adjusted HOME Income Limits for Atlanta GA Metro FMR Area may be in **Appendix A: HOME Income and Rent Limits**. See [HOME Income Limits](#).

CHAPTER 2: Administrative and Management Overview

2.1 Getting Started

Award Notification

Upon approval by the City of Atlanta’s Office of the Mayor and City Council, DGCD will issue an Award Letter specifying the award amount, approved activities, and any applicable terms and conditions.

Agreement

The Department of Grants and Community Development’s HOME agreements must be executed to codify the details of the award upon satisfactory Environmental Review completion. The Recipient agreement will specify DGCD’s expectations and requirements. *(See CHAPTER 4: F Written Agreement)*

2.2 Critical Success Factors

Recipients should consider several factors that are critical to success when administering and managing HOME funds.

Readiness

DGCD expects that Recipients will initiate program activities and/or develop projects within an established time frame and will not exceed HOME Final Rule regulated time limitations.

Accountability

DGCD expects Recipients to be accountable for all HOME funds distributed through their programs. To this end, Recipients are required to:

1. Monitor beneficiaries and contracted/partner entities for appropriate expenditures.
2. Provide accurate beneficiary and expenditure activity to DGCD.

Other Good Practices

1. Staff Capacity and Key Functions
 - Staff must be knowledgeable and trained to work well with clients, partners, and each other.
 - There must be a strong system in place to track and manage performance.
2. Choose qualified partners who should be:
 - Easily understood and fair
 - Capable of delivering projects that meet or exceed expectations and comply with requirements in the written agreement with DGCD

- Willing to provide accurate, up to date information regarding project performance/completion so problems may be corrected quickly and efficiently
3. Develop effective policies and procedures.
 - All Recipients must have policies and procedures in place to guide staff and partners.
 - Policies and Procedures should be clear and easily understood.
 - They must be current and reflect what must be done, who should do the work, and when it should be done.
 - The policies and procedures must be followed, and performance should be monitored to ensure compliance.
 4. Advertise the program appropriately.

Recipients are expected to identify and serve appropriate beneficiaries, especially under-served populations.

1. Make strategic project investments.
 - Have the capacity to underwrite and fund projects that meet local goals and the intent of the HOME program
 - Projects that are ill-conceived, underfunded, or are not consistent with program goals will not be awarded HOME funds.
2. Oversee construction effectively.
 - The HOME program has several property standards that must be followed.
 - Inspection reports will cover compliance with applicable property codes and standards.
 - Costs to develop or preserve housing must be reasonable, and budgets and invoices must be reviewed prior to approval.
 - Reporting is taken seriously and recipients will track information that is useful and accurate.
3. Manage affordability period compliance.
 - The Recipient is responsible for ensuring that beneficiaries are income eligible and contractors and/or partners are adequately verifying incomes.
 - Rental projects must be effectively managed during the affordability period. This includes managing rents, unit quality, and re-certifying incomes.
4. Ensure effective financial management.
 - Recipients are subject to the Federal Uniform Administrative Requirements.
 - Recipients must be able to evaluate budgets and proposals from contractors and/or partners to determine if they are financially sound.
 - Recipients must be able to anticipate the need (reasonable and necessary) for HOME funds and budget accordingly.
 - Recipients must have the capacity to train (if needed) and monitor their partners to ensure that their financial management systems can provide sufficient information to prevent fraud or waste, make informed budgeting decisions, and track source documentation of expenditures.
5. Keep records for monitoring.
 - Recipients are required to monitor their program and the performance of their partners.
 - Must keep records sufficient to demonstrate to DGCD that HOME funds have been spent appropriately and within the intent of the program and are compliant with its regulations.

- Recipients must maintain all records pertinent to expenditures incurred under this Agreement for seven (7) years after the expiration of the period of affordability.
 - DGCD may require additional information upon request for presentations or information from members of its governing body and the public to demonstrate performance and outcomes of the HOME program.
6. Evaluate program effectiveness.

Note: DGCD must, as part of its annual monitoring requirement, look at internal operations.

2.3 Program Draws

Disbursement of HOME funds will occur only when all the following conditions have been met:

1. Required environmental review process has been satisfactorily completed and a written agreement has been executed.
2. Project closing documents are finalized. The written HOME Agreement will reflect the following:
 - A project completion date acceptable to DGCD and the Recipient of the HOME funds
 - Payment of the HOME program funds (how the funds will be disbursed: at the beginning of the project or on a pro rata basis, or as final funds are disbursed); and
 - Provisions for the timing of HOME program fund disbursement.
3. Complete IDIS set up information that has been submitted to DGCD staff.
4. Payment details, including HOME funds budget and timeline for reimbursement, will be outlined in the Written Agreement.
5. If any HOME funded project has an available balance after development completion, DGCD may de-obligate those funds and reallocate such balance of HOME funds to other eligible activities.

2.4 Uniform Administrative Requirements

Recipients must comply with certain administrative requirements generally pertaining to the financial management and audit standards. The requirements of 2 CFR Part 200 apply to participating jurisdictions, and all recipients receiving HOME funds, except for the following provisions: 200.306, 200.307, 200.308 (not applicable to participating jurisdictions), 200.311 (except as provided in 92.257), 200.312, 200.329, 200.333, and 200.334. The provisions of 2 CFR Part 200.305 apply as modified by 92.502(c). 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. See [2 CFR Part 200 Overview for Grantees](#).

1. Government Entities
 - a. 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
 - b. Certain provisions in 24 CFR Part 85: These regulations set forth uniform requirements for financial management systems, procurement, reports and records, and grant close-outs for Recipients of federal grant funding.
 - c. OMB Circular A-133 (Audit Requirements): All Recipients are required to have audits. Audit thresholds and requirements are outlined in this Circular. (Superseded by 2 CFR Part 200)
2. Nonprofit Organizations
 - a. OMB Circular A-122. “Cost Principles for Non-Profit Organizations”, or for institutions of higher education, OMB Circular A-21 “Cost Principles for Educational Institutions”: This

circular establishes principles for determining allowable costs under grants, contracts, and other agreements with nonprofit organizations. Superseded by 2 CFR Part 200)

- b. Certain provision of 24 CFR Part 84: The regulations at 24 CFR Part 84 implement OMB Circular A-110 and set forth uniform requirements for nonprofit organizations, including financial management systems, property standards, procurement standards, reporting and record keeping.
3. CHDOs
 - a. The requirements at 24 CFR Part 84.21, “Standards for Financial Management Systems” apply to CHDOs who are acting as an owner, developer or sponsor of HOME assisted housing.

2.5 Religious Organizations

HOME funds *may* be provided to primarily religious organizations for any activity, excluding inherently religious activities. As of the September 30, 2003, Final Rule for 24 CFR Part 92, HUD identified regulations for eight programs, including the HOME Program, to eliminate barriers and ensure that these programs are open to all qualified organizations regardless of their religious character.

2.6 HOME Program Income

1. Program income is revenue received by the Recipient directly generated from the use of HOME funds or matching contributions. Program income includes, but is not limited to:
 - a. Proceeds from the sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions
 - b. Gross income from the use or rental of real property owned by a Recipient that was acquired, rehabilitated, or constructed with HOME funds or matching contributions, minus the costs incidental to generating that income
 - c. Payments of principal and interest on loans made using HOME funds or matching contributions
 - d. Interest on program income
 - e. Any other interest or return on the investment of HOME and matching funds
 - f. Income generated by a project which is funded with program income.
2. The written agreement between the Sub-Recipient and DGCD will specify that any program income received is to be submitted to DGCD. CHDO proceeds are not considered program income.
 - a. The Written Agreement will specify what federally eligible activities may be undertaken with the program income.
 - The recipient, as part of its records of financial transactions, must record the receipt and expenditure of program income.
 - The Recipient is required to report the amount of program income earned (including program income being held in an interest-bearing account) a minimum of once per month using the Reimbursement Request Form.
 - Such income must be used before drawing down additional grant funds from DGCD.
 - b. At the expiration of the Written Agreement, any program income on hand, as well as any future program income received by the Recipient, must be returned to DGCD.
3. When program income is generated by an activity that is only partially assisted with federal funds, the income must be prorated to reflect the percentage of federal funds used.

4. Activities assisted with HOME program income are treated the same as those assisted with the HOME award funds. All HOME Program rules and requirements apply, and all costs financed with program income must be HOME eligible.

2.7 Recaptured Funds

DGCD Provisions permit the original homebuyer to sell the property to any willing buyer, at any price the market will bear, during the period of affordability while DGCD is able to recapture all or a portion of the HOME-assistance provided to the original homebuyer. Specifically, Recapture Provisions are always used in cases involving a direct Subsidy to a homebuyer. Recapture provisions cannot be used when a project receives only a development Subsidy and is sold at fair market value, because there is no direct HOME subsidy to recapture from the homebuyer.

1. Recapture funds include any amount repaid because of a homebuyer property being sold within the affordability period. The recaptured provisions must be stated in the written agreements between Recipients and the income of any eligible homebuyer.
2. Recaptured funds are a return of the original HOME investment and are technically not program income. Recaptured funds shall be returned to the Department of Grants and Community Development's HOME Trust Fund. Recaptured funds are recorded in IDIS and used for future HOME projects.
3. A clear, detailed written agreement, executed before or at the time of sale, ensures that all parties are aware of the specific HOME requirements applicable to the unit (i.e., period of affordability, principal residency requirement, terms and conditions of either the resale or recapture requirement). The HOME written agreement must be a separate legal document from any loan instrument and must, at a minimum, comply with the requirements at 92.504(c) (5) of the HOME rules. If DGCD provides HOME funds to a subrecipient or CHDO to develop and sell affordable housing, DGCD must prepare and execute the agreement with the buyer or be a party to the agreement along with the entity it funded.
4. The written agreement between the homebuyer and DGCD, as well as mortgage and lien documents are all used to impose the Recapture Provisions in HOME- assisted homebuyer projects under the recapture option. The purpose of these enforcement mechanisms is to ensure that DGCD recaptures the Direct subsidy to the HOME-assisted homebuyer if the HOME - assisted property is transferred. Unlike the resale option, deed restrictions, covenants running with the land, or other similar mechanisms are not required by the HOME rule to be used in homebuyer projects under the recapture option.
5. When HOME funds are expended for projects that are terminated before completion, voluntary or involuntary, the HOME funds that have been expended are ineligible and must be repaid.

2.8 Integrated Disbursement and Information System (IDIS)

- a. DGCD is required by HUD to use the IDIS system to accomplish two key objectives:
 - To manage and account for disbursements of HOME funds
 - To collect, consolidate and report information regarding HOME Program performance.
- b. IDIS is the drawdown and reporting system for Community Planning and Development (CPD). DGCD uses IDIS to request grant funding from HUD and report on what is accomplished with these funds.
- c. DGCD must maintain significant information regarding the purpose for each expenditure (activity information). DGCD must submit Activity Set-Up information and Activity Completion information.
 - All HOME Program Recipients must provide Set-Up and Completion information for all DGCD funded activities.

- The Set-Up and Completion forms are provided by DGCD.
- d. Affordability for HOME funded programs begins when completion is noted in IDIS.

2.9 Audit Requirements

DGCD requires that Recipients have an audit conducted of federal funds received in accordance with the following:

1. Non-Profit Organizations as required in 24 CFR Part 84 and 85 respectively
2. CHDOs as required at 24 CFR 84.21, “Standards for Financial Management Systems”
3. Single Audit Threshold (200.501). The Single Audit threshold is raised from \$500,000 to \$750,000 in federal expenditures. This means that all non-federal government agencies and nonprofit organizations that expend \$750,000 or more in federal awards in a given fiscal year are required to conduct a single audit.
4. Audit Finding Changes (200.516). The questioned cost limit in Single Audits is raised from \$10,000 to \$25,000. Under Uniform Guidance, the known and/or likely questioned costs that exceed \$25,000 must be reported as an audit finding.
5. Audit Services: Any costs when audits required by the Single Audit Act have not been conducted or costs of auditing grantees or recipients that are not required to have a single audit are not allowable (200.425). This provision was in OMB Circular A-133
6. Compensation- Personal Services: 200.430 requires non-federal entities to maintain a strong system of internal controls over their records to justify costs of salaries and wages and provides additional flexibility in the processes they use to meet these standards.
7. Audits and GAGAS: Audits must be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) (200.514(a)).

CHAPTER 3: Subrecipient Oversight

3.1 Roles and Responsibilities (PJ and Subrecipient)

Grantee/Recipient

As specified in 24 CFR 85.40 and 24 CFR 92.504(a), PJs are responsible for monitoring the day-to-day operations of subrecipient activities to assure compliance with applicable federal requirements and that performance goals are being achieved. As the PJ, DGCD will use these key issues to select a subrecipient:

- Priority need
- Experience & prior performance
- Administrative capacity
- Financial management procedures

DGCD will review the performance of each recipient annually. DGCD will inform recipients regarding applicable HOME program requirements. Recipients may be known as Subrecipient, Developer, Owner, Contractor, or Beneficiaries.

- DGCD is held accountable for the performance of its subrecipients.
- When DGCD plans to disburse HOME funds to another entity, it must first execute a written agreement between itself and the recipient.

- DGCD may delegate aspects of the HOME Program administration to other entities to carry out eligible HOME activities. Both DGCD and the entity have the responsibility for proper and timely use of funds and full regulatory compliance.
- DCGCD will provide to subrecipients links for HOME regulations and to HUD exchange to ensure recipients have access to HOME requirements, changes in requirements and policy.
- DGCD will offer technical assistance and HOME updates to each recipient and notify them of local HOME training opportunities throughout each fiscal year.
- DGCD will document HOME training sessions to include areas of review, training dates, participant /agency names, person trained and comments/feedback.
- DGCD will Identify subrecipients most at-risk of performance or compliance problems
- DGCD must conduct an annual onsite monitoring visit to each funded entity.

HUD Web Page Links:

- <https://www.hudexchange.info/programs/home/>
- <https://www.hudexchange.info/resource/2333/24-cfr-part-92-home-investment-partnerships-program-final-rule/>
- https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr92_main_02.tpl

Subrecipient

A subrecipient is a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME programs to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance.

- Responsible for program decisions and adhering to program rules as determined by DGCD and HUD.
- Administers an eligible activity
- Determines eligibility for program benefits
- Adheres to Federal HOME program requirements
- Measures performance against objectives of local government and federal programs

HOME-funded subrecipients that are nonprofit organizations and CHDOs, to the extent that they are acting as subrecipients, also must comply with certain uniform administrative requirements.

Written Agreements

- Before disbursing any HOME funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a state recipient, subrecipient, or contractor that is administering all or a part of the HOME program on behalf of DGCD, must also enter into a written agreement with that entity. The written agreement must ensure compliance with the requirements of this part.
- The agreement must set forth and require the subrecipient to follow DGCD's requirements, including requirements for income determinations, underwriting and subsidy layering guidelines, rehabilitation standards, refinancing guidelines, homebuyer program policies, and affordability requirements.

Provisions in Written Agreement

The contents of the agreement may vary depending upon the role the entity is asked to assume or the type of project undertaken.

Use of the HOME Funds

The agreement must describe the amount and use of the HOME funds for one or more programs, including the type and number of housing projects to be funded (e.g., the number of single-family homeowners loans to be made or the number of homebuyers to receive down payment assistance), tasks to be performed, a schedule for completing the tasks (including a schedule for committing funds to projects in accordance with deadlines established by this part), a budget, any requirement for matching contributions and the period of the agreement. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement.

3.2 Financial Management

24 CFR Part 84.21-28 as amended by 570.502, for non-profit agencies, 24 CFR Part 85.20 for governmental sub-recipients, and 24 CFR 92.508 state the financial management and reporting systems for HOME grant recipients.

These requirements have been established to make sure that sub-recipients have a financial management system that:

1. Provide effective control over the accountability for all funds, property, and other assets,
2. Ensure "reasonableness, allow-ability, and accountability" of costs and verify that expenses have not violated any federal restrictions or prohibitions,
3. Permit the accurate, complete, and timely disclosure of financial results in accordance with reporting requirements of the grantee (DGCD) or HUD, and
4. Minimize the time elapsed between the transfer of funds from the U.S. Treasury and disbursement to the sub-recipient.

Internal Controls

Internal controls include a combination of procedures, specified job responsibilities, qualified personnel, and records that together create accountability in an organization's financial system and safeguard its cash, property, and other assets. Such controls make sure that:

1. Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies,
2. Resources are protected against waste, mismanagement, or loss and
3. Reliable information on source, amount, and use of resources are secured up-to-date, and recorded.

Additionally, internal controls will ensure that no one individual has authority of an entire financial transaction. Specifically, that your organization has a separation of power for the following three responsibilities:

1. Authorization to execute a transaction,
2. Recording of the transaction, and
3. Custody of assets involved in the transaction. This type of separation of responsibilities will create a system of checks and balances for grant and general organization expenditures.

Finally, it is important that your organization periodically reconcile your financial records to actual assets and liabilities which will safeguard resources as well as detect instances of fraud or misuse.

Accounting

Subrecipients must have accounting records that adequately identify the sources and application of HOME funds. Simply stated, your organization should have 1) a chart of accounts which includes general assets, liabilities, expenses, and revenue, 2) a cash receipts and disbursements journal, 3) a payroll journal, and 4) a general ledger. For HOME funds, records must contain reliable and up-to-date information. The information should at least include:

1. Federal grants received by the subrecipient.
2. Current authorizations and obligations of HOME funds.
3. Unobligated balances (funds remaining available for distribution).
4. Assets and liabilities.
5. Program Income (if any)

General Management and Financial Systems

1. Administration, HOME. (24 CFR 92.500 - 92.509) explains general responsibilities of HOME grant administration including uniform administrative requirements, provisions of subrecipient agreements, program income, use of real property, record-keeping and reporting, and closeout procedures.
2. Cross-cutting Regulations, HOME. (24 CFR 92.350 - 92.358) details other HOME program requirements including affirmative marketing, environmental standards, displacement, relocation and acquisition, labor standards, lead-based paint, and conflicts of interest.
3. Administrative requirements Cost Principals and Audit Requirements for Federal Awards are found in 2 CFR 200, new for 2015 replacing OMB Circulars. The threshold for conducting a single audit is now \$750,000.

3.3 Reporting

HUD requires DGCD to report quarterly and annually regarding the use of HUD funds. Therefore, all subrecipients are required to submit information monthly and annually stating progress towards the use of HOME funds.

HOME Annual Report

- HUD requires that HOME grantees and sub-recipients maintain reports on any job completed with the assistance of HOME funds for five (5) years after the expiration of the period of affordability. DGCD requires the subrecipient to maintain reports for seven (7) years after the expiration of the period of affordability.

Financial Reporting

- Financial reporting prepared by the sub-recipient must be accurate, timely, current, and represent complete disclosure of the financial activity and status of HOME grants. A subrecipient must have the capacity to provide DGCD with at least the following:
 1. Amount budgeted.
 2. Reimbursements received to date.
 3. Program income and other miscellaneous receipts in the current period and year to date.
 4. Actual expenditures/disbursements in the current period and cumulatively to-date, for both program income and HOME grant funds.
- Performance Reporting

The Consolidated Annual Performance and Evaluation Report must include both a summary of programmatic accomplishments and an assessment of progress toward the priority needs and specific objectives set forth in a DGCD's Consolidated Plan.

Supporting Documentation

Source Documentation

All accounting records must be supported by source documentation. Supporting documentation is important to keep for all HOME expenditures. Documentation must prove that expenditures charged to the grant are:

1. Incurred during the effective period of the contractual agreement between DGCD and the subrecipient
2. Paid out (or properly accrued)
3. Allowable
4. Approved by a responsible official in the subrecipient's organization.

In general, source documentation must explain the basis of the costs incurred. For example:

1. Staff time charged to the grant: Time sheets (signed by the employee and supervisor) explicitly stating the hours charged to the grant and attendance sheet used should be always available for DGCD to verify time charged to HOME grants is accurate.
2. Cost of space: Space costs must be supported by rental or lease agreements.
3. Utility costs: Utility costs should be supported by bills from the utility company. Such information should be always available for DGCD to verify costs charged to HOME grants are accurate.
4. Supplies - Documentation includes purchase orders or requisition forms, vendor invoices, and documentation demonstrating that payment was made.

Procurement

The federal government has set standards and procedures for procurement in 2 CFR Part 200.320 that are intended to ensure supplies, equipment, construction, and other services acquired in whole or part with federal funds are:

1. Obtained as efficiently and economically as possible
2. Procured in a manner that provides, to the maximum extent practical, open, and free competition. All solicitations must clearly explain all the requirements that the bidder must fulfill for the subrecipient to evaluate the bid. Goods and services solicitation must be clear and accurately describe the material, product, or service to be procured. Furthermore, the solicitation must not contain features which unduly restrict competition. Examples of restricting competition include but are not limited to:
 - a. Placing unreasonable qualifying requirements on firms.
 - b. Requiring unnecessary experience and excessive bonding.
 - c. Specifying only "brand name" products instead of allowing "an equal" product.
 - d. Noncompetitive pricing practices between firms and affiliated companies.
 - e. Noncompetitive awards to consultants on retainer contracts.

All awards must be made to the bidder whose bid is responsive to the solicitation and most advantageous to the subrecipient. All bids may be rejected when it is in the interest of the subrecipient to

do so. The subrecipient must ensure that the award is only made to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement.

3.4 Reimbursements

Request for Reimbursement

HOME funds are available to subrecipients on a reimbursement basis only based on documentation of incurring the expense and payment of the expense. DGCD will reimburse funds based upon information submitted by the subrecipient.

- Expenditures occurring after the effective date of the contractual agreement between DGCD and the subrecipient may be eligible for reimbursement.
- Expenditures must be consistent with the approved budget as stated in the contractual agreement between DGCD and the subrecipient.
- Only eligible expenses will be reimbursed.

To ensure accurate billing and fund management, subrecipients should keep track of the following information for activities funded:

- Funds budgeted
- Funds received
- Reimbursements to-date
- Funds obligated in the most recent period and to-date
- Funds expended in the most recent period and to-date
- Cash on hand (including program income identified as such), if applicable
- Previous reimbursements requested but not yet received (if applicable)

Subrecipients should follow DGCD reimbursement procedures (see below) to ensure timely expenditure reimbursements.

Reimbursement Procedures

- The Reimbursement Request form must be completed and signed by either the Executive Director or another contractually authorized personnel.
- Provide original invoices for all expenditures to be reimbursed.
- Payment receipts, copies of checks, and/or all documentation proving that payment has been made prior to requesting reimbursement.
- For salary reimbursement, time sheets must include total time worked and a breakdown of funding sources covering the salary and benefits associated.

3.5 Monitoring

Monitoring Reports

Within thirty (30) days after the completion of the monitoring visit or desk-top review, a written report of the results visit will be forwarded to the subrecipient. If the program and fiscal monitoring were performed concurrently, the reports for both will be combined under a single cover letter. The monitoring report contains:

- A detailed list of areas reviewed
- A detailed list of findings (if any)

- A recommendation will accompany each finding explaining how the deficiency can be corrected
- A detailed list of concerns (if any)
- Depending on the nature of the concern, a recommendation may be included on how to eliminate the concern
- Observations, if any, made regarding the sub-recipient's operation
- If findings are severe, the letter accompanying the report may place a hold on further reimbursements to the sub-recipient until the findings are cleared.

Response to Monitoring Report

Within thirty (30) days after receipt of the monitoring report, the subrecipient must submit a written response to the monitoring report which should be addressed to DGCD in c/o of the applicable Management Analyst staff assigned to the project. The letter should include:

- A response to each individual finding and concern (if applicable)
- Copies of any documentation to support your response to the findings (copies of corrected employee monthly time reports, etc.).

Response to Subrecipient Response

Upon receipt of the subrecipient's response to the monitoring report, the program and fiscal monitors will review to determine if the findings or concerns have been satisfied. A written response to the subrecipient's response will be sent to the subrecipient, to include the following:

- Those findings which have been satisfied will be noted as closed. If all findings are closed, the subrecipient's monitoring for the year under review is complete.
- Findings which are not satisfied will remain open and will require further response or action on the subrecipient's part.
- The subrecipient will be given an adequate period to take any further action needed to correct the findings and respond in writing.
 - If these actions are satisfactory, the findings are noted as closed and the monitoring is complete.
 - If these actions are not satisfactory, further correspondence is required until such time as all findings are closed and the monitoring is concluded.
 - The close of the contract does not necessarily close the monitoring. Correspondence will continue until all findings are closed.

CHAPTER 4: Application and Approval Process

4.0 Application Process & Requirements

HOME funds will be awarded on an annual funding cycle with a defined and published application period and application due date. Currently, HOME applications are accepted during the Notice of Funds Availability (NOFA), based on funding availability. Once available HOME funds are committed, there will not be another opportunity for funding until more HOME funds are allocated from HUD. HOME funds are not allocated on a multi-year funding project cycle.

HOME funds are available for eligible HOME activities that are a part of DGCD’s Consolidated Plan. DGCD may use up to 10% of the total annual allocation for Planning and Administration costs. DGCD must set aside a minimum of 15% of each program year’s HOME allocation for certified CHDOs. DGCD may allocate up to 5% of its annual allocation for CHDO general operating expenses to CHDOs that are receiving set-aside funds for an activity or under a written agreement to receive set-aside funds within 24 months of the date of the agreement. (24 CFR Parts 92.207, 92.208, and 92.300). The HUD memorandum *Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID -19 Pandemic*, specifically the CHDO set-aside requirement reduction to zero percent for the fiscal year 2017, 2018, 2019, and 2020 allocations of State and local PJs will be utilized by DGCD.

HOME funds are allocated by DGCD based upon a performance-competitive based model. Specific project proposals are considered as “gap” financing only. (Further explanation of gap financing is provided in the underwriting CHAPTER (5: E) of this manual). The decision to operate under this model should result in increased production of new units through improved efficiency, leveraging of HOME dollars with private resources that are spread over multiple projects, and nonprofit development capacity.

HOME funds will be awarded to the applicant or applicants that receive the highest score based on published scoring criteria. The application scores of all applicants, including the ultimate recipients, will be posted on the DGCD website after the funds have been awarded. HOME funds will not be allocated for the total cost of the project, but HOME funds may be drawn down first before other resources are utilized. HOME funding decisions are made based upon a scoring criterion. Provided below is an example of the scoring categories and point values associated with each. For an application to be considered for funding, it must score a minimum of 75 out a maximum of 100 points.

Category	Maximum Points
Program Description	10
Program Need	15
Organizational Capacity	25
Program/Project Management	15
Financial Feasibility	20
Project Budget	20
TOTAL	100

Applicants must submit a thorough and complete application to be considered for HOME dollars. If an application is incomplete, the application will not be considered for funding during the funding cycle it

was submitted, but an applicant can resubmit at the next funding opportunity. Only applications that address HOME-eligible activities cited within the HOME Final Rule at 24 CFR Part 92 and the DGCD Consolidated Plan will be accepted. HOME applications are made available through (Neighborly) with access to the system provided on the DGCD website at <https://www.atlantaga.gov/government/departments/grants-and-community-development> (<https://portal.neighborlysoftware.com/atlantaga>).

4.1 Intake and Review Process

Intake and review of all HOME applications are completed administratively by DGCD based upon project-specific applications. Steps 1-7 detail the process of acceptance and review of applications.

1. Time and date of application submitted is recorded, and the applicant receives a receipt.
2. Assigned DGCD staff will conduct an initial review and scoring of each complete HOME application received.
3. Applications that do not meet the threshold criteria or federal and state compliance requirements will be automatically disqualified.
4. Once DGCD has completed their review, a recommendation of approval (with suggested funding amount) or denial (with reason for denial) is determined. DGCD will send written notification to the applying entity for reason of denial or ineligibility.
5. If recommended for funding, DCCD will send recommendation to the Office of the Mayor for review.
6. If approved by the Office of the Mayor, legislation is drafted to City Council for a review and reading period with vote for final funding approval or other options at an open public meeting.
7. Every effort is made to render a decision within 180 days of application submission. Environmental review concerns may delay DGCD's ability to review and recommend funding until mitigating factors are established that satisfy NEPA and other federal regulations.

4.2 Conflict of Interest

DGCD and all funded applicants have a responsibility under Parts 24 CFR Parts 84 and 85, as applicable, and 24 CFR 92.356 to ensure that no conflicts of interest exist in the administration of any HOME projects. HUD CPD Notice 98-09 further delineates the application of conflict of interest provisions when a financial interest or benefit exists.

The City of Atlanta and DGCD policy regarding Conflict of Interest is in **Appendix B: COA Conflict of Interest Policy**.

4.3 Consolidated Plan

The Department of Grants and Community Development Goals for FY2020-2024 Consolidated Plan:

1. Construct affordable residential housing.
2. Rehabilitate dilapidated vacant residential properties.
3. Repair homes owned by low-income elderly or disabled homeowner.
4. Eliminate or reduce factors that encourage crime and blight in neighborhoods.
5. Assist neighborhood preservation and enhancement areas in transition or in need of repair, rehabilitation, and redevelopment.
6. Construct accessibility enhancements, including the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons.

4.4 Commitment of Funds

DGCD must commit HOME funds within 24 months of HUD's obligation of its grant, or HUD will de-obligate the funds. Prior to committing HOME funds to a project, the following is required:

- A subsidy layering and underwriting analyses must be performed.
- An assessment of the current market demand in the neighborhood must be completed.
- An assessment of the experience and financial capacity of the developer must be completed.
- An assessment of the firm written financial commitments to the project must be analyzed.

These requirements are intended to ensure appropriate targeting of HOME funds; cost reasonableness and the long-term viability of HOME-assisted projects; and successful and timely project completion. Written agreements that commit HOME funds is defined in 24 CFR Part 92.2, with minimum requirements for a written agreement found in §92.504(c). (Refer to Notice CPD-15-09: Requirements for Committing HOME Funds). The HUD memorandum *Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID -19 Pandemic* regarding Commitment of Funds will be utilized by DGCD.

4.5 Written Agreements

DGCD will not authorize any disbursements of HOME dollars prior to the proper execution of the following steps:

- Public advertisement of availability of funds.
- Submittal, review, and approval of application.
- Environmental review of the proposed project site is completed as required under 24 CFR Part 58.
- Completion of Underwriting and Subsidy Layering guidelines and Cost allocation methods to ensure that HOME investment does not exceed the amount necessary to provide quality, affordable housing that is financially viable.
- Land use restrictions (land covenant) recorded with Fulton County Superior Court.
- Execution of DGCD's HOME Investment Partnership Agreement with signatures and dates from all parties involved.

Other program considerations, including but not limited to the following, will be addressed within the agreement between DGCD and the approved applicant:

- Security Deed (if real estate is involved)
- Debarred or Suspended Contractors- 24 CFR Part 24
- Use of HOME funds and Duration of the Agreement
- Affordability Period
- Reversion of Assets/Program Income Requirements
- Eligible and Ineligible Fees
- Records and Reports
- Prohibited Fees
- Enforcement of the Agreement
- Affirmative Marketing if HOME funds are administered by the sub recipient/CHDO/owner/developer for housing containing five or more HOME-assisted units.
- Request for Disbursement of Funds

- Fair Housing and Equal Opportunity- Title VI of the Civil Rights Act of 1964 (42 USC 200d), Fair Housing Act (42 USC 3601-3620), Equal Opportunity in Housing (Executive Order 11063), and Age Discrimination Act of 1975 (42 USC 6101-6107)
- Davis Bacon Labor Standards, Contract Work Hours and Safety Standards Act- 29 CFR Parts 3 and 5, and 24 CFR Part 70.
- Match Contribution Requirements, HOME Final Rule, 24 CFR Part 92, Subpart F, Project Requirements 92.218, 92.219, 92.220, 92.221 and 92.222.
- Resale or Recapture Provisions in CFR Part 92.254(a)(5)
- Environmental Reviews, CFR 24 Part 58, National Environmental Policy Act (NEPA) of 1969.
- Nondiscrimination and Equal Access, 24 CFR Part 92.350, 92.351, 92.505(a)
- Equal Employment Opportunity, 24 CFR Part 7 and 41 CFR Part 60
- Residential Lead Based Paint, 24 CFR Part 35(B)
- CHAPTER 3, 24 CFR Part 75 (final rule published November 30, 2020)
- Minority/Women's Business Enterprise, Executive Orders 11625, 12432 and 2138

CHAPTER 5: General Requirements of the HOME Program

5.1 Written Agreements

Applicants seeking HOME funding must be qualified Community Housing Development Organizations (CHDO), Public Housing Agencies (PHAs), Owners and Sponsors (For-Profit and Non-Profit), Subrecipients, and Others, subject to homebuyer or rental projects.

5.2 Eligible Activities and Subsidy

Eligible Activities

- Homeowner Rehabilitation- HOME funds may be used to assist existing owners/occupants with the repair, rehabilitation, or reconstruction of their homes.
- Homebuyer Activities- DGCD, as the Participating Jurisdiction (PJ), may finance the acquisition, acquisition, and rehabilitation, new construction, and homebuyer's assistance.
- Rental Housing- Affordable rental housing may be acquired, rehabilitated, or newly constructed.
- Tenant-Based Rental Assistance (TBRA) – HOME funds may be used to subsidize rental units for LMI households.

ELIGIBLE HOME ACTIVITY	DESCRIPTION
HOMEOWNER REHABILITATION	This program assists low to moderate-income homeowners make needed home improvements (repair, rehabilitation or reconstruction) for the correction of health, and safety code violations of owner-occupied units.
HOMEBUYER ASSISTANCE	This program assists approved homebuyers with a deferred payment soft second mortgage loan for down payment assistance and closing costs. Funds are reserved on a first-come, first-served basis, and all potential borrowers must complete a pre-purchase homeownership counseling workshop or individual counseling.

RENTAL HOUSING DEVELOPMENT	Funds may be used for acquisition, new construction, or rehabilitation of affordable rental housing.
HOME BUYER DEVELOPMENT	Funds may be used for the acquisition, new construction, or rehabilitation of affordable for homebuyer housing
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)	The HOME requirements at 24 CFR Part 92.300 require the City to annually set aside at least 15 % of the received HOME allocation for specific HOME-eligible activities to be undertaken. DGCD may opt to utilize up to 5% of the HOME allocation annually for CHDO Operating Assistance. DGCD may also opt to use up to 10 % of its annual allocation for Pre-Development activities for up-front eligible project expenditures, seed money, or site control/. CHDO activity could include: <ul style="list-style-type: none"> • CHDO Operating Assistance • Rental Housing Development • Homebuyer Development •
TENANT BASED RENTAL ASSISTANCE (TBRA)	DGCD provides rental subsidies to help individual households afford housing costs such as: rent, utility costs, security deposits, and utility deposits.

Eligible forms of Subsidy

Interest bearing loans or advances

- Non-interest-bearing loans or advances
- Deferred loans (forgivable or repayable)
- Grants
- Loan guarantees
- Other forms approved by HUD

Eligible Costs

(See CHAPTER 11: D. Eligible Costs)

- New Construction
- Rehabilitation
- Reconstruction
- Conversion
- Site Improvements
- Acquisition of property
- Acquisition of vacant land (*only if construction will begin on HOME project within 12 months of purchase)
- Demolition
- Relocation costs
- Project-related soft costs (reasonable and necessary)

ELIGIBLE PROJECT COSTS	DESCRIPTION
DEVELOPMENT HARD COST	Cost of constructing or rehabilitating housing.
REFINANCING COSTS	Cost to refinance existing debt secured by housing that is being rehabilitated with HOME funds.
ACQUISITION COSTS	Cost of acquiring improved or unimproved real property. Acquisition as a single activity is not eligible with HOME funding. Only projects that include rehabilitation or development activities as a part of the overall project may include acquisition as an eligible project cost.
RELATED SOFT COSTS	Reasonable and necessary costs associated with the financing or development (or both) of new construction, rehabilitation, or acquisition of housing assisted with HOME funds.

5.3 Prohibited Activities

- Project reserve accounts
- Match for other programs
- Development, operations, or modernization of public housing
- Properties receiving assistance under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages)
- Double-dipping (no additional HOME funds may be provided to a HOME-assisted project during the relevant period of affordability (some exceptions apply))
- Acquisition of DGCD-owned property
- Project-based rental assistance
- Pay delinquent taxes, fees, or charges
- *Other prohibited activities as determined by HUD

5.4 Eligible Allocation and Funding Categories

DGCD must ensure that the amount of HOME funds invested does not exceed the lesser of the total HOME eligible costs per unit and the maximum per unit HOME subsidy. Eligible HOME funding allocation categories include Administration and Planning for DGCD as the Participating Jurisdiction (PJ), CHDO Operating, CHDO Set-Aside, and regular HOME funds:

- Administration and planning for PJs: DGCD can spend up to 10% of its total HOME allocation on administration activities. As the PJ, DGCD has used these funds for its own administration of Affordable Housing Programs carried out by its housing partners.
- CHDO Operating: A certified CHDO may use up to 5% of its fiscal year HOME allocation for operating expenses. Operating funds may assist such costs as office rent, utilities, staff salaries, or insurance, and are to be separate from (and not intended to supplant) CHDO set-aside costs. Certified CHDOs must request operating funds as a part of any application submitted for project funding.
- CHDO Set-Aside: A certified CHDO may use these funds for projects that are owned, developed, or sponsored.
- Regular HOME Funds: Available to all eligible applicants to carry out new construction, demolition, acquisition, reconstruction, and other applicable projects.

Additional Program Considerations

Please refer to HOME Final Rule Part 92, Subpart E - Program Requirements for specifics related to eligible costs associated with the HOME Program.

- 92.206 Eligible Project Cost
- 92.207 Eligible Administrative and Planning Costs
- 92.208 Eligible CHDO Operating Expense Capacity Building Costs

(Refer to Notice CPD 16-15: Allocating Eligible Costs and Identifying HOME-assisted units in HOME Homeownership and Multi-Unit Rental Development Projects)

5.5 Eligible Beneficiaries

The eligibility of households varies with the nature of the funded HOME activity. For rental housing and rental assistance, at least 90 percent of benefiting families must have incomes that are no more than 60% of the HUD-adjusted median family income for the area. In rental projects with five or more assisted units, at least 20% of the units must be occupied by families with incomes that do not exceed 50% of the HUD-adjusted median. The incomes of households receiving HUD assistance must not exceed 80% of the area median. HOME income limits are published each year by HUD.

5.6 Underwriting and Subsidy Layering Guidelines

Subsidy layering and underwriting requirements for rental and homebuyer *development* projects (§92.250). The sub-recipient must adopt DGCD subsidy layering and underwriting guidelines to ensure that it does not invest any more HOME funds (alone or in combination with other funds) than are necessary to the project and to ensure that the owner's/developer's profit or return on his/her investment is appropriate and reasonable, given the size, type, and complexity of the project.

When selecting projects to receive HOME funds, the subrecipient must then use these guidelines to evaluate all proposed HOME-assisted projects *prior to committing its HOME funds*.

Exceptions to the above. The subsidy layering and underwriting requirements do not apply as follows:

- For *owner-occupied housing rehabilitation projects*, Sub-recipients are not required to conduct an underwriting review unless the HOME funds are provided in the form of an amortizing loan. Further, a market analysis and evaluation of developer capacity is not required. An assessment that the anticipated project costs are reasonable is required.
- For *downpayment assistance projects that do not involve development activity*, a market analysis or evaluation of developer capacity is not required. Note, there are additional requirements in §92.254(f) for Subrecipient to establish underwriting criteria for the purpose of determining a buyer's financial qualifications prior to providing HOME assistance to a buyer.

The Subrecipient must conduct project underwriting *before* committing HOME funds to a project.

Qualifying Ratios

According to the HUD website, the debt-to-income ratio is acceptable if the total monthly obligations, including the mortgage payment, do not exceed 43% of the gross effective income. However, a ratio higher than 43% may be acceptable if compensating factors are documented and recorded on Form HUD-92900-LT. For borrowers who qualify under FHA's EEH, the ratio is 45%.

The relationship of the mortgage payment to income is considered acceptable if the total mortgage payment does not exceed 31% of the gross effective income. A ratio exceeding 31% may be acceptable only if significant compensating factors, as discussed in HUD 4155.1 4.F.3, are documented and recorded on Form HUD-92900-LT, FHA Loan Underwriting and Transmittal Summary. For those borrowers who qualify under FHA's Energy Efficient Homes (EEH), the ratio is set at 33%.

*Note: The total mortgage payment includes:

- Principal and interest
- Escrow deposits for real estate taxes
- Hazard insurance
- Mortgage insurance premium
- Homeowners' association dues
- Ground rent
- Special assessments
- Payments for any acceptable secondary financing

Total Fixed Payments to Effective Income Ratio

The relationship of total obligations to income is considered acceptable relationship of total obligations to income is considered acceptable if the total mortgage payment and all recurring monthly obligations do not exceed 43% of the gross effective income. A ratio exceeding 43% may be acceptable only if significant compensating factors, as discussed in HUD 4155.1 4.F.3, are documented and recorded on Form HUD-92900-LT, FHA Loan Underwriting and Transmittal Summary. For those borrowers who qualify under FHA's EEH, the ratio is set at 45%.

For real estate taxes, lenders must use accurate estimates of monthly property tax escrows when qualifying borrowers. In new construction cases, property tax estimates must be based on the land and completed improvements, not just on the land value. Reference: For information on projecting and collecting real estate tax payments, see HUD 4155.2 6.A.1.i.

Most DGCD allocations of HOME dollars are considered a loan. Gap financing is provided regardless of the type of financing applied for, be it construction or rehabilitation. Gap financing is provided based upon the availability of HOME funds at the time of application, and whether the application meets with the current Consolidated Plan priority goals.

24 CFR Part 92.250(b) requires the underwriting of all HOME projects (rental and homebuyer) whether or not the projects are assisted with other governmental assistance. In compliance with federal regulations, DGCD subsidy layering and/or underwriting must demonstrate that it is not investing any more HOME funds, alone or in combination with other funds, than are necessary to provide quality, affordable, and financially viable housing for at least the duration of the affordability period. DGCD's evaluation will determine a reasonable level of profit or return on the owner's or developer's investment in a project.

The HOME Rule requires DGCD to allocate eligible costs to HOME-assisted units and establishes the maximum per-unit subsidy limits:

- Cost Allocation (92.205 (d) (1))
- Maximum per unit subsidy limits (92.250(a))

DGCD will be in compliance if it uses either of the three cost allocation methods. Under most circumstances, DGCD will comply with preliminary underwriting when determining its HOME funding investment.

- Preliminary underwriting: Review the project budget for reasonable and necessary development costs; to analyze the initial funding gap (i.e., the need for the HOME funds) and projected return to the developer; and ensure that the proposed mix of HOME-assisted units and/or other assisted units or unassisted units allows for project viability throughout the period of affordability.
- Cost allocation: Determines the minimum number of HOME-assisted units in a project based on requested HOME investment. If fewer than 100%, the units will be HOME- assisted or the project is a mixed-use property.
- Final underwriting: If adjustments are needed after cost allocation. (Refer to CPD Notice 15-11 or successor notices for the Cost Allocation Process).

5.7 Resale/Recapture Provisions

- CHAPTER 215 of the HOME statute establishes specific requirements that all HOME-assisted homebuyer housing must meet to qualify as affordable housing. Specifically, all HOME-assisted homebuyer housing must have an initial purchase price that does not exceed 95% of the median purchase price for the area, be the principal residence of an owner whose family qualifies as low-income at the time of purchase and be subject to either resale or recapture provisions.
- The HOME statute states that resale provisions must limit subsequent purchase of the property to income-eligible families, provide the owner with a fair return on investment, including any improvements, and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. The HOME statute also specifies that recapture provisions must recapture the HOME investment from available net proceeds to assist other HOME-eligible families. See **Appendix C: HOME Resale and Recapture Examples**

DGCD HOME Program prefers to utilize the recapture methods for HOME programs in accordance with 24 CFR 92.254(a)(5) to achieve the goal of continued affordability. If HOME assistance is only used to develop the unit and HOME funds are not used to lower the purchase price from fair market value to an affordable price, however, resale provisions must be used per the HOME rule at §92.254(a)(5)(i).

- The HOME rule at §92.254(a)(5) establishes the recapture requirements HOME PJs must use for all homebuyer activities. These provisions are imposed for the duration of the period of affordability on all HOME-assisted homebuyer projects through a written agreement with the homebuyer, and enforced via lien, deed restrictions, or covenants running with the land. The recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability.
- The design of the program is direct assistance to the homebuyer towards the purchase price of the home. Currently, HOME funds do not cover the difference between the fair market value of

the property and the sales price. This provision is secured and enforced through a mortgage deed and a note.

- The mortgage deed is filed for recordation with the Fulton County or DeKalb County Clerk of Superior Courts, and these requirements places a lien on the property thereby should trigger any action related to the sale, transfer, assumption, or foreclosure of the HOME-assisted property. The mortgage and note clearly define the dollar amount and the loan terms; contain default provisions and stipulation that the Borrower is responsible for maintaining the home in good repair.
- When undertaking HOME-assisted homebuyer activities, *including projects funded with HOME program income*, the DGCD HOME Program must document its established recapture provisions that comply with HOME statutory and regulatory requirements and set forth the provisions in its Consolidated Plan. The written recapture provisions that DGCD submits in its Annual Action Plan clearly describe the terms of the recapture provisions, the specific circumstances under which these provisions will be used, and how the Department will enforce the provisions.

Definitions

Development Subsidy - a development subsidy is defined as financial assistance provided by DGCD to offset the difference between the total cost of producing a housing unit and the fair market value of the unit. When provided independently and absent any additional subsidy that could be classified a direct subsidy, development subsidy triggers resale.

Direct Subsidy - direct subsidy is defined as financial assistance provided by DGCD that reduces the purchase price for a homebuyer below market value or otherwise subsidizes the homebuyer [i.e., down-payment loan, purchase financing, assistance to Community Housing Development Organization (CHDO) to develop and sell unit below market or closing cost assistance]. A direct subsidy triggers recapture.

Net Proceeds - the sales price minus superior loan repayment (other than HOME funds) and any closing costs.

Period of Affordability - The HOME rule at §92.254(a)(4) establishes the period of affordability for all homebuyer housing. How DGCD calculates the amount of HOME assistance in each unit, and therefore the applicable period of affordability, based on recapture provisions.

Period of Affordability Under Recapture Provisions - For HOME-assisted homebuyer units under the recapture option, the period of affordability is based upon the HOME-funded *Direct Subsidy* provided to the homebuyer that enabled the homebuyer to purchase the unit. Any HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.

HOME Investment Less Than \$14,999						
Number of Years Owned	1	2	3	4	5	5 + 1 month
Percent (%) Recaptured	100%	100%	100%	100%	100%	0%
HOME Investment from \$15,000 to \$39,999						

Number of Years Owned	1-6	7	8	9	10	10 + 1 month					
Percent (%) Recaptured	100%	80%	60%	40%	20%	0%					
HOME Investment Greater Than \$40,000											
Number of Years Owned	1-6	7	8	9	10	11	12	13	14	15	15 + 1 month
Percent (%) Recaptured	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%	0%

5.8 Recapture Provisions

Unlike the resale approach, DGCD’s Recapture Provisions permit the original homebuyer to sell the property to any willing buyer, at any price the market will bear, during the period of affordability while DGCD is able to recapture all or a portion of the HOME-assistance provided to the original homebuyer.

Applicability

Recapture Provisions are DGCD’s preferred mechanism for securing HOME Program investments and are generally applicable to all homebuyer activities, unless circumstances otherwise require Resale Provisions be used. Specifically, Recapture Provisions are always used in cases involving a Direct Subsidy to a homebuyer. Recapture provisions cannot be used when a project receives only a Development Subsidy and is sold at fair market value, because there is no direct HOME subsidy to recapture from the homebuyer. Instead, Resale Provisions must be used in this case. DGCD does not provide HOME loans for homebuyer projects for development subsidies.

Effect

If a homeowner chooses to sell during the Period of Affordability, the full amount of the HOME Program Direct Subsidy (specifically excluding the amount of any Development Subsidy) shall be recaptured and repaid to DGCD provided that net proceeds are sufficient. Recaptured funds shall be returned to the DGCD HOME Trust Fund to be reinvested in other affordable housing for low to moderate income persons. If net proceeds are insufficient to repay the total HOME investment due, only a pro-rata share of the net proceeds, as set forth in the formulas below, will be recaptured. If net proceeds are zero (as is usually the case with foreclosure), the recapture provision still applies, but there are no funds to recapture.

Imposing Recapture Provisions

A clear, detailed written agreement, executed before or at the time of sale, ensures that all parties are aware of the specific HOME requirements applicable to the unit (i.e., period or affordability, principal residency requirement, terms, and conditions of either the resale or recapture requirement). The HOME written agreement must be a separate legal document from any loan instrument and must, at a minimum, comply with the requirements at §92.504(c)(5) of the HOME rule. If DGCD provides HOME funds to a subrecipient or CHDO to develop and sell affordable housing, DGCD must prepare and execute the agreement with the buyer or be a party to the agreement along with the entity it funded.

The written agreement between the homebuyer and DGCD, as well as mortgage and lien documents are all used to impose the Recapture Provisions in HOME-assisted homebuyer projects under the recapture option. The purpose of these enforcement mechanisms is to ensure that DGCD recaptures the Direct Subsidy to the HOME-assisted homebuyer if the HOME-assisted property is transferred. Unlike the

resale option, deed restrictions, covenants running with the land, or other similar mechanisms are not required by the HOME rule to be used in homebuyer projects under the recapture option.

As provided in §92.254 (a)(5)(ii)(A), there are several options that DGCD may use that are acceptable to HUD to recapture funds and no option may capture more than the net proceeds, if any. The option that DGCD has elected to use, if the net proceeds are not sufficient to recapture the entire Direct HOME Subsidy amount, is the Shared net proceeds option.

In the event the borrower sells or transfers the mortgaged property or if the mortgaged property is foreclosed upon, and after the first lien holder is satisfied, DGCD will employ the shared net proceeds option in accordance with 24 CFR Part 92.254(a)(5)(ii)(A) and will accept the remaining funds available based on the Settlement Statement as the net proceeds of the sale and as the amount of HOME funds subject to recapture as provided in 24 CFR Part 92.254(a)(5)(ii)(A)(3). Additionally, in the event the property is sold (voluntary or involuntary) during the compliance period, the amount recaptured cannot exceed the net proceeds, if any. The net proceeds are the sales price minus superior loan repayment (other than HOME funds) and any closing costs. Repayment is forgiven if and only if there are no funds remaining to repay the loan after disposition of the property, thereby writing-off the remaining balance.

The recapture formula will include the sales price minus loan repayment (other than HOME funds) and closing costs. The net proceeds may be divided proportionally as set forth in the following mathematical formulas:

$$\frac{\text{HOME Investment}}{\text{(HOME Investment + homeowner investment)}} \times \text{Net Proceeds} = \text{HOME Amount to be recaptured}$$

$$\frac{\text{Homeowner Investment}}{\text{(HOME Investment + homeowner investment)}} \times \text{Net Proceeds} = \text{Amount to homeowner}$$

Foreclosure

Homebuyer housing with a Recapture Provision is not subject to the affordability requirements after DGCD has recaptured the HOME funds in accordance with its written agreement. If the ownership of the housing is conveyed pursuant to a foreclosure or other involuntary sale DGCD shall attempt to recoup any net proceeds that may be available through the foreclosure sale. DGCD is subject to the limitation that when there are no net proceeds or net proceeds are insufficient to repay the HOME investment due, DGCD may only recapture the actual net proceeds, if any. Upon distribution of proceeds, all obligations for continued affordability are satisfied.

Enforcement

In the event of non-compliance by the homebuyer, which includes failure to maintain property as principal residence, pay taxes, assessments, or insurance premiums, DGCD will consider this as a breach of covenant and DGCD may, at its option and without notice, declare the entire indebtedness due. To enforce recapture provisions, DGCD utilizes restrictive covenants (note, deed, written agreement) signed by the homeowner at closing.

5.8 Refinancing Policy

DGCD shall carefully review all requests for subordination on a case-by-case basis to protect its interests and the interests of the homebuyer. The conditions under which DGCD will agree to subordinate to new debt are as follows:

- The refinancing must be necessary to reduce the owner's overall housing costs, or
- The refinancing must otherwise make the housing more affordable, AND
- Refinancing for the purpose of taking out equity is not permitted.

Upon receipt of a subordination request from a lender or homebuyer, DGCD will review the terms of the refinancing to determine whether the above criteria are met. DGCD may require additional documentation from the homeowner or lender to make its determination. Once complete information is received, a subordination decision is made within 15 business days.

K. Monitoring Recapture Provisions

For HOME-assisted homebuyer projects, DGCD shall require its CHDOs and subrecipients, through written CHDO or subrecipient agreements, to perform ongoing monitoring of the principal residency requirement during the period of affordability. Confirmation that the buyer is using the property as his or her principal residence may be accomplished by verifying that the buyer's name appears on utility company records or insurance company records for the home. DGCD uses the Residency Certification System to maintain and certifies that the homeowner maintains the assisted unit as their primary resident. To satisfy the requirements of the Program, homeowners must agree to not:

- Rent, or contract to rent, any party to assume, lease, sell or abandon the Property, or any part thereof, whether voluntarily or involuntarily, to any individual or individuals; or
- Use the Property as an investment property; or
- Use the Property as a recreational home or "second" home; or
- Change the use of the Property, or any part thereof, to a use other than for single-family occupancy.

Failure to comply with the recapture requirements means that:

- the original HOME-assisted homebuyer no longer occupies the unit as his or her principal residence (i.e., unit is rented or vacant), or
- the home was sold during the period of affordability and the applicable resale or recapture provisions were not enforced.

Process

DGCD will mail each recipient a letter annually reminding them of the second mortgage loan, the amount of assistance, and the affordability terms the primary residency are accountable for maintaining. For households requiring annual recertification, DGCD requires annual submission of residency verification documentation. Homeowners have thirty (30) days from the date of the letter to provide proof of homeowner's insurance and two (2) of the following documents:

- Georgia Power Bill
- Water Bill
- Bank Statement
- Copy of Pay Stubs for the last two Months

- Copy of Driver’s License

DGCD’s HOME program will ensure that any recipient of HOME funds adhere to its affordability provisions. If DGCD elects to provide any other entity funds for this purpose, the entity will be required to follow the recapture provision.

If a HOME subsidized house is no longer the principal residence of the household for the duration of the designated affordability period, or if the house is sold prior to the end of the affordability period to a purchaser not meeting the requirement below, the subsidy attributable to the site is repayable upon sale to the extent that the proceeds from the sale allow and may be reduced pro-rata based on the time the borrower owned and occupied the residence.

In cases of noncompliance under recapture provisions, DGCD must repay to its HOME Investment Trust Fund in accordance with §92.503(b), any outstanding HOME funds invested in the housing. The amount subject to repayment is the total amount of HOME funds invested in the housing (i.e., any HOME development subsidy to the developer plus any HOME down payment or other assistance (e.g., closing costs) provided to the homebuyer) minus any HOME funds already repaid (i.e., payment of principal on a HOME loan). Any interest paid on the loan is considered program income and cannot be counted against the outstanding HOME investment amount. If the home is sold to a purchaser meeting the down payment assistance program requirements, the HOME subsidy may be assumed by the eligible purchaser.

5.10 Period of Affordability

DGCD and all funded applicants must comply with the period of affordability requirements outlined within HOME regulation 24 CFR 92.254 for homeownership projects and 24 CFR Part 92.252(e) for rental projects.

Activities	HOME funds provided for direct assistance to buyer (Recapture)	Unit Must Remain Affordable for at Least:
Homebuyer		
New Construction	< \$15,000 per unit	5 years
Acquisition	\$15,000-\$40,000 per unit	10 years
Rehab/Acquisition	>\$40,00 per unit	15 years
Rental		
Average Per Unit HOME \$		
Rehabilitation or Acquisition of existing property	<\$15,000 per unit	5 years
	\$15,000 to \$40,000 per unit	10 years
	>\$40,000 per unit	15 years
Refinance of rehabilitation project	Any \$ amount	15 years

New Construction or Acquisition of new housing	Any \$ amount	20 years
--	---------------	----------

5.11 Project Subsidy Limits

Maximum Per-Unit Subsidy Amount

The total amount of HOME funds that DGCD may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limitations established under CHAPTER 234 basic mortgage limit for elevator-type projects (CPD Notice 15-003; Interim Policy on Maximum Per-Unit Subsidy Limits for the HOME Program). HUD will allow the per-unit subsidy amount to be increased and capped at 240%. These limits are to be multiplied by 240% to determine the maximum subsidy limits by number of bedrooms.

Minimum HOME Investment

The minimum amount of HOME funds is an average of \$1,000, multiplied by the number of HOME-assisted units in the project.

- The minimum only relates to the HOME funds, and not to any other funds that might be used for project costs.
- The minimum HOME investment does not apply to TBRA.

Maximum HOME Investment

The maximum per-unit subsidy limit is based upon 95% of the median purchase price of existing housing and/or newly constructed housing in the area using data from the FHA single family mortgage program data and other appropriate data that are available nationwide for sales of existing and/or new constructed housing.

Actual HOME Investment

The actual subsidy provided will depend on the following factors:

- The proportion of the total project cost that is HOME eligible: some planned project costs may not be eligible expenses under the HOME Program.
- The number of units in the project is HOME-assisted: projects may have a mix of HOME- and non-HOME-assisted units.
- The financial needs of the project: HOME projects may not receive more subsidy than is required to make them financially feasible.

To determine what is required and reasonable, DGCD will complete a cost allocation and subsidy layering analysis. HOME project awards are based on the completed cost allocation and subsidy layering analysis.

- Cost allocation and subsidy layering are impacted by any changes in the number of HOME-assisted units, total number of units in the project, development cost and/or financing sources.
- Because of these requirements, all HOME Recipients are obligated to contact DGCD as soon as there are any changes in project size/scope, cost, or financing sources.

Multi-Family HOME Loan Program

DGCD will perform a subsidy layering review for all projects receiving or utilizing more than one

source of funds. In cases where projects combine HOME funds with any other local, state or federal assistance, a subsidy layering review is a requirement. This review will be in accordance with the requirements of CHAPTER 102(d) of the Department of Housing and Urban Development Reform Act of 1989. A copy of the subsidy layering evaluation will be placed in the project file.

This review requirement may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the US Department of Housing and Urban Development and under CHAPTER 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] by a certification by DGCD that the combination of assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under CHAPTER 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing.

- “(b) In Particular. - The guidelines established pursuant to subCHAPTER (a) shall— “(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the City; and “(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the City.
- “(c) Revocation by Secretary. - If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subCHAPTER (a), the Secretary— “(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this CHAPTER; and “(2) shall carry out CHAPTER 102(d) of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545 (d)] relating to affected projects allocated a low-income housing tax credit pursuant to CHAPTER 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42].
- “(d) Applicability. - CHAPTER 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545 (d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Department of Housing and Urban Development Reform Act.”

The following standards will apply for those projects/developments subject to subsidy layering review:

Development Fee Standard

DGCD may consider a developer’s fee of up to 12%. Developer’s fee and overhead, including any consultant fees, may not exceed 12% of total estimated replacement costs for acquisition and substantial rehabilitation projects and the developer’s fee cannot exceed the sum of 8% of the acquisition cost plus 12% of the balance of the development costs.

Builder’s Fee Standard

DGCD may include a maximum of 8% builder’s profit, 2% builder’s overhead and 6% general requirements. These percentages relate to the construction contract amount only excluding overhead, general requirements, and profit.

HUD also restricts these fees for projects subject to the subsidy layering review.

Allocation Determination Standard

Based on staff evaluation, DGCD will estimate the amount of HOME funds to be reserved for the project. This determination is made solely at DGCD's discretion and is in no way a representation of the actual feasibility of the project. The amount of financing may change during the allocation process due to the availability of funds, variations in cost, mortgage amount, tax credit percentage, syndication proceeds, and underwriting of the proposal.

Staff analysis to determine the HOME allocation will be completed:

- At the time of preliminary application, and
- At the time a carryover allocation is approved (if applicable), and
- At the time the project is placed in service (after all project costs are finalized and a third-party cost certification has been completed).

DGCD retains the right to reserve less than the amount produced by the application of the calculation method listed below:

Method: Cost Reasonable Analysis

The review should include an analysis of the following documents from the applicant:

Sources/uses of funds

As part of the application process, the applicant should provide a sources/uses of funds statement for the project with supporting documentation. This should reflect the project development budget and should list:

- All proposed sources (both private and public) of funds and the dollar amounts for each respective source; and
- All uses of funds (including acquisition costs, rehabilitation/or construction costs, financing costs and professional fees) associated with the project.

Certification of Government Assistance

The applicant should provide a formal certification as to whether additional government assistance will be provided to the project, and if so, what kind of assistance.

Project development budget

The project development budget should be reviewed to determine whether the development costs are necessary and reasonable. The budget should include all costs associated with the development of the project, regardless of the funding sources.

- "Reasonableness" of costs should be based on all the following factors: (1) costs of comparable projects in the same geographical area, (2) the experience and knowledge of the persons providing cost estimates for the various budget line items, and (3) comparable costs published by recognized industry cost index services.

Proforma

The funding entity should determine the reasonableness of the rate of return on equity investment by looking at the applicant's proforma (project income and expense statement).

- The proforma should include achievable rent levels, market vacancies and operating expenses. It should also specify the consequences of tax benefits, if any, and any other assumptions used in calculating the project cash flow.

- The proforma should represent, at a minimum, the term of the HOME affordability requirements, or longer if other funding sources require longer affordability terms.

If a subsidy layering review indicates that the amount of HOME or other governmental assistance exceeds the amount necessary to make the project feasible, the funding entity can consider the following options:

- Reduce the amount of HOME assistance by reducing the development budget accordingly or increasing the non-public funding of the project.
- Make other adjustments to the project, such as lowering the rents to be charged or reducing the term of the loan to lower the rate of return; or
- Deny HOME assistance if the applicant refuses to make reasonable adjustments.

Rental Underwriting Procedures

All loans will go through an underwriting process to establish loan terms before loan execution. This underwriting process by DGCD will ensure the loan structure promotes a sustainable project during the affordability period and beyond.

The following minimum, but not limited to, steps will be taken:

- The Developer, Subrecipient or CHDO will submit operating budget and pro-forma that outlines all projected monthly and/or annual expenses for the project.

Each Developer, Subrecipient or CHDO shall contribute to the Replacement Reserves an amount in compliance with the applicable rate outlined in the rental loan policy for Replacement Reserves. In accordance with the rental loan policy, the Developer, Subrecipient or CHDO must be able to account for the replacement reserves held for each property. These reserves shall be deposited into a separate account that is designed solely for replacement reserves for the property being underwritten.

- All operating budget expenses will be examined to determine cost reasonableness and appropriateness.
- For projects being rented to households earning 80% of AMI or Less, a Utility Allowance Worksheet will be submitted by the Developer, Subrecipient or CHDO and reviewed by the Management Analyst or designee to determine compliance with Maximum Rental Rate and to confirm Owners Operating expenses.
- The Management Analyst or designee will confirm that the rental rate does not exceed the maximum allowable under the program guidelines.
- The Management Analyst or designee will input all data provided by the Developer, Subrecipient or CHDO into the Underwriting Analysis (Appendix A) spreadsheet to determine project feasibility.
 - All projects will have scenarios that outline the loan at the program's applicable interest rate for review. Alternative scenarios will be provided when appropriate.
 - All loan scenarios will be at a minimum based on the affordability period determined by the City of Atlanta project investment.
- Projects will be expected to provide cash-flow to the Developer, Subrecipient or CHDO that yields a Debt Coverage Ratio in compliance with the applicable rate outlined in the rental loan policy.
- The Management Analyst or designee will provide the underwriting analysis spreadsheet and recommendations to the Fiscal Staff for review and comment.

- All loans will be reviewed and approved by DGCD Director, or their authorized designee, before final approval.

CHAPTER 6: Matching Requirements

6.1 Basic Facts about Match

The National Affordable Housing Act, which authorized the HOME Program, determined that providing affordable housing to low-income persons is the responsibility of all levels of the government. Therefore, matching contributions are required as the state and local government contribution to the HOME Program.

Matching contributions must be:

- A permanent contribution to affordable housing
- From non-federal sources
- Provided by any of a broad array of public and private donors, such as local government agencies, state agencies, charitable organizations/foundations, and private sector organizations such as lending institutions and corporate donor.

Match is not leverage. Leverage is the amount of debt relative to the total value of the assets in a project. The use of HOME funds in a project may increase the ability to secure mortgage financing which is repaid over time.

The HOME Program requires that DGCD provide a matching contribution in an amount equal to no less than 25% of the total HOME funds drawn down for project costs. Because HOME funds are awarded to Recipients for completion of eligible activities, DGCD expects all Recipients provide the match requirement to satisfy this obligation. The match requirement may be reduced if the participating jurisdiction is distressed or has suffered a presidentially declared disaster.

6.2 Keys to Understanding the Match Requirement

There are match credits and match debits.

- **Debits** - For virtually every dollar of HOME funds drawn down for a project, there is a 25% match obligation.
- **Credits** - Match credits are a community's non-federal contribution of cash, assets, services, labor, and other resources of value to the HOME Program.

There are no match obligations (debits) associated with the following activities:

- HOME administrative and planning funds
- CHDO operating expenses
- CHDO capacity-building funds
- CHDO site control, technical assistance and seed money loans for projects that do not go forward.

Match credits and debits are not necessarily linked to the same project.

- The match debit, or obligation to come up with matching contributions, is created by the draw-down of HOME funds for a particular project.

DGCD expects that all Recipients will secure matching contribution (match credit) equal to the matching obligation created by the programs they administer.

Match credit can be earned for investments in:

- Home-assisted projects: projects that receive assistance with HOME funding.
- HOME-eligible projects: a project that is not assisted with HOME funds, but meets HOME requirements related to income, rent, quality standards and other HOME rules.

Partially assisted HOME projects and mixed-use projects: Projects where some units are HOME assisted and some are not; projects that are mixed HOME assisted and commercial, and even projects that are mixed HOME assisted, non- HOME residential and commercial.

- Investments in the commercial space in mixed-use developments can be counted as match if 51% or more of the project space is residential and 50% or more of the dwelling units are HOME-assisted.
- Investments in the non-HOME assisted portion of mixed-income developments can be counted as match if 50% or more of the dwelling units are HOME assisted. (If the non-HOME units meet the HOME eligibility requirements for affordability, then the contributions to any affordable non-HOME units apply, regardless of the percentage of HOME units in the project.

Assistance to tenants

Match credit can be earned by providing non-federal funds to tenants receiving HOME tenant-based rental assistance (TBRA), or by supporting tenants through non-federal TBRA if the rental assistance meets certain HOME criteria.

- Match liability must be met in the year that it was incurred.
- Match liability is incurred every time HOME funds subject to the matching requirements are drawn down from DGCD's HOME Investment Trust Fund Treasury account. The liability must be satisfied by the end of the federal fiscal year in which it occurred.

The resources used to meet the match liability can be generated before or after the HOME project is completed. Excess match generated in a fiscal year can be carried forward to meet the next year's match obligation.

6.3 Eligible Forms of Match

The match obligation may be met with any of the following specific sources:

- Cash or cash equivalents from a non-federal source
- Value of waived taxes, fees or charges associated with HOME projects
- Value of donated land or real property
- Cost of infrastructure improvements associated with HOME projects from non-federal sources
- A percentage of the proceeds of single or multi-family housing bonds issued by state, state instrumentality, or local government
- Value of donated materials, equipment, labor and professional services
- Sweat equity***

- Direct costs of supportive services to residents of HOME projects
- Direct cost of homebuyer counseling to families purchasing homes with HOME assistance

***Note: “The U.S. Department of Housing and Urban Development (HUD) defines **sweat equity** as labor or services contributed toward the construction or rehabilitation of a property instead of cash. This can include materials provided or labor completed by a borrower before closing on a property. The value of the labor and materials is considered equivalent to personal funds”.

Match counted for other federal programs cannot be counted as HOME match. HOME can be counted as match for McKinney Act programs.

Match Sources: Non-Federal Cash or Cash Equivalents

There are many eligible forms of cash match. Cash contributions may be contributed from a public or private non-federal source.

Match Sources	
Acceptable Sources of Cash Match	Unacceptable Sources of Cash Match
Local or state general revenues	All CDBG funds
Housing trust fund	Other federal grant funds
Foundations, donations	Funds raised through federal Low Income Housing Tax Credits
State appropriations	The interest rate subsidy attributable to federal tax-exempt financing
HFA reserves that are not federal funds (e.g., bond proceeds)	Owner equity in a project
The interest rate subsidy achieved by the exemption of state or local taxes	Cash contributions from investors, applicants for, or recipients of HOME assistance
Program income from Housing Development Action Grant (HODAG), Rental Rehabilitation Program (RRG), or Urban Development Action Grant (UDAG) after grant closeout	Expenditures on program administration
Present value of the interest subsidy for loans made at rates below market	

Cash match may be used for HOME eligible activities, or other costs not eligible for HOME funds including:

- Payments to a project “reserve for replacements”, beyond an 18- month rent-up period
- Operating subsidies
- Certain supportive services
- Ongoing homebuyer counseling
- Cash contributions associate with non-HOME portions of mixed- income or mixed-use HOME project (if certain requirements are met)

Match Sources: Forbearance of Fees and Waived/Reduced Taxes

Match for the value of foregone fees, taxes or charges applies only to HOME assisted projects. Two classes of waived fees may be counted as match:

- State and local taxes, charges, and fees:
 - Value of foregone real estate taxes must be based on post-improvement value.
 - The value of fees, taxes or charges foregone for future years is the present discounted cash value of the amount forgiven, based on the Treasury security rate closest in maturity to the number of years for which fees, taxes or charges are foregone.
- Other charges or fees:
 - These are fees normally associated with property transfer or development, such as title searches, title insurance premiums and utility hook-ups or surcharges.
 - The fees and charges do not include donated professional labor. This is eligible (as of the Final Rule) for match credit under a separate provision.
- Waived taxes, charges or fees are not match credit if:
 - The waived fees are associated only with the HOME Program. This means you cannot create a fee and waive or reduce it for HOME projects only.
 - Developers waive their own fees.

Match Sources: Value of Donated Land or Other Real Property

Land or real property permanently contributed to a HOME assisted or a HOME eligible project is a source of match.

- Property may be donated.
- Property may be sold at below its market value.

Property acquired with non-federal resources:

- If a property acquired with non-federal resources is donated to a HOME assisted project or HOME eligible project, the match credit is equal to 100% of the appraised value minus any debt burden, liens, or other encumbrances.
 - Properties may be donated by the unit of local government, non-federal public entities, private entities, or individuals.
 - Properties may not be donated by applicants for, or Recipients of, HOME assistance or contracts, or investors who own, are working on, or are proposing to apply for HOME assistance.

The value must be determined by an appraisal.

- The appraisal must be performed by an independent, certified appraiser.
- The appraisal method must conform to generally recognized practices and procedures.

Property acquired with federal funds:

- Properties acquired with federal funds and donated can provide match credit under certain circumstances:
 - The properties must have been acquired specifically for HOME assisted housing or for a HOME eligible project.
 - The properties must have been acquired at demonstrably below the appraised value.
 - The seller must acknowledge the sale at below-market value as a donation to affordable housing at the time of the acquisition.

- Federal funds include Community Development Block Grant (CDBG), UDAG, Urban Renewal, Low Income Housing Tax Credits, and Homeownership Opportunities for People Everywhere (HOPE).
- Donations of land or property are credited at the time of ownership of the land or when property is transferred.
- If the property is acquired by the owner of the HOME assisted or HOME eligible project, the match credit is the difference between the appraised value at the time of acquisition with the federal funds and the acquisition cost.
- If the property is acquired with federal funds by an entity that donates the property to the owner of the HOME assisted or HOME eligible project, the match contribution is the difference between the appraised value and the acquisition cost.
- If the property is acquired with federal funds by an entity that sells the property to the owner of the HOME assisted or HOME eligible project, the contribution is the difference between the sales price paid by the entity using the federal assistance and the appraised value at the time of acquisition by the entity.

Match Source: Investments in On-Site and Off-Site Infrastructure

To receive match credit:

- Infrastructure improvements must be directly related to HOME assisted projects. (Infrastructure improvements related to HOME eligible housing do not provide match credit).
 - The infrastructure improvement must directly facilitate the occupancy of HOME units.
 - Examples include:
 - Streets
 - Sidewalks
 - Gutters
 - Streetlights
 - Utility Lines and Connections
 - Parks, bridges, or highways are not eligible types of infrastructure improvements.
- The improvement must be paid for from non-federal sources.
 - Since infrastructure improvements may serve HOME and non-HOME units in a project, the investment must be prorated accordingly. (Example: \$50,000 is spent on streetlights on a block of 10 homes. Two (20%) of the homes are HOME assisted. The value of the match associated with HOME is \$10,000 (20% of \$50,000).
 - Infrastructure improvements are credited when the funds are expended or if the improvements were made prior to the commitment of HOME funds-when the HOME funds are committed.

Match Source: Proceeds from State or Local Housing Bonds

The proceeds from affordable housing bonds which are repayable from the housing project may be used as match credit. However, HOME limits the amount of match credit PJs may earn from affordable housing bond proceeds. DGCD may count bond proceeds as follows:

- 50% of the face value of each loan made to HOME assisted or HOME eligible multi-family housing projects.
- 25% of the face value of each loan made to HOME assisted or HOME eligible single-family housing projects.

To be eligible as match, the bond proceeds must be provided to a HOME assisted or HOME eligible project. No more than 25% of DGCD's match liability for any one year can be met through loans to housing projects from the proceeds of affordable housing bonds. However, the value of loans in excess of the 25% limit may be banked as match credit to offset future match liabilities. A loan made from bond proceeds is credited at the time of loan closing. See HUD CPD Notice 97-03 online for further guidance on calculating match from state and local bonds:

<https://archives.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/97-3.pdf>

Match Sources: Donated Materials, Equipment, Labor and Professional Services

The value of donated materials for site preparation and construction of HOME assisted or HOME eligible housing may be counted as match.

- Materials must have been purchased with non-federal funds.
- DGCD must use its normal cost estimating procedures to determine the value of materials, and must document its value determination.

The reasonable value of the use of site preparation and construction equipment donated to HOME assisted or HOME eligible housing may be counted as match.

- The full value of the contribution may be counted (that is, the rental rate multiplied by the number of hours/days for which the equipment was donated).
- Documentation of the match must include a letter from the equipment owner stating the rental rate and number of hours/days donated.

DGCD may count the value of any donated or volunteer labor, including professional services, in connection with the HOME assisted or HOME eligible project.

- HUD will make the hourly labor rate for donated unskilled labor available annually.
- Skilled labor and professional services, such as those donated by a lawyer or accountant, will be valued at the rate normally charged by the entity providing the service.
- The value of labor or professional services provided to affordable housing at a reduced rate as a donation by an individual or entity that has a contract to provide labor or services on a HOME assisted project may be counted as match, provided the individual or entity agrees to accept the reduced rate.

Donations of material, equipment use, labor and professional services are credited at the time they are used for/contributed to the project.

Match Source: Sweat Equity

The value of sweat equity provided to a homeownership project may be counted as match.

- The contribution will be valued at the rate of unskilled labor. This value will be established by HUD.
- The value of the labor can be contributed up until the time of project completion.
- The sweat equity must be contributed as part of an established program of DGCD.

Match Source: Direct Costs of Certain Supportive Services

The direct cost of supportive services provided to residents of HOME assisted projects or to families receiving HOME funded TBRA may be used as match if the services are:

- Paid for with non-federal funds; and
- Provided during the period of affordability or term of the TBRA contract; and
- Necessary to facilitate independent living; OR
- Required as part of a self-sufficiency program provided to residents or TBRA recipients.

Examples of such services include:

- Case Management
- Mental health services
- Assistance with tasks of daily living
- Substance abuse treatment and counseling
- Day care
- Job training and counseling

Direct costs that may be counted as match are limited to salary costs and the cost of materials directly related to the provision of these services. Overhead costs (such as rent and utilities) are not considered direct costs. Match is credited at the time the supportive services are provided.

Match Source: Homebuyer Counseling

The direct cost of counseling provided to families that complete home purchases with HOME assistance.

- Counseling may include pre-purchase and/or ongoing counseling during the period of affordability.
- The counseling may be provided as part of a program that is not HOME Program- specific (for example, a lender-run homebuyer counseling program or non-profit program). However, only the costs of services to families that complete purchases with HOME funds count toward the match.

Direct costs that may be counted as match are limited to salary costs and the cost of materials directly related to the provision of these services. Overhead costs (such as rent and utilities) are not considered direct costs. The match is credited at the time the counseling services are provided.

Match Source: Contributions to Development of Homebuyers Projects

The amount by which the investment reduced the sales prices to the homebuyer.

If development costs exceed the fair market value of the housing, the contribution may be credited to the extent that the contributions enable the housing to be sold for less than the cost of development.

Eligibility of Contributions as Match		
Types of Match	HOME Assisted Housing	HOME Match Eligible Housing
Cash	X	X
Foregone Taxes, Fees and Other Charges	X	
Donated Land or Other Real Property	X	X

On-Site and Off-Site Infrastructure	X	
Proceeds from Affordable Housing Bonds	X	X
Donated Site Preparation and Construction Materials	X	X
Donated Use of Site Preparation and Construction Equipment	X	X
Donated or Voluntary Labor and Professional Services	X	X
Sweat Equity	X	
Supportive Services	X	
Homebuyer Counseling Services	X	
The amount of investment to reduce sales price	X	X
Contributions that enable housing to be sold less than development cost	X	X

Ineligible Sources of Match

The following do not meet the requirements for eligible sources of match, and do not count toward meeting the matching contribution requirement:

- Contributions made with or derived from federal resources or funds (including CDBG), regardless of when the funds were received or expended
- The interest rate subsidy attributable to the federal tax exemption on financing (such as bonds issued by the state) or the value attributable to federal tax credits (such as the Low-Income Housing Tax Credit Program)
- Owner equity or investment in a project (except sweat equity)
- Cash or other forms of contributions from applicants for, or recipients of, HOME assistance or contract, or investors who own, are working on, or are proposing to apply for assistance for a HOME assisted project (except for sweat equity or professional services donated by contractors who do not own any HOME projects)
- The cost of administering HOME assisted or HOME eligible housing projects or rental assistance
- Contributions counted as match toward any other federally funded program.

Other forms of contributions not meeting the HOME requirements found at 24 CFR 92.220 are also not eligible.

6.4 Meeting the Match Obligation

Meeting the match obligation poses a challenge to many Recipients. A good strategy for managing the match is a necessity, so Recipients need to:

Set up a system for calculating and tracking both match obligations and match credits.

- DGCD will review the match form submitted with the application annually and confirms with Recipients that anticipated sources of match funds were secured and expended during the program year.
- Recipients should track anticipated match, in case the committed match contributions fall through and other sources of match have to be identified to make up for the shortfall.
- Recipients should monitor the match obligations to ensure that the HOME funds anticipated are equal to the amount expended on the project.

- Recipients may want to consider supplying potential match contributors with voucher slips and timesheets so they can easily report their contributions in a standard format. These documents should also be used by Recipients in-house to accurately document in-house contributions.
- Guidance on appropriately documenting match contributions is available in CPD Notice 97-03 located online at <https://archives.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/97-3.pdf>

Plan ahead to meet match needs. Many community development activities offer opportunities to find matching contributions. For example, Recipients can:

- Check local capital improvement budgets and plans for opportunities to use infrastructure improvements as a source of match.
- Confer with tax assessors’ offices to identify tax foreclosed and delinquent properties that may be available for conveyance.
- Network with local foundations, charities, others to identify grant funds, volunteer labor, services, and even property that can be used as match.

Be creative in looking for matching contributions. Remember that some types of investments in HOME eligible and HOME assisted projects can be counted as match. Look for projects supported with state funds and local public resources that might be HOME eligible. Review previous public improvement and infrastructure investments to determine if recent projects (those completed within the last 12 months) directly support HOME assisted projects. Look for opportunities to use donated labor, materials, and services for upcoming projects.

Helpful Hints: Managing the Match

These tips will help Recipients manage match:

- ✓ Keep match in mind when planning an activity or designing a new affordable housing program. Consider the following strategies if they are not currently in use:
 - Negotiate fee and tax abatements
 - Review capital expenditure budgets for possible infrastructure projects to support the HOME Program.
 - Design and capitalize a housing trust fund.
 - Negotiate financial commitments from state housing finance agencies.
 - Talk to foundations and local charities about contributions to affordable housing.
- ✓ At the start of each fiscal year, try to anticipate the expenditures of HOME dollars. Then, calculate the total amount of match required and the likely years in which it may be needed.
- ✓ Develop a tracking system to keep tabs on the anticipated match contribution sources and liabilities reported to DGCD in case they fall through and new match sources have to be identified.
- ✓ Don’t wait until the last moment to identify new and viable sources of match if the anticipated match contributions reported in your application fall through or are no longer available. Given the obligation to make matching contributions within the same fiscal year that an obligation occurs, it is easy to get caught short should the anticipated match no longer be available.
- ✓ Examine capital improvement plans and schedules:
 - Consider using non-federal monies for improvements in areas where HOME activities are likely so these can be counted as match.
 - Look at the schedules for infrastructure projects that might constitute match. Can they be changed to occur within one year of committing HOME monies?
- ✓ Time donations of land and real property so they can count when needed to meet the match.

CHAPTER 7: Other Federal Requirements

Besides the rules and requirements specific to the HOME Program, there are several additional broad federal rules that must be adhered to during administering the program. While the Participating Jurisdiction, DGCD, is responsible for implementing these rules, owners, developers, Community Housing Development Organizations (CHDOs), and other nonprofits must also be aware of them and actively ensure that a project or activity is in compliance.

1. Site and Neighborhood Standards requires DGCD to provide housing that furthers compliance with civil rights laws, promotes greater choice of housing opportunities, and determines that sites for new construction rental housing meet the cited site and neighborhood standards. 24 CFR 92.202, 983.57, 24 CFR 983.57(e)(2) and (3)
2. Environmental Reviews (ERs) will be conducted on all properties/projects associated with any potential HOME funding. ER clearance of properties/projects must be provided for HOME funding to be invested. 24 CFR Part 58, National Environmental Policy Act (NEPA) of 1969; 24 CFR 50.4, 58.5, and 58.6.
3. Equal Employment Opportunity, regardless of race, sex, color, religion, age, national origin, and disability in federally assisted construction contracts- 24 CFR Part 7 and 41 CFR Part 60.
4. Non-Discrimination and Equal Access, to ensure that no person in the United States shall, on the grounds of race, color, national origin, religion or sex can be excluded, denied benefits, or subjected to discrimination under any program funded in whole or in part by HOME funds. 24 CFR Part 92.350, 92.351, 92.505(a)
5. Acquisition and Relocation
6. Residential Lead Based Paint Hazard Reduction Act of 1992- Lead Based Paint provisions apply to all HOME project activities, and applies to all units in an assisted project, regardless of the occupancy of the unit. 24 CFR Part 35, Subpart B, 24 CFR 982.401(j), and § 92.356 of the HOME final rule.
7. Site and Neighborhood Standards.
8. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601-4655 (Uniform Act), established a program, which includes the payment of moving and related expenses, to assist persons who move because of Federal or federally assisted projects.
9. CHAPTER 104(d) applies to the demolition or conversion of lower-income dwelling units in connection with a HOME-assisted activity, and the intent is to minimize displacement, provide relocation assistance to displaced lower-income persons, and to replace lower-income housing that is demolished or converted.

DGCD must administer its HOME Investment Partnership Program in a manner that provides housing that is suitable from the standpoint of promoting greater choice of housing opportunities and facilitating and furthering full compliance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD regulations. The U.S. Department of Housing and Urban Development (HUD) requires its participating jurisdictions that administer HOME programs to establish site and neighborhood requirements with respect to new construction of rental housing. The Final Rule requires only new construction rental projects to meet site and neighborhood standards from 24 CFR 983.6(b), which places limiting conditions on building in areas of “minority concentration” and that are “racially mixed.”

1. To ensure satisfactory long-term security, the subject property should be comparable with surrounding properties in terms of the factors which affect marketability such as function, design, and quality of construction. All newly constructed or substantially rehabilitated projects funded with HOME funds must meet local codes, rehabilitation standards, and zoning ordinances. Each unit must receive a passing status from a Housing Quality Inspection or Uniform Physical Condition Standard (UPCS).
2. The Model Energy Code published by the Council of American Building Officials relative to new construction and standards regarding substantial rehabilitation shall be met.
3. Residential living space must constitute at least 51% of the project space.
4. Plans should be of good design that will enhance the quality of life for residents and should incorporate energy efficiency through materials, heating, ventilation and air conditioning (HVAC) systems, building design, and site orientation.
5. To ensure compliance with the HOME rules and regulations, DGCD evaluates all new construction of rental housing based on the condition of the surrounding neighborhood, including the appropriate environmental and aesthetic conditions and proximity to retail, medical, neighborhood, and educational facilities, and employment centers. The site's appearance to prospective tenants and its accessibility via the existing transportation infrastructure and public transportation systems will also be evaluated. Unacceptable sites include, without limitation, those containing an environmental factor that may adversely affect the health and safety of the residents that cannot be mitigated.

7.1 Environmental Reviews

As outlined in 24 CFR Part 58, states and units of local government are required to assume federal environmental review responsibilities for compliance with the National Environmental Policy Act (NEPA), and related federal laws and authorities. HUD's environmental review regulations identify states and units of general local government as the "responsible entity" (RE)- those entities having legal authority to assume this role because they exercise control over planning, permitting, and supplying infrastructure to support HUD-assisted projects for their jurisdictions. For the HOME Program, the RE is the participating jurisdiction (PJ)- that is, the state, unit of local government, or consortium that receives a formula allocation of HOME funds directly from HUD. The Department of Grants and Community Development Department, a Recipient that is a unit of local government, assumes responsibility for compliance with NEPA and Part 58 instead of the state [24 CFR 92.504(c)(1)].

DGCD assumes the RE role for all HOME funded projects. In the role of responsible entity (RE), DGCD not only assumes the responsibility for environmental review, decision-making, documentation, and mitigation (if necessary), but also the legal responsibility for compliance with NEPA and all other applicable laws, regulations, and authorizations. DGCD's role in this capacity is to conduct post-review monitoring of Recipient's Environmental Review Records (ERR); to enforce violations of Part 58; to receive certifications of compliance from Recipients; to accept objections from the public or other agencies; and other responsibilities related to the release of funds process (§ 58.18 and Subpart H).

ER Process

DGCD must ensure that activities or projects that are funded by HOME assistance, in total or in part, are in compliance with NEPA and Part 58 requirements. This means creating a written environmental review record (ERR) for every activity and project regardless of the level of review (§ 58.38). DGCD is responsible for the content of the ERR and must make an independent evaluation of the environmental issues, take responsibility for scope and content of the compliance findings, and make the final environmental decision concerning project approval.

Environmental Decision-Making and Action

For purposes of compliance with NEPA and Part 58, the chief executive officer of the RE, or its formal designee (the DGCD Department Commissioner), is the certifying officer (CO) (§ 288 of the Act). The certifying officer is recognized as the “responsible federal official under NEPA” (§ 58.13, 40 CFR 1508.12) and, therefore, the decision-maker as to whether a project is approved or rejected on the basis of the environmental review findings.

DGCD is also responsible for ensuring that any environmental conditions or safeguards resulting from completion and approval of the environmental review document are implemented. As necessary, DGCD has developed an implementation/monitoring plan to ensure conditions that were identified as necessary for protecting and enhancing environmental quality or minimizing adverse environmental impacts are included in agreements or other relevant documents and implemented during completion of the project. In addition, DGCD must re-evaluate its environmental findings and decision if:

- Substantial changes in the nature, magnitude, or extent of the project are proposed by the project proponent (e.g., new activities not anticipated in the original project scope)
- New circumstances and environmental conditions arise that were not previously considered or evaluated for effect (e. g, conditions discovered during implementation of the project, such as archeological resources, asbestos containing materials, endangered species, underground storage tanks, dry wells, etc.)
- The project proponent proposes selection of an alternative not previously considered.

Role of Project Partners

Any other individuals and entities that utilize HOME program assistance fall into the category of project *participants* regarding compliance with Part 58 (§ 58.22). This includes CHDOs, public or private nonprofit or for-profit entities, contractors, and individual borrowers receiving HOME grants and loans. These partners must:

- Not acquire, repair, rehabilitate, convert, demolish, or lease properties or undertaking construction prior to receiving approval from DGCD
- Not commit non-HUD funds to project activities that would have an adverse environmental impact or limit the choice of project alternatives
- Carry out any mitigation and/or conditions associated with approval of the project
- Provide DGCD with all relevant, available information about the project that is necessary to properly conduct the review.

Once a project participant has submitted an application for HOME funds to DGCD, or DGCD has designated funds for a specific project in its Consolidated Plan or annual action plan, Part 58 requirements are applicable to the project. At this point DGCD must request the participant to cease all project activity until the environmental review (ER) has been completed. Part 58 prohibits further project activities and actions from being undertaken prior to completion of the ER and the determination

of environmental clearance. Projects in violation of this prohibition risk the denial of HOME funds. See **Appendix C and D: Environmental Review Request Forms (Services and Construction)**

Activities that have physical impacts or which limit the choice of alternatives cannot be undertaken, even with the project participant's own funds, prior to obtaining environmental clearance to use HUD funds. This process may include public notification and approval from HUD. If prohibited activities are undertaken prior to receiving approval from DGCD, the applicant is at risk for the denial of HOME assistance. Such actions include:

- Purchasing real estate
- Demolishing structures or buildings
- Excavating or dredging soils
- Placing fill dirt on the site
- Rehabilitation or converting a new building
- New construction.

Undertaking any of these actions interferes with DGCD's ability to comply with NEPA and Part 58. If prohibited actions are taken prior to environmental clearance, then environmental impacts may have occurred in violation of the federal laws and authorities and the standard review procedures that ensure compliance.

Aggregation of Project Activities

To determine the appropriate level of environmental review for a project, DGCD must group together (aggregate) all related project activities, whether or not the project is funded entirely by HOME funds, or only certain portions of the project will be funded by HOME funds. An environmental review must evaluate all activities that are geographically or functionally related, or part of a multi-year project. The appropriate level of environmental review for an aggregated project will be determined by whichever activity or activities being undertaken by the RE or its partners will have the greatest environmental impact.

Compliance with NEPA and Related Federal Laws and Authorities

For a complete list of CHAPTERs that provide guidance to assist in compliance with NEPA and the related federal laws and authorities cited at § 58.5, please reference DGCD's Environmental Review Policies and Procedures.

7.2 Equal Employment Opportunity and Contracting

The cross-cutting federal regulations discussed govern employment and contracting opportunities, including equal opportunity, labor requirements and contracting/procurement procedures.

Recipients must comply with the following regulations that ensure equal opportunity for employment and contracting.

- **Equal Employment Opportunity, Executive Order 11246, as amended:** Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000. Implementing regulations may be found at 41 CFR Part 60.

- **CHAPTER 3 of the Housing and Urban Development Act of 1968:** Requires that, to the greatest extent feasible, opportunities for training and employment arising from HOME will be provided to low-income persons residing in the program service area. Also, to the greatest extent feasible, contracts for work (all types) to be performed in connection with HOME will be awarded to business concerns that are located in or owned by persons residing in the program service area. Available online resources include:
 - www.hud.gov/offices/fheo/CHAPTER3/CHAPTER3.cfm
 - 24 CFR 135
 - A sample CHAPTER 3 Plan
 - CHAPTER 3 Summary Report (HUD Form 60002)
 - [www.hud.gov/offices/cpd/communitydevelopment/toolkit/files/MBE- WBEOutreach/pdf](http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/files/MBE-WBEOutreach/pdf)

CHAPTER 3

This is a provision of the Housing and Urban Development Act of 1968 and related regulation now codified in 24 CFR Part 75. The purpose of CHAPTER 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

1. **CHAPTER 3 Projects** - housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,00 when the assistance is from the Lead Hazard Control and Healthy Homes programs as authorized by CHAPTERS 501 or 502 of the Housing and Urban Development Act of 1970, the Lead-Based Paint Poisoning Prevention Act: and the Residential Lead-Based Hazard Reduction Act of 1992.
2. **CHAPTER 3 Worker** - any worker who currently fits, or when hired within the past five years, fit at least one of the following categories, as documented:
 - a. The worker's income for the previous or annualized calendar year is below the income limits established by HUD
 - b. The worker is employed by a CHAPTER 3 business concern; or
 - c. The worker is a Youth Build participant
3. The status of a CHAPTER 3 Worker shall not be negatively affected by a prior arrest or conviction.
4. Nothing in 24 CFR Part 75 shall be construed to require the employment of someone who meets this definition of a CHAPTER 3 Worker. CHAPTER 3 Workers are not exempt from meeting the qualifications of the position filled/to be filled.
5. **Targeted CHAPTER 3 Worker** for Housing and Community Development Financial Assistance projects is a CHAPTER 3 worker who:
 - a. Is employed by a CHAPTER 3 business concern; or

- b. Currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or
 - A Youth Build participant
6. **CHAPTER 3 Business Concern** - a business that meets at least one of the following criteria, documented within the last six-month period:
- a. At least 51% owned and controlled by low- or very low-income persons
 - b. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by CHAPTER 3 workers; or
 - c. A business at least 51% owned and controlled by current public housing residents or residents who currently live in CHAPTER 8-assisted housing

All Subrecipients, Contractors, and subcontractors must meet CHAPTER 3 compliance by the following:

1. Provide notice of all opportunities for employment and contracting on the CHAPTER 3 applicable project to low and very low-income area residents and businesses. Examples include, but are not limited to:
 - a. Posting/advertising the opportunity in community resources generally available to low-income residents and the public
 - b. Participation in COA or HUD sponsored program or outreach efforts to generate employment or training opportunities or promote the training of CHAPTER 3 Workers
 - c. Participation in one or more COA or HUD sponsored job fairs or technical assistance workshops attended by the public
 - d. Participation in COA, HUD or Ga. Department of Labor (DOL) outreach, engagement, or referral partnerships with approved WorkSource or Workforce Innovation and Opportunity Act YouthBuild Programs
2. Document good faith efforts to meet CHAPTER 3 Certification eligibility requirements for CHAPTER 3 workers, targeted CHAPTER 3 workers, and CHAPTER 3 Business Concerns.
3. For a worker to qualify as a CHAPTER 3 worker, one of the following must be maintained:
 - a. A worker's self-certification that their income is below the income limit from the prior calendar year
 - b. A worker's self-certification of participation in a means-tested program such as public housing or CHAPTER 8-assisted housing
 - c. Certification from a PHA, or the owner or property manager of project-based CHAPTER 8 assisted housing, or the administrator of tenant-based CHAPTER 8-assisted housing that the worker is a participant in one of their programs
 - d. An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
 - e. An employer's certification that the worker is employed by a CHAPTER 3 business concern

For a worker to qualify as a Targeted CHAPTER 3 worker, one of the following must be maintained:

1. An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;
2. An employer's certification that the worker is employed by a CHAPTER 3 business concern; or
3. A worker's self-certification that the worker is a Youth Build participant.
 - a. Complete and submit the annual Department of Grants and Community Development CHAPTER 3 Self – Certification and Action Plan (Form A).
 - b. Maintain and submit a list of qualified CHAPTER 3 Workers and Targeted CHAPTER 3 Workers documented by completion of a CHAPTER 3 Worker Self – Certification and Skills Data Form.
 - c. Submit the monthly CHAPTER 3 Report or Project Summary Report required to track:
 - The total # of labor hours worked on the CHAPTER 3 Project
 - The total # of labor hours worked by a CHAPTER 3 Worker
 - The total # of labor hours worked by a Targeted CHAPTER 3 Worker
 - d. Document specific good faith efforts to meet the CHAPTER 3 Project Reporting Goals/Benchmarks:
 - For **CHAPTER 3 Workers** - 25% or more of the total number of labor hours worked by all workers on a CHAPTER 3 Project.
 - For **Targeted CHAPTER 3 Workers** – 5% or more of the total number of labor hours worked by all workers on a CHAPTER 3 project. This means that the 5% is included as part of the 25% threshold.
 - For **CHAPTER 3 Business Concerns** – The City of Atlanta has established an internal goal that a minimum of 25% of the total project award amount be contracted/subcontracted to qualified CHAPTER 3 Business Concerns.
 - e. Upon contract execution, attend the mandatory Pre-Construction and Technical Assistance Training conducted by DGCD staff before Notice To Proceed approval. The purpose of this training is to further complete and submit any additional required CHAPTER 3 documentation, and discuss project implementation regulations, reporting instructions, and documentation guidelines.
 - f. Work diligently with COA, as applicable, to develop and participate in communication and follow-up process to track and report all CHAPTER 3 worker applications and hiring activities to ensure the reporting of compliance efforts, and that contracting and sub-contracting reporting of compliance efforts are accurate.
 - g. Provide preference in hiring and contracting to applicants who are CHAPTER 3 workers and contractors; when employment or contracting opportunities are offered and all requirements are met and remain equal.

- **Contractors must:** Provide this package to all sub-contractors when soliciting bids for all contracts or sub-contracts; and ensure that any subcontractors meet all the same processes in A-J.
- **Minority/Women's Business Enterprise:** Under Executive Orders 11625, 12432 and 12138, DGCD must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts (See 24 CFR 85.36(e)).

Labor Requirements

Recipients must comply with certain regulations on wage and labor standards. In the case of Davis-Bacon and the Contract Work Hours and Safety Standards Acts, every contract for the construction of housing (rehabilitation or new) that contains 12 or more units assisted with HOME funds triggers the requirements.

- a. Davis-Bacon and Related Acts (40 USC 276(A)-7): Ensures that mechanics and laborers employed in construction work under federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.
 - The National Affordable Housing Act of 1990 (NAHA) created the HOME Investment Partnerships Program (HOME), a housing development program with new language in the provision concerning Federal (Davis-Bacon) labor standards applicability. The following is provided with the cooperation and advice of the Community Planning and Development's Office of Affordable Housing and the Office of General Counsel.
 - Statutory and regulatory provisions.
 - Federal (Davis-Bacon) wage requirements are made applicable to the HOME program by CHAPTER 286 of the NAHA which provides, in part, as follows:
 - "Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor under the Davis-Bacon Act..., shall be paid to all laborers and mechanics employed in the development of affordable housing involved."
 - HUD regulations (24 CFR 92.354) paraphrase the statutory provision and clarify that the construction contract must contain these wage provisions if HOME funds are used for any project costs, including construction or non-construction costs, for housing with 12 or more HOME-assisted units.
 - The regulations further explain that a construction contract that includes a total of 12 or more HOME-assisted units is covered by Davis-Bacon requirements even if the contract covers more than one HOME "project" and prohibits arranging multiple construction contracts within a single project to avoid Davis-Bacon coverage. Once triggered, the wage provisions apply to the construction of the entire project - HOME-assisted and non-assisted portions, alike.
 - The NAHA and program regulations also provide for the exclusion of certain sweat equity labor from Davis-Bacon coverage. Members of an eligible family who provide labor in exchange for the acquisition of property for homeownership or toward rental payments are not subject to Davis-Bacon wage requirements. Additionally, volunteers may be employed per 24 CFR Part 70.

- b. The HOME labor standards provision is unlike labor standards clauses in other HUD programs. For example, the labor standards for Community Development Block Grants (CDBG) apply to construction work financed in whole or in part with the assistance received through CDBG and cover residential property only if the property contains not less than 8 units. For HOME, we are directed to "construction contracts" (not construction work or properties) where the standard is whether 12 or more of the "units" covered by the contract are "assisted" (not whether construction work is directly financed). These differences serve both to focus the unit threshold window on the "contract" and to broaden the scope of coverage to construction and non-construction costs and assisted and non-assisted portions.

Unit Threshold

- a. The Davis-Bacon "trigger" relates to the number of HOME-assisted units contained in a construction contract. It is important to recognize that the two (2) factors are: 1) the number of HOME units - there may be units which are not HOME-assisted in the contract; and 2) the scope of the construction contract - not the "project."
- b. The number of HOME-assisted units is determined per guidance provided by the program office in Notice CPD 94-12 (April 26, 1994). This determination is made by the participating jurisdiction (PJ), insular area or Indian tribe (referred to collectively as recipients) primarily for purposes other than labor standards applicability. The Offices of Labor Relations, General Counsel and CPD have agreed that the number of HOME-assisted units identified under this Notice is acceptable for Davis-Bacon unit threshold purposes. The number of assisted units within a specific project should be available from the recipient and is also reflected on HUD Form 40094, Homeownership Assistance/Rental Housing Project Set-Up Report. (Note that the recipient determines the number of assisted units in a project, not a construction contract.)
- c. Once the number of HOME-assisted units is determined, the construction contract(s) must be identified. Each contract must then be considered for coverage based on the number of HOME units contained in the contract: contracts with 12 or more HOME units are covered; contracts with 11 or less HOME units are not. Two important factors must be weighed in this determination:
 - A HOME project cannot be divided into multiple contracts to avoid Davis-Bacon coverage. There may be other, legitimate reasons that a single project would be constructed with separate contracts that would each contain 11 or less HOME units and the contracts would not be covered. But it is not permissible to arrange multiple contracts solely to circumvent labor standards requirements.
 - construction contract with 12 or more HOME-assisted units is covered even if the contract involves more than one HOME project. For example, if, for whatever reason, four projects each containing 4 HOME-assisted units are "pooled" into one construction contract, the contract would be covered. Special note on Group Home and Single Room Occupancy (SRO) projects:
 - Notice CPD 94-01 (January 4, 1994) defines group homes and SROs for HOME assistance purposes. A group home is usually a large single-family residence consisting of common space such as kitchens, dining areas, living rooms and bathrooms, along with separate private or semi-private space (i.e., bedroom) for each occupant. An SRO consists of single room dwelling units that are the primary residences of its occupants, and may have shared common dining, sanitary and/or recreation facilities. Depending upon certain

parameters established by the program office (See Notice CPD 94-01), PJs may choose to consider group homes as a single unit for HOME assistance purposes or may classify them as single-room occupancy units. In the latter case, if the number of HOME-assisted SRO dwelling units covered by a contract for construction equals 12 or more, Davis-Bacon labor standards are applicable.

Scope of Coverage

- d. It has been determined that the applicability of Federal wage requirements is not affected by the specific use of HOME funding. That is, it does not matter whether HOME funds are used for construction or non-construction project costs; if the threshold is met then the labor standards provision is triggered. (See also CPD Notice 92-19, dated June 9, 1992.) This determination hinges in part on the difference between "assisted" and "financed" - "assisted" is a much broader term. In addition, under the statute Federal wage rates apply whenever a construction contract contains 12 or more units that are assisted, whether the contract is assisted or not. Housing units in a HOME project that are constructed with private funds may still be "assisted" by HOME even though the construction of the units is not directly "financed" by HOME.
- e. It has also been determined that once triggered, the labor standards apply to the construction of the entire project. For example, if it were practical to funnel all HOME funds to the construction costs for a portion of a project it would not limit labor standards applicability to that HOME-funded portion. (See also CPD Notice 94-12.)

Homeownership Projects

- a. Some HOME projects are designed to provide homeownership opportunities to low-income families. These projects may not involve the use of HOME funds for the construction of the housing in any way but, for example, involve only down payment or mortgage assistance to the homebuyers.
- b. Construction work for projects in which HOME funds are used only to assist homebuyers to acquire single family housing is not covered UNLESS there is an agreement with the owner or developer of the housing in advance of the construction work that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more HOME-assisted units.
- c. Additional information on compliance with Davis-Bacon requirements is provided in the Appendix.
- d. **Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333):** Provides that mechanics and laborers employed on federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.
- e. **Copeland (Anti-Kickback) Act (40 USC 276c):** Governs the deductions from paychecks that are allowable. Makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled and requires all contractors to submit weekly payrolls and statements of compliance.
- f. **Fair Labor Standards Act of 1938, as Amended (29 USC 201, et. seq.):** Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least

time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.

Build America Buy America Act (BABAA)

BABAA is the Build America, Buy America Act. It was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act. In general, BABA requires that, when Federal agencies provide new “Federal Financial Assistance” (FFA), the Federal agencies impose a condition on the use of that FFA in an “infrastructure project” to make sure that all iron, steel, manufactured products, and construction materials used are subject to a domestic content procurement preference, which means that those items and materials were produced in the United States. This requirement to purchase materials made in America is called the “Buy American Preference” (BAP).

According to 2 CFR 184.4(d), the definition of “infrastructure” includes the structures, facilities, and equipment for, in the United States—(A) roads, highways, and bridges; (B) public transportation; (C) dams, ports, harbors, and other maritime facilities; (D) intercity passenger and freight railroads; (E) freight and intermodal facilities; (F) airports; (G) water systems, including drinking water and wastewater systems; (H) electrical transmission facilities and systems; (I) utilities; (J) broadband infrastructure; (K) buildings and real property; and (L) structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

BABA requirements do not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed by the completion of the infrastructure project. Additionally, it does not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are not an integral part of or permanently affixed to the structure.

As of 2/29/2024, there is no official label or certifying body for BABA compliant products. When reviewing products to determine if they are made in America, please refer to the definitions for American made products stated in 2 CFR 184.

Contracting and Procurement Practices

The HOME Program is subject to certain federal procurement rules. DGCD and all recipients of HOME funds must take measures to avoid hiring debarred or suspended contractors or subrecipients and conflict-of-interest situations.

- a. Procurement standards (24 CFR Part 200.317-200.326): Nonprofit organizations receiving HOME funds must use documented procurement procedures which conform to applicable Federal law and procurement standards covered in 2 CFR Part 200 CHAPTERs 200.317-200.326 and procedures which echo applicable State and local laws and regulations.
- b. Conflict of interest (2 CFR Part 200.112): The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.
- c. Debarred contractors (2 CFR Part 200.214): HOME funds may not be used to employ, directly or indirectly, award contracts to or otherwise engage the services of any contractor, subcontractor or subrecipient during any period of debarment, suspension or placement of ineligibility status.

7.3 Non-Discrimination and Equal Access

No person in the United States shall on the grounds of race, color, national origin, religion or sex be excluded, denied benefits or subjected to discrimination under any program funded in whole or in part by HOME funds. Consequently, HOME Program Recipients must take measures to ensure non-discriminatory treatment, outreach and access to program resources. This applies to employment and contracting, as well as to marketing and selection of program participants.

Fair Housing and Equal Opportunity

Recipients must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity:

- a. Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.): States that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color or national origin. The regulations implementing the Title VI Civil Rights Act provisions for HUD programs may be found in 24 CFR Part 1.
- b. The Fair Housing Act (42 U.S.C. 3601-3620): Prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. Furthermore, CHAPTER 104(b)(2) of the Act requires that each grantee certify to the secretary of HUD that it is affirmatively furthering fair housing. The certification specifically requires grantees to conduct a fair housing analysis, develop a fair housing plan, take appropriate actions to overcome the effects of any impediments identified and maintain records on the analysis, plan and actions in this regard. Fair Housing Act implementing regulations for HUD programs may be found in 24 CFR Part 100-115.
- c. **Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)**: Prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds. Equal Opportunity in Housing regulations may be found in 24 CFR Part 107.
- d. **Age Discrimination Act of 1975, as Amended (42 U.S.C. 6101)**: Prohibits age discrimination in programs receiving federal financial assistance. Age Discrimination Act regulations may be found in 24 CFR Part 146.
- e. DGCD requires the following additional expectations:
 - Adopt any existing Fair Housing Ordinances in their jurisdictions;
 - Adopt any existing Affirmative Marketing Plan developed by their jurisdictions; and
 - Implement activities and projects consistent with the Analysis of Impediments to Fair Housing Choice (AI), specifically the appropriate actions identified to overcome the effects of impediments, in the most current Consolidated Plan.

DGCD must adopt affirmative marketing procedures and requirements for all housing with five or more HOME-assisted units. (Procedures not required for TBRA recipients)

Affirmative Marketing

Recipients and developers/owners/sponsors must create an affirmative marketing plan for all housing with five or more HOME-assisted units. The plan will be reviewed for completeness in the following areas:

- a. Methods for informing the public, owners and potential tenants about compliance with fair housing laws (for example: use of the Fair Housing logo, or equal opportunity language);
- b. Detailed description of what recipients/owners will do to affirmatively market housing assisted with HOME funds;
- c. Detailed description of what recipients/owners will do to inform persons not likely to apply for housing without special outreach; and
- d. Documentation of actions taken and maintaining records to affirmatively market HOME-assisted units and to assess marketing effectiveness; and
- e. Additionally, recipients/owners must describe how they will monitor the success of their affirmative marketing efforts, including the corrective actions that will be taken where affirmative requirements are not met and/or successful.

All applicants are required to complete the Affirmative Fair Housing Marketing (AFHM) Plan for Single Family and/or Multi-Family Housing, as applicable to their programs.

Handicap Accessibility

The HOME final rule also requires adherence to the three regulations governing the accessibility of federally assisted buildings, facilities and programs:

- a. Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225): Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and construct facilities (built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.
- b. Fair Housing Act: Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19).
- c. CHAPTER 504: CHAPTER 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted programs on the basis of handicap. CHAPTER 504 imposes requirements to ensure that "qualified individuals with handicaps" have access to programs and activities that receive federal funds. Under CHAPTER 504, Recipients are defined more broadly than under the HOME program. CHAPTER 504 Recipients include any entity that receives federal funding (for example, a Recipient or CHDO) For any Recipient principally involved in housing or social services, **all** the activities of the agency -- not just those directly receiving federal assistance -- are covered under CHAPTER 504.
- d. Contractors and vendors are subject to CHAPTER 504 requirements only in the work they do on behalf of a recipient or subrecipient.
- e. The ultimate beneficiary of the federal assistance is not subject to CHAPTER 504 requirements.

Under CHAPTER 504, recipients and sub-recipients are **not** required to take actions that create undue financial and administrative burdens or alter the fundamental nature of the program.

Removal of Physical Barriers
<ul style="list-style-type: none"> • For new construction of multi-family projects, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent of the units (but not less than one unit) must be accessible to individuals with sensory impairments. • The CHAPTER 504 definition of substantial rehabilitation multi-family projects includes construction in a project with 15 or more units for which the rehabilitation costs will be 75 percent or more of the replacement cost. In such developments, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent (but not less than one unit) must be accessible to individuals with sensory impairments. • When rehabilitation less extensive than substantial rehabilitation is undertaken, alterations must, to the maximum extent feasible, make the unit accessible to and usable by individuals with handicaps, until 5 percent of the units are accessible to people with mobility impairments. Alterations to common spaces must, to the maximum extent feasible, make the project accessible. • Accessible units must be, to the maximum extent feasible, distributed throughout projects and sites and must be available in a sufficient range of sizes and amenities so as to not limit choice. • Owners and managers of projects with accessible units must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps. They also must take reasonable non-discriminatory steps to maximize use of such units by eligible individuals. • When an accessible unit becomes vacant, before offering the unit to a non-handicapped individual, the owner/manager should offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.
Provide Program Accessibility
<ul style="list-style-type: none"> • Individuals with handicaps must be able to find out about, apply for and participate in federally-assisted programs or activities. • Special communication systems may be needed for outreach and ongoing communication (e.g., Telecommunications Devices for the Deaf (TDD), materials on tape or in Braille, accessible locations for activities and meetings). • Policies and procedures must be non-discriminatory (e.g., housing providers may not ask people with handicaps questions not asked of all applicants, screen individuals with handicaps differently or assess an individual's ability to live independently).
Make Employment Accessible
<ul style="list-style-type: none"> • Employers must not discriminate. • Employers must remove physical and administrative barriers to employment. • Employers must make reasonable accommodations for individuals with known handicaps (e.g., job restructuring, providing readers or sign interpreters, making facilities accessible).
Administrative Requirements
<ul style="list-style-type: none"> • If Recipients have 15 or more employees, they must: <ul style="list-style-type: none"> ◆ designate a CHAPTER 504 Coordinator, and ◆ notify program participants and employees of non-discrimination policies. • All Recipients must conduct self-evaluations of compliance with CHAPTER 504.

7.4 Acquisition and Relocation

Whenever federal funds are used in a project involving the acquisition, rehabilitation or demolition of real property, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) generally applies. In some cases, the use of HOME funds in a project involving the demolition or

conversion of lower income dwellings may also trigger another federal law under CHAPTER 104(d) of the Housing and Community Development Act of 1974 (CHAPTER 104(d)) which may require additional level of relocation assistance.

The purpose of this CHAPTER is to provide Recipients with a general understanding of the requirements under both federal laws in addition to where additional information and assistance may be obtained. **NOTE:** To ensure that accurate documentation is collected and proper compensation is provided to displaced/relocated persons and businesses, grantees should contact DGCD before conducting any acquisition activities which appear to require the displacement or relocation of persons or businesses. Failure to do so may delay the start of construction and could result in termination of the project. **See Appendix F**

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act or URA)

1. The Uniform Act, passed by Congress in 1970, is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or that displace persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.
 - a. 49 CFR Part 24 are the government-wide regulations that implement the URA.
 - b. HUD Handbook 1378 provides HUD policy and guidance on implementing the URA and 49 CFR Part 24 for HUD funded programs and projects.
 - c. Income Limits have been issued on HUDUser.gov with an effective date of April 1, 2024. URA Income Limits are used in connection with rental assistance payment calculations under 49 CFR 24.402(b).
 - d. Additional information and guidance for making URA low-income calculations are available on the Federal Highway Administration's (FHWA) website.
 - e. URA Objectives:
 - To provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects
 - To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement
 - To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means
 - To help improve the housing conditions of displaced persons living in substandard housing
 - To encourage and expedite acquisition by agreement and without coercion.
 - f. Impact of URA requirements on HOME projects:
 - Recipients conducting a program or project under the URA must carry out their legal responsibilities to affected property owners and displaced persons.
 - Some of the responsibilities include:
 - For Real Property Acquisition (Involuntary Acquisition – under threat or use of eminent

domain)

- Appraise property before negotiations
 - Invite the property owner to accompany the appraiser during the property inspection
 - Provide the owner with a written offer of just compensation and a summary of what is being acquired
 - Pay for property before possession; and
 - Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.
 - Note that agency responsibilities for voluntary acquisitions differ. Refer to 49 CFR 24.101(b) and HUD Handbook 1378 Chapter 5 for additional information.
- For Residential Displacements
 - Provide relocation advisory services to displaced tenants and owner occupants
 - Provide a minimum 90 days written notice to vacate prior to requiring possession
 - Reimburse for moving expenses; and
 - Provide payments for the added cost of renting or purchasing comparable replacement housing.
 - For Nonresidential Displacements (Businesses, Farms, and Nonprofit Organizations)
 - Provide relocation advisory services.
 - Provide a minimum 90 days written notice to vacate prior to requiring possession.
 - Reimburse for moving and reestablishment expenses.

Recipients should plan for the responsibilities noted above to ensure that adequate time, funding, and staffing are available to carry out their responsibilities. Resources available online at HUD's Real Estate Acquisition and Relocation website (<http://www.hud.gov/relocation>) include:

- a. Developing Projects with HOME Funds: Ten Things You Need To Know About Relocation and the Uniform Act (URA) * but might have been afraid to ask;
- b. Planning and Budgeting Relocation Costs for HUD-Funded Projects

CHAPTER 104(d) of the Housing and Community Development Act (CHAPTER 104(d)) - "The Barney Frank Amendment"

CHAPTER 104(d) of the Housing and Community Development (HCD) Act provides minimum requirements for HOME funded programs or projects when units that are part of a community's low-income housing supply are demolished or converted to a use other than low- or moderate-income dwellings.

- a. 24 CFR Part 42 are the regulations that implement CHAPTER 104(d).
- b. HUD Handbook 1378 provides HUD policy and guidance on implementing CHAPTER 104(d)

CHAPTER 104(d) Requirements:

- a. Replacement, on a one-for-one basis, of all occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income housing in connection with an activity assisted under the HCD Act; and
- b. Provision of certain relocation assistance to any lower income person displaced as a direct result of the following activities in connection with federal assistance:

- Demolition of any dwelling unit; or
- Conversion of a low- or moderate-income dwelling unit to a use other than a LMI residence.

CHAPTER 104(d) Triggers:

- a. CHAPTER 104(d) requirements are triggered by the use of HOME, CDBG, CHAPTER 108 Loan Guarantee, or UDAG funding in a project involving the demolition or conversion of low- or moderate-income housing.
- b. It should be noted that HOME funding used solely for relocation assistance or general administration does not trigger CHAPTER 104(d) requirements.

Relocation Requirements Under CHAPTER 104(d)

- a. The relocation assistance and payments for eligible persons under CHAPTER 104(d) are similar to those required for the URA, but there are several differences. One significant difference is the period used to calculate a rental assistance payment: CHAPTER 104(d) factors in 60 months vs. 42 months for the URA.
- b. CHAPTER 104(d) eligible displaced persons may choose to receive relocation assistance under either CHAPTER 104(d) or the URA.

Additional information and helpful resources may be located at HUD’s Real Estate Acquisition and Relocation website at www.hud.gov/relocation.

7.5 Lead Based Paint

All units in a project assisted with HOME funds must comply with the Lead Safe Housing Rule (LSHR) at 24 CFR Part 35, implementing Title X of the 1992 Housing and Community Development Act. This regulation has been in effect since September 15, 2000.

- a. The lead-based paint regulation at 24 CFR Part 35 consolidates all lead-based paint requirements for HUD-assisted housing.
- b. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead.
- c. The regulation is divided into subparts. Subparts that apply to the HOME program include:
 - Subpart A: Disclosure
 - Subpart B: General Requirements and Definitions
 - Subpart J: Rehabilitation
 - Subpart K: Acquisition, Leasing, Support Services, and Operations
 - Subpart M: Tenant-Based Rental Assistance
 - Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Reduction

Summary of Requirements

Approaches

HUD has defined four approaches to addressing lead-based paint in HOME-funded projects.

- a. Approach 1: Do No Harm
- b. Approach 2: Identify and Stabilize Deteriorated Paint
- c. Approach 3: Identify and Control Lead-Based Paint Hazards

d. Approach 4: Identify and Abate Lead-Based Paint Hazards

**FOUR APPROACHES TO IMPLEMENTING
LEAD HAZARD EVALUATION AND REDUCTION**

Approach 1: DO NO HARM		
<p>Lead Hazard Evaluation</p> <ul style="list-style-type: none"> • Paint testing performed on surfaces to be disturbed. 	<p>Lead Hazard Reduction</p> <ul style="list-style-type: none"> • Repair surfaces disturbed during work. • Safe work practices used when working on areas identified as lead-based paint. • Clearance performed. 	<p>Options</p> <ul style="list-style-type: none"> • Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.
Approach 2: IDENTIFY AND STABILIZE DETERIORATED PAINT		
<p>Lead Hazard Evaluation</p> <ul style="list-style-type: none"> • Visual assessment performed to identify deteriorated paint. 	<p>Lead Hazard Reduction</p> <ul style="list-style-type: none"> • Paint stabilization of identified deteriorated paint. • Safe work practices used. • Clearance performed. 	<p>Options</p> <ul style="list-style-type: none"> • Perform paint testing on deteriorated paint. Safe work practice requirements apply only to lead-based paint.
Approach 3: IDENTIFY AND CONTROL LEAD HAZARDS		
<p>Lead Hazard Evaluation</p> <ul style="list-style-type: none"> • Paint testing performed on surfaces to be disturbed. • Risk assessment performed on entire dwelling. 	<p>Lead Hazard Reduction</p> <ul style="list-style-type: none"> • Interim controls performed on identified hazards. • Safe work practices used. • Clearance performed. 	<p>Options</p> <ul style="list-style-type: none"> • Presume lead-based paint and/or lead-based paint hazards are present and perform standard treatments.
Approach 4: IDENTIFY AND ABATE LEAD HAZARDS		
<p>Lead Hazard Evaluation</p> <ul style="list-style-type: none"> • Paint testing performed on surfaces to be disturbed. • Risk assessment performed on entire dwelling. 	<p>Lead Hazard Reduction</p> <ul style="list-style-type: none"> • Abatement performed on identified hazards. • Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. • Safe work practices used. • Clearance performed. 	<p>Options</p> <ul style="list-style-type: none"> • Presume lead-based paint and/or lead-based paint hazards are present and perform abatement on all applicable surfaces- deteriorated, impact friction, chewable surfaces, and surfaces to be disturbed.

Types of Requirements

The lead-based paint requirements established by the regulation fall into the five major categories:

- a. Notification: Recipients must document and submit records of the four notification requirements listed below:
 - Lead Hazard Information Pamphlet. Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
 - Disclosure. Property owners must provide purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based

paint hazards prior to selling or leasing a residence. DGCD HOME Recipients must document that the relevant disclosure has been provided.

- Notice of Lead Hazard Evaluation or Presumption. Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards.
 - Notice of Lead Hazard Reduction Activity. Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.
- b. **Lead Hazard Evaluation.** The evaluation activity required depends on the nature of the activity funded and the amount of federal funding. Evaluation methods include visual assessments, paint testing, and risk assessments.
- Each of these evaluation activities must be performed by properly trained and accredited professionals
 - DGCD applications request information regarding the date the dwelling unit was constructed. All pre-1978 housing has to be inspected by state certified lead-based paint inspectors unless the presence of LBP is presumed.
- c. **Lead Hazard Reduction.** The reduction activity required depends on the nature of the activity funded and the amount of federal funding. Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.
- All lead hazard reduction work must be done by properly trained professionals. Certain work practices are prohibited.
 - Clearance must be performed by a certified clearance examiner to demonstrate that hazards have been properly addressed.
 - DCD maintains a list of state certified abatement contractors. Recipients are encouraged to select their contractors from this list when conducting abatement.
 - Additionally, all reports related to reduction and abatement activities must be submitted to DGCD for record keeping purposes.
- d. **Ongoing Maintenance.** Ongoing maintenance is required for rental and TBRA activities. Ongoing maintenance includes periodic visual assessments to determine if lead-based paint hazards have reappeared. All reports related to ongoing maintenance must be maintained on file by Recipients and made available to DGCD upon request for record-keeping purposes.
- e. **Response to Children with Environmental Intervention Blood Lead Levels (EIBLL).** When a poisoned child with an environmental intervention blood lead level is identified in some types of properties, the new regulation prescribes certain activities. (For HOME purposes, these requirements apply only to TBRA.)

SUMMARY OF REQUIRED ACTIVITIES TO ADDRESS LEAD-BASED PAINT	
Category	Required Activities
Notification	<p>All of the following notices must be provided as appropriate:</p> <ul style="list-style-type: none"> ✓ Pamphlet ✓ Disclosure ✓ Notice of Lead Hazard Evaluation or Presumption ✓ Notice of Lead Hazard Reduction Activity

Lead Hazard Evaluation	One or more of the following may apply: <ul style="list-style-type: none"> ✓ Visual Assessment* ✓ Paint Testing ✓ Risk Assessment (or Lead Hazard Screen)
Lead Hazard Reduction	One or more of the following may apply: <ul style="list-style-type: none"> ✓ Paint Stabilization ✓ Interim Controls (or Standard Treatments) ✓ Abatement The following always apply: <ul style="list-style-type: none"> ✓ Safe Work Practices ✓ Clearance
Ongoing Maintenance	This requirement may apply: <ul style="list-style-type: none"> ✓ Inspect and maintain lead hazard reduction work.
Response to Children with Environmental Intervention Blood Lead Level (EIBLL)	These requirements may apply. If they do, all of the following steps must be taken: <ul style="list-style-type: none"> ✓ Sharing and Comparing Information ✓ Risk Assessment ✓ Interim Controls or Abatement ✓ Notices and Disclosure

* A visual assessment is not considered a form of evaluation in the regulation; therefore, there is no requirement for a Notice of Lead Hazard Evaluation associated with this activity.

Lead Paint: Recommended and Prohibited Practices Safe

Treatment Methods

Safe treatment methods control the spread of dust and debris. They should be preceded by proper containment practices and followed-up with proper clean-up procedures. Examples of safe treatment methods include:

- a. Wet scraping or wet sanding
- b. Chemical stripping on- or off-site (except methylene chloride)
- c. Replacing painted components
- d. Scraping with an infra-red or coil type heat gun with temperatures below 1,100 degrees Fahrenheit
- e. Vacuum-sanding using a sander equipped with a High Efficiency Particle Air (HEPA) filter
- f. Using a HEPA vacuum needle gun
- g. Contained hydro blasting or high-pressure wash with a HEPA vacuum
- h. Abrasive sanding with a HEPA vacuum
- i. Covering the painted surface with durable materials (such as wallboard) with joints sealed and caulked.

Prohibited Methods

Prohibited methods can spread lead dust or lead fumes.

- a. Open flame burning or torching
- b. Machine sanding or grinding without HEPA exhaust
- c. Uncontained hydro blasting or high-pressure wash
- d. Abrasive blasting or sandblasting without a HEPA vacuum exhaust

- e. Heat guns operating above 1,100 degrees Fahrenheit
- f. Chemical paint strippers containing methylene chloride
- g. Dry scraping (except around electrical outlets or in conjunction with heat guns).

Compliance with the Lead Safe Housing Rule

Penalties [24 CFR 35.170]

- a. Failure to comply with the lead-based paint requirements will be subject to sanctions authorized under the federal funding programs providing assistance to the property, and violations may be subject to other penalties available under state or local law.
- b. Notifying owners, purchasers, or occupants of possible lead-based paint hazards does not relieve DGCD HOME Program Recipients of the responsibilities under the new regulation.

Addressing Other Regulations and Laws [24 CFR 35.145]

- a. Recipients must comply with other regulations – federal, state, tribal, and local – that apply to lead-based paint hazard evaluation and reduction. When multiple regulations cover a program activity, Recipients must comply with the most stringent requirement.
- b. All lead-based paint activities must be performed in accordance with other applicable federal laws and authorities. For example, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), OSHA worker safety regulations (29 CFR 1910.1200 and 29 CFR 1926.62), 2008 Lead-Based Paint Renovation, Repair and Painting (RRP) Rule (40 CFR 745, Subpart E), and other environmental laws and authorities cover activities related to lead-based paint evaluation and hazard reduction.

Record Keeping [24 CFR 35.175]

There are numerous records that Recipients must keep as verification that they conducted the required lead hazard response activities.

- a. Lead Hazard Information Pamphlet. A record of the distribution of the lead hazard information pamphlet is recommended, but not required.
- b. Notification, Evaluation, and Reduction Reports. Recipients must keep a copy of each notification, lead hazard evaluation report, lead hazard reduction documentation (such as job specifications), and clearance or abatement report for at least three years, or for such other period as specified in the program regulations. Again, all notifications and reports related to lead-based paint including lead hazard reduction and abatement activities must be submitted to DGCD for record keeping purposes.
- c. Ongoing Maintenance Records. Grantees must keep ongoing maintenance records and records of relevant building operations for use during reevaluations. All reports related to ongoing maintenance must be maintained by Recipients and made available to DGCD for inspection upon request.

7.6 Violence Against Women Reauthorization Act (VAWA) of 2013

On August 6, 2013, HUD published a notice (Notice) in the Federal Register on VAWA 2013 describing the impacts of the VAWA Act and the new housing protections in that law that will have implications for HUD's HOME program grantees. The Notice is available in the Federal Register at <https://www.govinfo.gov/content/pkg/FR-2013-08-06/pdf/2013-18920.pdf>

All TBRA beneficiary leases and/or rental housing leases must incorporate the VAWA lease addendum language.

VAWA 2013 was signed into law on March 7, 2013, and the effective date for compliance was December 16, 2016. Some of the key changes related to housing include:

- a. VAWA 2013 maintains protections for public housing, CHAPTER 8 vouchers, and project-based CHAPTER 8 and expands the housing protections from VAWA 2005 to include the **HOME Investment Partnerships Program**.
 - VAWA 2013 continues to bar eviction and termination due to a tenant's status as a victim of domestic violence, dating violence, or stalking, and requires landlords to maintain survivor-tenant confidentiality. It also continues to prohibit a tenant who is a survivor of domestic violence, dating violence, sexual assault, and stalking from being denied assistance, tenancy, or occupancy rights based solely on criminal activity related to an act of violence committed against them.
- b. VAWA 2013 now expressly extends housing protections to survivors of sexual assault and adds "intimate partner" to the list of eligible relationships in the domestic violence definition. Protections also now cover an "affiliated individual," which includes any lawful occupant living in the survivor's household or related to the survivor by blood or marriage including the survivor's spouse, parent, brother, sister, child, or any person to whom the survivor stands in loco parentis.
- c. VAWA 2013 continues to allow a lease bifurcation so a tenant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, or others may be evicted or removed without This archived document is no longer applicable. U.S. Department of Housing and Urban Development 2 evicting or removing or otherwise penalizing a victim who is a tenant or lawful occupant. If victim cannot establish eligibility, the PHA, owner, or manager must give a reasonable amount of time to find new housing or establish eligibility under another covered housing program.
- d. New housing protections in VAWA 2013 includes the requirement that each appropriate agency develop a notice of rights under VAWA 2013 for tenants and provide such notice at the time a person applies for housing, when a person is admitted as a tenant of a housing unit, and when a tenant is threatened with eviction or termination of housing benefits.
- e. VAWA 2013 extends the documentation and confidentiality provisions found in all existing VAWA requirements to all HUD covered programs.
- f. VAWA 2013 requires each appropriate agency to adopt a model emergency transfer plan for use by public housing agencies, owners or managers of housing, and other housing providers participating in HUD covered programs. Tenants must request an emergency transfer and reasonably believe that they are threatened with imminent harm from further violence if the tenant remains in the same unit.

Notice PIH-2017-08 (HA), issued on May 19, 2017, provides guidance for the Violence Against Women Reauthorization Act of 2013 and may be located at <https://www.hud.gov/sites/documents/17-08PIHN.PDF>. Guidance includes, but is not limited to, definitions, VAWA eligibility criteria, documentation requirements, notice of occupancy rights, lease bifurcation, and termination of services.

If a housing provider refuses to rent, evicts, or otherwise treats someone differently because of that person's status as a victim of domestic violence, dating violence, sexual assault, or stalking, HUD or the courts may find a violation under the Fair Housing Act due to direct discrimination, unequal treatment, or disparate impact. If a jurisdiction or other entity encourages or causes differential treatment toward domestic violence victims, that jurisdiction or entity could encounter liability.

Violence Against Women's Act (VAWA)

The Violence Against Women Act (VAWA) is a federal law that, in part, provides housing protections for people applying for or living in units subsidized by the federal government and who have experienced domestic violence, dating violence, sexual assault, or stalking, to help keep them safe and reduce their likelihood of experiencing homelessness.

VAWA's housing protections, in part, are available to someone who has previously or is currently experiencing domestic violence, sexual assault, dating violence, or stalking. The survivor does NOT have to be married to, related to, or living with the perpetrator to be protected by VAWA. It does not matter how long ago the survivor experienced the violence. A survivor's immigration status in itself does not impact a survivor's right to VAWA's housing protections. VAWA's housing protections, in part, apply to a survivor if they are applying for or living in shelter, transitional housing, or permanent housing that is subsidized by a federal homeless assistance program or federal affordable housing program. See below for a list of HUD programs covered by VAWA.

VAWA protects survivors, regardless of their sex, gender identity, or sexual orientation AND regardless of the sex, gender identity or sexual orientation of the person who caused harm.

Under VAWA, someone who has experienced domestic violence, dating violence, sexual assault, and/or stalking (VAWA violence/abuse):

- a. **Cannot be denied admission to or assistance** under a HUD-subsidized or assisted unit or program because of the VAWA violence/abuse committed against them.
- b. **Cannot be evicted** from a HUD-subsidized unit **nor have their assistance terminated** because of the VAWA violence/abuse committed against them.
- c. Cannot be denied admission, evicted, or have their assistance terminated for **reasons related to the VAWA violence/abuse**, such as having an eviction record, criminal history, or bad credit history.
- d. **Must have the option to stay** in their HUD-subsidized housing, even if there has been criminal activity directly related to the VAWA violence/abuse.
- e. **Can request an emergency transfer from the housing provider for safety reasons** related to the VAWA violence/abuse committed against them.
- f. **Must be allowed to move with continued assistance** if the survivor has a CHAPTER 8 Housing Choice Voucher.
- g. **Must be able to provide proof to the housing provider by self-certifying** using the HUD VAWA Self-certification (**Form HUD-5382**), and not be required to provide more proof unless the housing provider has conflicting information about the violence/abuse.
- h. **Must receive HUD's Notice of VAWA Housing Rights (Form HUD-5380)** and HUD's VAWA Self-certification Form (**Form HUD-5382**) from the housing provider, when they are denied admission to a HUD-subsidized unit or HUD program, when they are admitted to a

- HUD-subsidized unit or HUD program, and when they receive a notice of eviction from a HUD-subsidized unit or notice of termination from a HUD program.
- i. **Has a right to strict confidentiality** of information regarding their status as a survivor.
 - j. **Can request a lease bifurcation** from the owner or landlord to remove the perpetrator from the lease or unit, and if the housing provider bifurcates, it must be done consistent with applicable federal, state, or local laws and the requirements of the HUD housing program.
 - k. **Cannot be coerced, intimidated, threatened, or retaliated against** by HUD-subsidized housing providers for seeking or exercising VAWA protections.
 - l. **Has the right to seek law enforcement or emergency assistance** for themselves or others without being penalized by local laws or policies for these requests or because they were victims of criminal activity.

It is required that subrecipients have documentation signed by the subrecipient, client, and any business or organization providing or leasing housing to a client that the above guidelines will be followed. This information can be detailed with a Lease or as a separate document (VAWA Lease Addendum).

CHAPTER 8: Minimum Property Standards by Activity Type

All HOME funded properties must meet certain minimum property standards at project completion.

8.1 New Construction

State and local codes, ordinances, and zoning requirements

Housing must meet all applicable State and local codes, ordinances, and zoning requirements or in the absence of State or local building codes, the International Residential Code, or the International Building Code (as applicable to the type of housing) of the International Code Council.

Uniform Physical Condition Standards (UPCS)

Uniform national standards established by HUD pursuant to 24 CFR 5.703 to ensure that housing is decent, safe, sanitary, and in good repair. (UPCS applies when DGCD commits to a project on or after January 24, 2015). Standards are established for inspectable items for each of the following areas: site, building exterior, building systems, dwelling units, and common areas. UPCS must be enforced when there are not state or local standards. These standards replace HUD Housing Quality Standards (NSPIRE) for the minimum standard for the inspection of all HOME funded activities except TBRA.

All new construction work must also conform to the International Energy Conservation Code (IECC) and applicable state or local energy conservation codes.

Projects proposing new construction of affordable units will not be given additional points or otherwise prioritized because of their location in census tracts 301, 302, 6 or 9. Exceptions may be granted when necessary to comply with applicable federal program regulations.

Site and neighborhood standards

The site and neighborhood standards of 24 CFR 983.57(e)(2) and (3) applies only to the new construction of rental housing.

Housing must meet the accessibility requirements of 24 CFR part 8, which implements CHAPTER 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act implemented at 28 CFR parts 35 and 36, as applicable, and covered multifamily dwellings must meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act.

Disaster Mitigation

Housing must be constructed to mitigate the impact of potential disasters in accordance with State and local codes, ordinances or other requirements as HUD may establish (where applicable).

Written cost estimates, construction contracts and construction documents. DGCD will ensure the construction contract(s) and construction documents describe the work to be undertaken in adequate detail so that inspections can be conducted. DGCD will review and approve written cost estimates for construction and determine that costs are reasonable.

Construction progress inspections. DGCD will conduct progress and final inspections of construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents.

8.2 Rehabilitation

State and local codes, ordinances, and zoning requirements

Housing must meet all applicable State and local codes, ordinances, and zoning requirements or in the absence of State or local building code, the International Existing Building Code of the International Code Council.

All rehabilitation work must also conform to the **International Energy Conservation Code (IECC)** and applicable state or local energy conservation codes. **See Appendix G: Rehabilitation Standards**

Health and Safety

Housing must address life-threatening deficiencies immediately, if housing is occupied.

Uniform Physical Condition Standards

The properties must be free of deficiencies established in 24 CFR 5.703 (Uniform Physical Condition Standards).

Major Systems

Major systems are structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; heating, ventilation, and air condition.

- a. Major systems for rental housing. Upon project completion of each major system, DGCD must estimate (based on age and condition) the remaining useful life of the major systems. For multifamily projects of 26 units or more, DGCD will determine the useful life of the major systems through a capital needs assessment.
- b. Major systems for homeownership housing. Upon project completion, each major system must have a remaining useful life of at least five years or the major system must be rehabilitated or replaced as part of the rehabilitation work.

Capital Needs Assessment

Housing must address all work identified in the capital needs assessment. A capital needs assessment will be completed for multifamily rental housing projects of 26 units or more to determine all work to be performed and identify and address the long-term physical needs of the project.

Lead-based paint

Housing must meet the lead-based paint requirements at 24 CFR part 35.

Disaster Mitigation

Housing must be improved to mitigate the impact of potential disasters in accordance with State and local codes, ordinances or other requirements as HUD may establish (where applicable).

Housing must meet the accessibility requirements of 24 CFR part 8, which implements CHAPTER 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act implemented at 28 CFR parts 35 and 36, as applicable, and covered multifamily dwellings must meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act.

Construction documents and cost estimates

The work to be completed must meet ADFA's rehabilitation standards. The construction documents (i.e., written scope of work to be performed) must be in sufficient detail to establish the basis for a uniform inspection of the housing to determine compliance with DGCD's standards. DGCD will review and approve a written cost estimate for rehabilitation after determining that costs are reasonable.

8.3 Frequency of Inspections

DGCD will conduct an initial property inspection to identify the deficiencies that must be addressed. DGCD will also conduct progress and final inspections to determine that work was done in accordance with work write-ups.

8.4 Acquisition of Standard Housing

For properties receiving assistance for acquisition only (without rehabilitation), the property must meet the HOME property standards for new construction (for newly constructed units and units rehabilitated within 12 months of project commitment) and rehabilitation for other existing units. DGCD will document this compliance based upon a review of approved building plans and Certificates of Occupancy, and an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. Ongoing property standards for rental housing will apply throughout the affordability period.

All other existing housing that is acquired with HOME assistance for rental housing must meet the rehabilitation property standards requirements. DGCD will document this compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance.

Existing housing that is acquired for homeownership (e.g., down payment assistance) must be decent, safe, sanitary, and in good repair. DGCD will conduct property inspections to ensure that all housing, at a minimum, meets the following:

- a. Applicable State and local housing quality standards and code requirements.
- b. Housing must be free of deficiencies established in 24 CFR 5.703 (Uniform Physical Condition Standards).

8.5 Manufactured Housing

All new manufactured housing, including the construction of manufactured housing that replaces an existing substandard unit under the definition of “reconstruction”, must meet the Manufactured Home Construction and Safety Standards at 24 CFR 3280. The following requirements must also be met:

- c. Installed according to State and local laws or codes. In the absence of state or local laws or codes the unit must be installed according to the manufacturer’s written instructions.
- d. At time of project completion, must be on a permanent foundation that meets the requirements for foundation systems as set forth in 24 CFR 203.43f(c)(i).
- e. At time of project completion, be connected to permanent utility hook-ups.
- f. At time of project completion, be located on land owned by the manufactured housing unit owner or has a lease equal to the applicable period of affordability.

Existing manufactured housing, the foundation, and anchoring must meet all applicable State and local codes, ordinances, and requirements. Or, in the absence of local or state codes, the Model Manufactured Home Installation Standards at 24 CFR 3285. Manufactured housing that is rehabilitated using HOME funds must meet the above property standards requirements, as applicable. DGCD will document this compliance in accordance with inspection procedures that DGCD has established pursuant to § 92.251, as applicable.

8.6 Broadband Infrastructure

For properties receiving HOME funds for new construction and rehabilitation costs of multifamily rental projects, the HOME rule at **§ 92.206(a)(4)** states that HOME funds may be used for costs to construct or rehabilitate community facilities that are located within the same building as the housing, and which are for the use of the project residents. HOME funds cannot be used to pay for a computer room located in a separate building from the assisted housing.

While HOME funds may be used to construct a multi-purpose room that could serve as a computer room, HOME funds may not be used for the purchase of furniture or equipment.

If a multi-unit project does not contain 100 percent HOME-assisted units, then only a portion of the cost of a computer room may be charged to the HOME program because only the actual HOME-eligible development costs of the assisted units may be charged to the program per the HOME rule at **§ 92.205(d)(1)**.

8.7 Tenant-Based Rental Assistance

All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the Housing Quality Standards at 24 CFR 982.401, or the successor requirements as established by HUD.

Minimum Property Standards by Activity Type

Activity	Minimum Property Standard to be Met
Tenant-Based Rental Assistance	CHAPTER 8 NSPIRE or successor requirements required by HUD. Lead Safe Housing Rule (24 CFR Part 35)
Acquisition of existing Standard Housing (No Rehab or Construction):	Newly constructed and recently rehabilitated housing (past 12 months) must meet HOME new construction property standards; other properties must meet HOME rehabilitation property standards

	Homebuyer properties (down payment assistance) must meet state and local codes at a minimum and be free of deficiencies in accordance with UPCS-Uniform Physical Condition Standards pursuant to 24 CFR 5.703
Rehabilitation of housing	Local written rehabilitation standards and State and local code requirements If no local codes apply, one of the following national model codes: <ul style="list-style-type: none"> • International Code Council’s (ICC’s) International Existing Building Code • International Energy Conservation Code. • Health & Safety • Major Systems • Accessibility requirements of CHAPTER 504, where applicable • Lead Safe Housing Rule (24 CFR Part35) • Uniform Physical Condition Standards (UPCS) pursuant to 24 CFR 5.703 • Disaster Mitigation Standards (when applicable)
New Construction of Housing	State and local code requirements. If no state and local codes apply, one of the following national model codes: <ul style="list-style-type: none"> • International Code Council’s (ICC’s) International Residential Code • International Code Council’s (ICC’s) International Building Code AND • International Energy Conservation Code
	<ul style="list-style-type: none"> • Disaster Mitigation Standards (when applicable) AND • Written cost estimates AND • Construction progress Inspections • Site and neighborhood standards at 24 CFR 983.57(e)(2) and (e) (3) for newly constructed rental housing
Manufactured Housing- New Construction/ Reconstruction	<ul style="list-style-type: none"> • Manufactured Home Construction and Safety Standards at 24 CFR 3280 • State and local code requirements. • If no state and local codes apply, the manufactures written instructions • Permanent foundation that meets foundation systems at 24 CFR 203.43f(c)(i) • Connected to permanent utility hook-ups • Own the land or hold a lease equal to period of affordability • Foundation and Anchoring: • State and local code requirements • If no state and local codes apply the Model Manufactured HOME Installation Standards at 24 CFR 3285
Existing Manufactured Housing	<ul style="list-style-type: none"> • Rehabilitation: • Rehabilitation property standards (stated above)

CHAPTER 9: Homebuyer Activities

Assistance to homebuyers may involve development activities (acquisition and new construction or rehabilitation) or direct assistance to eligible homebuyers in the form of mortgage subsidies. Recipients and developers that participate in these types of projects are responsible for screening homebuyers for eligibility and for administering the homebuyer development activities in compliance with HOME Program regulations.

9.1 Development Activities

Acquisition

- Involves taking title to an existing structure.
- Properties must be either owner-occupied or vacant at the time of purchase.

Rehabilitation

- Repairs must address all health, safety and property code problems identified at inspection.
- Rehabilitation must be performed according to DGCD's written property standards which include both written rehab standards and the state code.
- The HOME assisted projects and units must be, upon completion, decent, safe, sanitary, and in good repair as described in 24 CFR 5.703 and 5.705 (Uniform Physical Condition Standards).
- Any unit receiving assistance must also be brought up to the applicable local code.

New Construction

- Involves the construction of new housing units on vacant or improved land.
- Must be performed according to DGCD's written property standards as well as the applicable state and local codes.
- A homebuyer unit must have a ratified sales contract within nine months of construction completion or the unit must either convert to a HOME-assisted rental unit or repay the full HOME investment. (24 CFR 92.254 (a)(3))

Lease-Purchase

This option may be used in conjunction with a homebuyer program. When HOME funds are used for a lease-purchase program, ownership must be conveyed to an eligible homebuyer within 36 months of signing the lease-purchase agreement or within 42 months of project completion. The affordability period of the unit commences when ownership of the unit is conveyed to the homebuyer.

9.2 Forms of Financial Assistance

Grants

- Grants may be provided to Recipients by DGCD for carrying out homebuyer activities. DGCD HOME contracts are rarely funded as grants.
- The Recipient and DGCD will enter into a written agreement that codifies the terms of the grant.

Loans

- Loans are provided to Recipients by DGCD for carrying out homebuyer activities.
- Loans type would depend on the purpose and if HOME funds were provided to the developer or

directly to the homebuyer.

- The loan (minus the amount provided to the homebuyer as a mortgage subsidy) will be repayable upon the sale and closing of each unit.
- The Recipient and DGCD will enter into a written agreement that codifies the terms of the loan.

Homebuyer Loans (Mortgage Subsidies)

- These loans allow the homebuyer to afford the cost of the newly developed or rehabilitated single-family home. Some examples include down payment and closing cost assistance or below market interest loans. DGCD minimum homebuyer assistance is \$1,000 and the maximum amount of assistance is \$30,000, (assistance should be compatible with current market trends).
- Homeowners receiving homebuyer assistance must execute a Promissory Note, Security Deed (as collateral for the loan) and a Homebuyer Memorandum of Understanding (MOU). Any HOME loan repayment terms will be identified in the conditions of the Promissory Note.
- Subrecipients are responsible for executing written agreements with homebuyers for these loans, including interest rates, mortgage subsidy types and loan terms.
- The Recipient and DGCD will enter into a written agreement that codifies the terms of the awarded funds.
- DGCD will complete any required inspections for compliance with federal regulatory requirements.

9.3 Eligible Costs

Hard Costs

- Actual costs associated with the acquisition and rehabilitation or new construction of homebuyer units.
 - Acquisition of vacant land or land with improvements
 - Meeting the rehabilitation standards
 - Meeting applicable codes, standards and ordinances
 - Construction materials and labor
 - Essential improvements
 - Energy-related improvements
 - Lead-based paint hazard reduction
 - Accessibility for disabled persons
 - Repair or replacement of major housing systems
 - Site preparation, including demolition
 - Securing buildings
 - Site improvements and utility connections
- Garages are eligible for rehabilitation or new construction costs in the following circumstances:
 - Attached garages may be rehabilitated with HOME funds, in conjunction with rehab of the residential living space.
 - Detached garages may only be rehabilitated with HOME funds if the structure has documented existing health and safety code violations and is performed as part of the rehab of the housing unit.
 - For new construction, garages may be constructed if attached to the dwelling unit.
 - Detached garages are only permitted to be constructed if the structure is required by

local ordinance or to accommodate a person with disabilities and have received prior written approval from DGCD.

- The reconstruction of a garage without a dwelling unit as part of the project is ineligible.

For acquisition and rehabilitation projects, the cost of the rehab must be reasonable compared to the value of the house (i.e., the level of the rehab is intended to allow continued owner occupation for at least the affordability period as required by the HOME Program.

Soft Costs

- Usual, reasonable, and necessary for the acquisition or new construction of homebuyer housing units.
 - Financing fees
 - Credit reports
 - Title binders and insurance
 - Surety fees
 - Recordation fees, transaction taxes
 - Legal and accounting fees, including cost certification
 - Appraisals
 - Architectural/engineering fees including specification and job progress inspections
 - Builders' or developers' fees
 - Affirmative marketing and marketing costs
 - Homebuyer counseling provided to purchasers of HOME assisted housing
 - Management fees
 - Project costs incurred by the Recipient that are directly related to a specific project
 - Private sector origination fees and discount points
 - Project audit costs

Developer Fees

- HOME funds may be used to pay a pro rate share of the developer fee based upon the percent of HOME funds to development costs.
- While soft costs include developer fees, developers cannot hire themselves as consultants on their HOME funded project and earn additional profit and/or fees.

Marketing Costs

- A marketing plan should be conducted upfront and submitted with the application.
- If funds are requested for use in providing mortgage subsidies, the marketing plan must include a plan for the use of HOME funded mortgage subsidies.

Program and Project Administrative Costs

- Program and project administrative costs are limited to a reasonable percentage for the proposed owner-occupied rehabilitation project.
- Recipients must submit an itemized budget for program and project administrative costs as part of the initial application.
- Administrative costs include:

- Staffing costs such as labor hours, including overhead fringe benefits, related to:
 - Ensuring compliance with HOME Program requirements
 - Preparing reports and other documents for DGCD
 - Coordinating the resolution of program monitoring and audit findings
 - Providing public information on the program
- Project-related soft costs include those costs that are specific to the individual project addresses. This includes:
 - Processing applications.
 - Ensuring other federal requirements are met, such as project specific Lead Based Paint Risk Assessment.
 - Preparing work specifications, performing inspections, and developing cost certifications.
 - Homebuyer counseling costs of a homebuyer that is assisted with HOME funds (through down payment assistance) or purchase a HOME-assisted unit.
- Other costs such as development of written agreement and mortgage documentation and underwriting specific to a project.
- Administrative and project related soft costs must be supported by the following source documentation and maintained on file:
 - Detailed bill: A copy of a detailed bill or invoice highlighting the costs to be reimbursed. The detailed bill or invoice must be substantiated by a cancelled check, a copy of the bank statement, or other proof of payment. The detailed bill, at a minimum, should include vendor identification, a description of the services received, the quantity (hours, units, etc.) and the price for services received. Handwritten invoices are highly discouraged.
 - Authorized signature: All invoices must have an authorized signature of the Recipient's Executive Director, or their designee. The authorization must also include payment approval, verification of satisfactory services, and the relevant month for costs incurred and date.
 - Copies of subcontracts (as applicable): A copy of any subcontracts for professional services (i.e. consultants, architects, contractors, etc.) must be provided in the initial application outlining the cost of the service rendered and the payment schedule or terms.

9.4 Eligible Properties

Property Types

- To be eligible for HOME assistance, a property must:
 - Be the homebuyer's principal residence for the affordability period.
 - Be traditional single-family housing that is owned fee simple or homeowner may have a 99-year ground lease (structure may contain one to four dwelling units)
 - A condominium unit that is owned fee simple or homeowner may have a 99-year ground lease
 - Housing located on land owned by a Community Land Trust, ground lease must be for at least 50 years
 - A manufactured housing unit, including mobile homes.
- If HOME assisted, all new manufactured housing (including units that are reconstructed) must, at the time of project completion, be permanently affixed to a foundation, be connected to permanent utility hook-ups and be located on land that is owned (or leased for a period at least as long as the affordability period) by the manufactured housing unit owner.

Maximum Property Value

- New Construction Activities. The purchase price of the assisted property must not exceed the 95% of the area median purchase price for the area for the type of property being assisted.
- Rehabilitation Activities. The value of the assisted property after rehabilitation must not exceed the 95% of the area median purchase price for the area for the type of property being assisted.
 - Determining after-rehabilitation/construction value: To establish project eligibility, Recipients must establish the after-rehab value prior to initiating work on a unit. The after-rehab value may be established by one more of the following methods:
 - Estimates of value: Project files must contain the estimate of value and document the basis for the value estimates (e.g., comparable sales by a knowledgeable staff person). Comparable is defined as sales within the last six to twelve months in an adjacent neighborhood of similar property type that involve the same features, amenities, and square footage.
 - Appraisals: Appraisals establishing the “post rehab value”, whether prepared by a licensed fee appraiser or by a staff appraiser of the Recipient, may be used. Project files must document the appraised value and the appraisal approach used.
 - Tax Assessments: Tax assessments for a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value if the assessment is current and accurately reflects market value after rehabilitation.
 - DGCD requires the Recipient to submit documentation of maximum property value and method used to establish value at the time of application.

Property Standards

As with all HOME assisted properties, properties that are developed with HOME funds must meet certain standards. *For full information on standards for all HOME assisted properties, see CHAPTER 8: Minimum Property Standards by Activity Type and CHAPTER 7: Other Federal Requirements.*

9.5 Income Verification

- Examine at least two (2) months of source documents, such as wage statements, unemployment compensation statements, or other supporting income documentation to determine annual (gross) income. Annual income should include all adult household members, including nonrelated individuals living in the household.
- Eligibility is based on anticipated income during the next 12 months.
- Timing of income verifications varies by type of activity:
 - For existing housing, down payment assistance programs, acquisition and rehabilitation, income verifications must be completed before HOME assistance is provided.
 - For new construction, income verification must be completed before the contract to purchase is signed.
 - Note that in either instance, income need not be reexamined at the time HOME assistance is provided unless more than six months has elapsed since the initial verification by the Recipient.

9.6 Principal Residence Requirement

- During the affordability period, the homebuyer must occupy the unit as its principal residence.

- Recipients or developers should have a method for annual principal residence verification and provide annual certification to DGCD. Some options include:
 - Certified letter sent to the homebuyer
 - Verification of hazard insurance on the property; and/or
 - Review of annual tax records.
- If the unit is no longer the principal residence of the homebuyer, the Recipient or developer has two options:
 - Ensure the homebuyer reoccupies the unit; or
 - Pay back the outstanding total amount of HOME assistance (minus any principal loan payments. Note, this may be more than the amount of direct assistance provided to the homebuyer under the recapture mechanism found in the mortgage.

Refinancing during the Affordability Period

With prior approval from DGCD, the homeowner may refinance their first mortgage (the non- HOME debt) during the period of affordability.

- Refinancing is permitted only to allow the owner to obtain a lower interest rate and subsequent lower mortgage payment
 - Subsequent mortgage must be fixed rate and fully amortized.
 - Owner cannot receive cash proceeds from the transaction; and
 - Total indebtedness does not exceed the value of the property.

Selling a Unit during the Affordability Period- Recapture Requirements

- The HOME Program requires that if a property is sold, either voluntarily or involuntarily (e.g., foreclosure) during the affordability period, the HOME investment must be “repaid.” The HOME Program refers to this repayment requirement as “recapture.”
- What is recapture? Recapture is defined as an affordability mechanism where the Recipient or developer executes a written agreement with the homebuyer that only includes the amount of “direct HOME assistance” that enabled the homebuyer to buy the dwelling unit. This assistance must be “recaptured,” in whole or in part, if the unit is sold before the end of the affordability period.
- This “direct HOME assistance” is defined as a “mortgage subsidy” and includes the following for DGCD programs:
 - Down payment and closing cost assistance
 - Gap financing (e.g., second mortgage); and/or
 - Reduction in purchase price from market value to an affordable sales price if HOME funds were provided to a developer
- The period of affordability (See CHAPTER 5: General Requirements of the HOME Program, Period of Affordability) is based on the direct HOME assistance to the homebuyer.
- Net proceeds are defined by the sales price minus superior loan repayment (other than HOME funds, if applicable) and any seller’s closing costs.
- If net proceeds exceed the amount of HOME assistance, the homebuyer will receive the balance of these proceeds.
- If net proceeds are less than the amount of HOME assistance, the amount available will be repaid to DGCD and the recapture agreement will be considered satisfied.

Summary of Key HOME Homebuyer Rules and Proper Documentation

	Key HOME Requirements	Proper Documentation
Eligible Participants		
Owner Income	<ul style="list-style-type: none"> * Gross income <80% of area median income based on the upcoming 12 months. * Income is defined as adjusted gross income under IRS Form 1040. 	<ul style="list-style-type: none"> * Completed Application * Source Documentation (wage statements, interest statements)
Owner Occupancy	Applicant must purchase property and maintain it as his/her principal residence.	Client must sign and certify that the property is principal residence.
Ownership of Property	<p>Applicant must obtain ownership of the property through:</p> <ul style="list-style-type: none"> * Fee simple title * 99-year leasehold interest (50-year leasehold on trust or restricted Indian land) * Ownership/membership in a cooperative or mutual housing project (if recognized by State law) 	<ul style="list-style-type: none"> * Title search documentation * Copy of deed or other ownership document
Eligible Properties		
Property Type	<p>Eligible property types include:</p> <ul style="list-style-type: none"> * One-to-four-unit property * Condominium unit * Cooperative or mutual housing unit, if recognized by State law * Manufactured or mobile home 	<ul style="list-style-type: none"> * If 2-4 units, indicate status of non-owner-occupied units in the application. * If non-owner units are assisted with HOME funds, agreement with homebuyer that specifies applicability if HOME rental requirements to the rental units.
Property Location	Property must be located within the geographic area of the PJ	Application with property address
HOME Minimum and Maximum Thresholds	<ul style="list-style-type: none"> * An average of a minimum of \$1000 in HOME funds must be invested in each assisted unit. * The maximum HOME assistance per unit is determined by HUD (based on 221(d)(3) limits) 	<ul style="list-style-type: none"> * Worksheet or form that shows that the average per unit HOME investment exceeds \$1000. * Worksheet or form that shows that total HOME subsidy did not exceed per unit maximum provided by HUD
Property Value	<ul style="list-style-type: none"> * Sales price must not exceed 95% of the area median purchase price. * If rehabilitating property, after-rehab value must not exceed 95% of the area median purchase price. - Use 203(b) limits in effect Feb. 2008, or - HUD-determined purchase price limits, or - Establish local limits and obtain 	<ul style="list-style-type: none"> * If using local purchase price limits, documentation of data used to determine limits and evidence of HUD approval. * Documentation of method for determining value. Copy of sales price or value estimate.

Property Standards	<p>* If acquisition only, property must meet either local codes/standards or CHAPTER 8 Housing Quality Standards (NSPIRE).</p> <p>* If rehabilitation, property must be free of safety and health hazards prior to occupancy or within 6 months of property transfer, whichever is sooner.</p> <p>* If rehabilitation, property must also meet applicable codes (local codes/standards or one of 3 nationally accepted codes) within 2 years of transfer. Must also meet HUD-specified NSPIRE deficiencies for existing housing.</p> <p>*</p> <p>* New construction must meet local codes/standards or one of the nationally accepted codes and the International Energy Conservation Code (IECC).</p>	<p>* Documentation of which property standard is used and copy of the property standard.</p> <p>* Copy of written rehabilitation standards.</p> <p>* Inspection report or certification by inspector.</p> <p>* Inspection checklist and work write-up.</p> <p>* Checklist that demonstrates compliance with International Energy Conservation Code for new construction projects.</p>
Eligible Activities	Acquisition, acquisition and rehabilitation, and new construction	Documentation of all expenditures.
Long-Term Affordability		
Affordability Period Resale/Recapture	<p>* Property must be subject to either resale or recapture provisions for the period of affordability.</p> <p>- Resale: Future sale of property must be affordable to low-income buyer and provide initial buyer with fair return.</p> <p>- Recapture: A portion or all of assistance to buyer must be recaptured at time of sale and used for other HOME eligible activities.</p>	<p>* Resale: Mortgage and/or note and recorded deed restriction or covenant restricting future sales; evidence that documents were recorded.</p> <p>* Recapture: Mortgage or note showing formula by which funds will be recaptured.</p>

CHAPTER 10: Rental Housing Activities

10.1 Eligible Activities

DGCD uses HOME funds to support a range of rental activities, including:

- Acquisition of vacant land
 - HOME funds may be used for the acquisition of vacant land only if construction will begin on a HOME project within 12 months of purchase.

Land banking is prohibited.

- Acquisition of property
 - Acquisition of existing standard property, or substandard property in need of rehabilitation, is eligible.
 - After acquisition, rental units must meet HOME rental occupancy, affordability, and lease requirements.
- New Construction
- Rehabilitation of existing structures
 - Includes alteration, improvement or modification of an existing structure.
 - Includes moving an existing structure to a foundation constructed with HOME funds.
 - Rehabilitation may include adding rooms outside the existing walls of a structure but adding a housing unit is considered new construction.

10.2 Reduction of Units

- For multi-family rental projects, the number of units designated as HOME assisted may only be reduced for troubled projects in accordance with §92.210.
- In projects with 100% HOME assisted units, if DGCD determines there is a need for an on-site manager to contribute to the stability of the property, one home-assisted unit may be converted to an on-site manager's (non-assisted) unit.

10.3 Terminated Projects

When HOME funds are expended for projects that are terminated before completion, voluntarily or involuntarily, the HOME funds that have been expended are ineligible and must be repaid. DGCD must terminate any projects that do not meet the HOME requirements for affordable housing (affordability provisions, income targeting, property standards, etc.) and repay the HOME funds expended for the project.

The termination of affordability restrictions does not relieve DGCD of its repayment obligations for housing that does not remain affordable for the required period.

10.4 Eligible Costs

HOME Program funds may be used for certain administrative and development costs as dictated by 24 CFR 92.206 including hard costs, soft costs, relocation costs, bridge loans, project delivery costs, and initial operating deficit reserve.

- Hard Costs. Home funds can cover the actual hard cost of constructing or rehabilitating housing such as land, materials, demolition, site preparation, and securing of buildings.
- Soft Costs. Home funds may be used to pay for project soft costs that are usual, customary, reasonable and necessary. Examples include:
 - Developer Fees. Developers cannot hire themselves as consultants on their HOME funded project to earn additional profit and/or fee.
 - Initial Operating Deficit Reserve
 - The HOME Final Rule clarified the use of HOME funds to cover the cost of funding an initial operating deficit reserve for new construction and rehabilitation projects.
 - This reserve is meant to meet any shortfall in project income during the project rent-up period.
 - The reserve cannot exceed 18 months.

- The reserve can be used only for project operating expenses, scheduled payments to replacement reserves and debt service.
- Reserves remaining at the end of 18 months may be retained for reserves at the PJs discretion.
- Relocation Costs. DGCD discourages projects involving displacement or relocation. In the event relocation is unavoidable, applicants must adhere to the Uniform Relocation Act (24 CFR Part 24). HOME funds may be used for the cost of permanent or temporary relocation of tenants.
- Program and project administrative costs.
 - Program and project administrative costs are limited to 10% of the final allocation amount for the proposed rental program/project.
 - Recipients must submit an itemized budget for program and project administrative costs as a part of the initial application.
 - Project-related soft costs are eligible only for costs directly associated with the HOME Program funded development and must be allocated on a prorated basis among HOME Program assisted units.
 - Administrative costs include general management; oversight and coordination costs; staff and overhead costs; public information costs; cost of fair housing activities; indirect costs; and costs of complying with other federal requirements.
 - Project-related soft costs are costs incurred by a Recipient or third-party contractor on behalf of the Recipient and include staff and overhead costs related to the development of HOME assisted housing such as preparing work specifications, loan processing, inspections, and other services related to assisting potential owners, tenants, and homebuyers.
 - Other project-related soft costs include cost of processing applications for HOME assistance; appraisals required by program regulations; project underwriting; construction inspections and oversight; project document preparation; costs associated with a project-specific environmental review; costs associated with informing tenants or homeowners about relocations rights or benefits; and costs to provide information services such as affirmative marketing and fair housing information to prospective tenants.

10.5 Prohibited Fees

State recipients, subrecipients, community development housing organizations (CHDOs), housing non-profits, and for-profit developers may not charge servicing, origination, or other fees for the purpose of covering costs of administering the HOME program.

HOME Eligible Rental Housing Costs

Hard Costs	Soft Costs
<ul style="list-style-type: none"> • Site preparations or improvement, including utility connection costs (but excludes the costs to provide utilities to a site) • Demolition in conjunction with a specific affordable housing project • Securing of buildings • Construction materials and labor 	<ul style="list-style-type: none"> • Financing fees • Credit reports • Title binders, updates and insurance • Surety fees • Recordation fees, transaction taxes • Legal and accounting fees, including cost certification • Appraisals • Architectural/engineering fees, including specifications and job progress inspections • Environmental reviews • Builders’ or developers’ fees • Affirmative marketing, initial leasing and marketing costs • Operating deficit reserves (up to 18 months)
Relocation Costs	Program and Project Administrative Costs
<ul style="list-style-type: none"> • Payment for replacement housing, moving costs and out-of-pocket expenses • Advisory services • Staff and overhead related to relocation assistance and services 	<ul style="list-style-type: none"> • Staff and overhead costs, such as preparing work specifications, loan processing, inspections, and other services related to assisting potential owners, tenants, and homebuyer • cost of processing applications for HOME assistance • appraisals required by program regulations • project underwriting • construction inspections and oversight • project document preparation • costs associated with a project-specific environmental review • costs associated with informing tenants or homeowners about relocations rights or benefits • costs to provide information services such as affirmative marketing and fair housing information to prospective tenants

10.6 Property Types

Eligible Property Types

- HOME rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management and financing.
- The project must be assisted with HOME funds as a single undertaking.
- The project includes all activities associated with the sites or buildings.
- HOME funds may be used to assist mixed-income projects (but only HOME-eligible tenants may occupy HOME-assisted units). Common area costs must be prorated based upon the number of HOME-assisted units and non-HOME-assisted units.
- Transitional and permanent housing, including group homes and SROs, is allowed.
- Assisted Living projects are eligible. However, HOME rent does not include food or the cost of supportive services. The owner may not make tenancy of the unit conditional on the tenant’s

participation in the assistant living and/or supportive services.

- There are no preferences for project or unit size or style.

Ineligible Property Types

- Properties previously financed with HOME during the affordability period cannot receive additional HOME assistance unless assistance is provided during the first year after project completion.
- HOME funds may not be used for development, operations or modernization of public housing financed under the 1937 Act (Public Housing Capital and Operating Funds).
- Projects assisted under Title VI of NAHA (prepayment of mortgages insured by HUD).
- Emergency shelters with limited occupancy requirements.
- All types of student housing.
- Projects where developers/contractors do not have a valid Georgia contractor's license.
- Projects that do not have a written verification in support of the proposed development from the Mayor and City Council.

Exceptions

- HOME funds can be used to develop a new unit that will serve as public housing if that unit also receives HOPE VI funding **and** no Capital Funds (CHAPTER 9) are used to develop the unit. Such a unit may receive Operating Fund assistance.
- HOME funds may be used in a project that also contains public housing units, **provided** that HOME funds are not used in the public housing units and the HOME units are separately designated.
- Projects assisted under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages) may not receive HOME funds **unless** assistance is provided to “priority purchasers” of such housing. A priority purchaser is a resident council organized to acquire a project in accordance with a resident homeownership program, or any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the project. Organizations or agencies affiliated with a for-profit entity for the purposes of purchasing a property do not qualify as priority purchasers.

10.7 Property Standards

Meeting the Appropriate Codes

As with all HOME-assisted properties, rental properties must meet certain written standards. This CHAPTER discusses these standards briefly. For a full explanation, see CHAPTER 8: Minimum Standards by Activity Type.

- Acquisition: If no rehabilitation or construction is planned, the housing acquired must meet State and local housing quality standards and code requirements. If no such standards or codes exist, the property must meet Uniform Physical Condition Standards (UPCS).
- Construction and Rehabilitation: Housing that is being constructed or rehabilitated with HOME funds must meet all applicable State and local codes, rehabilitation standards and ordinances. If no State and local codes apply, the property must meet one of the national standards as discussed in *CHAPTER 8: Minimum Standards by Activity Type*. If new construction, the property must also meet the International Energy
- Conservation Code.
 - Owners must maintain properties in accordance with property standards throughout the

- affordability period. This will require periodic property inspections by DGCD.
- Accessibility. All assisted housing must meet the accessibility requirements of the Fair Housing Act and CHAPTER 504 of the Rehabilitation Act of 1973.
- Greater Choice of Housing Opportunities. A Recipient’s HOME program must comply with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, CHAPTER 504, Executive Order 11063 and HUD regulations issued pursuant thereto so as to promote greater choice of housing opportunities.
- Site and Neighborhood Standards. The site and neighborhood standards of 24 CFR 983.6(b) apply only to new construction of rental housing. Records that document the results of the site and neighborhood standards review must be maintained by the Recipient.

10.8 Long-Term Affordability

- HOME-assisted rental units carry rent and occupancy restrictions for varying lengths of time, depending upon the average amount of HOME funds invested per unit. *See CHAPTER 5: General Requirements of the HOME Program, I. Period of Affordability for full details.*
- HOME affordability periods are minimum requirements. Recipients may establish longer terms of affordability for their programs.
- Affordability restrictions remain in force regardless of transfer of ownership. At DGCD’s discretion, they may be terminated only upon foreclosure or transfer in lieu of foreclosure. It is important to note that the termination of the affordability restrictions does not terminate the requirement that the units must remain affordable, or DGCD’s responsibility to repay HOME funds invested in projects that are no longer affordable.
- Affordability requirements will be revived if, before the foreclosure, the owner of record, or anyone with business or family ties to the owner, obtains an ownership interest in the property or project.

10.9 Designating HOME Assisted Units

Unlike other federal programs, HOME Program distinguishes between the units in a project that have been assisted with HOME funds and those that have not. Hence, the term HOME-assisted unit. (This distinction between HOME assisted and unassisted units allows HOME funds to be spent on mixed-income projects while still targeting HOME dollars only to income-eligible households.) This distinction is important for compliance during the affordability period.

- The number of HOME-assisted units in each project must be specified at project commitment.
- In rental projects with five or more assisted units, at least 20% of the units must be occupied by families with incomes that do not exceed 50% of the HUD-adjusted median.
- Additionally, for properties with both assisted and non-assisted units, a PJ must determine whether the HOME assisted units will be “fixed” or “floating” units.
 - Fixed: When HOME-assisted units are “fixed,” the specific units that are HOME- assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change.
 - Floating: When HOME-assisted units are “floating,” the units that are designated as HOME-assisted may change over time as long as the total number of HOME- assisted units in the project remains constant.
 - The floating designation gives the owner some flexibility in assigning units and can help avoid stigmatizing the HOME-assisted units.
 - If the floating designation is used, the owner must ensure that the HOME- assisted

units remain comparable to the non-assisted units over the affordability period in terms of size, features and number of bedrooms.

- DGCD will designate the appropriate option at the time of project commitment
- Note that the HOME affordability rent and occupancy rules discussed apply only to HOME-assisted units.

When leasing mixed-income projects with both HOME-assisted and non-HOME assisted units, DGCD requires owners to maintain a mix of units throughout the affordability period that ensures the project always has the correct number of HOME-assisted units.

- For example, if a project has 10 units out of 15 units designated as HOME-assisted units when funds are awarded, DGCD requires that the project maintain 10 HOME-assisted units with income eligible tenants throughout the affordability period.
- When leasing mixed-income projects, owners/managers must assure that:
 - A sufficient number of units are leased or held available for lease to HOME eligible tenants in order to meet the income targeting requirements of the program; and
 - Rents charged to tenants in the HOME units are within the rent limits published by HUD.

10.10 Rent and Occupancy Requirements

During the affordability period, DGCD requires that rent and occupancy agreements for HOME-assisted units be enforced through:

- Covenants running with the property; or
- Deed restrictions.
 - Covenants and deed restrictions may be suspended upon transfer by foreclosure or deed-in-lieu of foreclosure.

Initial Occupancy

HOME assisted units in a rental housing project must be occupied by households that are eligible as low-income families.

- If the housing units are not occupied by an eligible tenant within 6 months following the date of project completion, DGCD will require the owner to submit current marketing information and, if appropriate, submit a revised marketing plan to lease the housing units as quickly as possible.
- If the housing units are not occupied by an eligible tenant within 18 months following the date of project completion, DGCD will require the repayment all HOME funds invested in the unit.

Rent Limits

Every HOME-assisted unit is subject to rent limits designed to help make rents affordable to low-income households. These maximum rents are referred to as HOME Rents.

- DGCD must review and approve the rents for each HOME-assisted rental project each year to ensure that they comply with the HOME limits and do not result in undue increases from the previous year.
- HUD will annually publish FMRs and calculations of rents affordable to families earning 65 percent (High HOME rent limits) and 50 percent of median (Low HOME rent limits). DGCD and Recipients establish new HOME rents for projects based on the HUD published High and

Low HOME rent limits.

- The published rents are inclusive of utilities. The rents must be reduced for any tenant paid utility. Recipients must use the HUD Utility Schedule Model or by the otherwise determining the allowance based upon the specific utilities used for the project to calculate utility allowances to account for tenant paid utilities.
- Based on changes in area income levels or market conditions, HOME rents, as calculated by HUD annually, may increase or decrease.
 - DGCD will use the HUD published rents to establish HOME rents and will inform HOME Recipients of the change in the HOME rents.
 - Tenants must be given at least 30 days written notice before increases are implemented. Any increases are also subject to other provisions of the lease agreements. For example, rents may not increase until the tenant's lease expires.
 - HOME rents may decrease. While project rent levels are not required to decrease below the HOME rent limits in effect at the time of project commitment, decreasing HOME rents may reflect a change in market conditions that may force owners to reduce rents in order to maintain tenants.
 - HUD may permit adjustments to the rent structure if the financial feasibility of the project is threatened. This is important to lenders providing financing to HOME-assisted projects.

Maximum Allowable HOME Rents and Utility Allowances

The HOME rents are the maximum rent an owner may charge a tenant (including the approved utility allowance) in a HOME assisted unit.

- The HOME rents limits are inclusive of tenant paid utilities and the maximum allowable HOME rents must be reduced if the tenant pays for utilities.
- Recipients must use the HUD Utility Schedule Model or by the otherwise determining the allowance based upon the specific utilities used for the project to determine utility allowances to be used to determine rents for HOME-assisted rental projects.
- Project owners may submit a proposed utility allowance to DGCD for review and approval. Utility adjustments proposed by owners/developers for specific projects that differ from the HUD Utility Schedule Model's utility allowance must be supported by documentation.
- In rural areas, the market rents may be well below the published HOME rents. DGCD encourages owners to charge tenants in HOME assisted units a rent that is appropriate for the market.
- Note that only tenant paid utilities are included in HOME rent limits. Assisted living projects **may not** add food or services to the HOME rent nor require the food services or supportive services as a condition of a tenant's occupancy.

10.11 Income Eligibility and Targeting Requirements

DGCD provides HOME funds to develop units of affordable housing for very low-income and low-income households.

- Low HOME rent units are restricted to individuals and families with incomes at or below 50% of the Area Median Income (AMI); and
- High HOME rent units are restricted to individuals and families with incomes at or below 80% of AMI. Although discouraged, High HOME rent units may be leased to tenants at or below

60% AMI.

Income eligible households include certificate or voucher holders under the CHAPTER 8 and/or HOME tenant based rental assistance (TBRA) program. Owners *may not* refuse to lease HOME-assisted units to certificate of voucher holders under the CHAPTER 8 Program, or to a holder of a comparable document evidencing participation in a HOME tenant-based rental assistance (TBRA) program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME TBRA document.

Affirmative marketing plan

For affordable rental housing with 5 or more HOME assisted units, DGCD requires Recipients to develop an Affirmative Marketing Plan and a set of procedures for implementing the plan. These plans are to be submitted to DGCD and should include:

- Methods to inform the public and potential tenants about fair housing laws;
- A description of the activities that owners will do to affirmatively market housing assisted with DGCD HOME funds, such as distribution of flyers, outreach to local churches etc.;
- A description of what owners will do to inform persons least likely to apply for the HOME assisted housing without special outreach; and
- Maintain records of the plan and the marketing activities to assess its effectiveness and a system for adjusting the plan if results are not achieved. **See Appendix H: Rental Market Study Guidelines**

10.12 Determining and Verifying Income Eligibility of HOME Tenants

DGCD requires owners to verify and certify that tenants occupying the HOME assisted units meet income guidelines. *See CHAPTER 1: HOME Program Introduction, C. HUD Income Limits, for full description of income verification requirements.*

Initial Income Verification

- Before the tenant occupies a unit, tenant income eligibility (based on gross household income) must be determined at delivery assistance (6-month window) must be documented with at least 2 months of source documentation evidencing annual income, such as wage statements, interest statements and unemployment compensation statements for the family.
- Annual income should include all adult household members, including nonrelated individuals living in the household.
- Normally, the project owner is responsible for collecting this information and determining eligibility.
- DGCD and the Recipient is responsible for monitoring the project owner to ensure that initial income verifications are performed correctly.
- Property managers often have high staff turnover rates, so it is important for the Recipient to review the income verification process and expectations with property management staff on a regular basis.

Annual Recertification of Income

- Because the HOME Program imposes occupancy restrictions over the length of the affordability period, owners must establish systems to recertify tenant income on an annual basis.

- Typically, each tenant’s income will be examined on the anniversary of the original income evaluation or at lease renewal.
- However, the owner may adopt an annual schedule and perform all verifications at the same time.
- When Recipients performs on-site inspections of the project, it should verify that tenant income recertification documentation is in the tenant files. DGCD will review recertification documentation during the annual monitoring session.

10.13 Addressing Increases in Tenant Income during the Affordability Period

A tenant’s income is likely to change over time. If these changes occur during the affordability period, the project owner must take certain steps to maintain compliance with HOME rent and occupancy requirements.

- The project must maintain the total number of HOME-assisted units, as required in the written agreement between DGCD and the Recipient.
- The project must maintain the correct proportion of High and Low HOME rent units.
- Rents must be adjusted for tenants whose incomes rise above the income limits for the designated HOME units (50 percent of AMI for Low HOME rent units and 80 percent of AMI for High HOME rent units).

The specific steps that a property owner/manager must take depend on whether the development is a “fixed” or “floating” project.

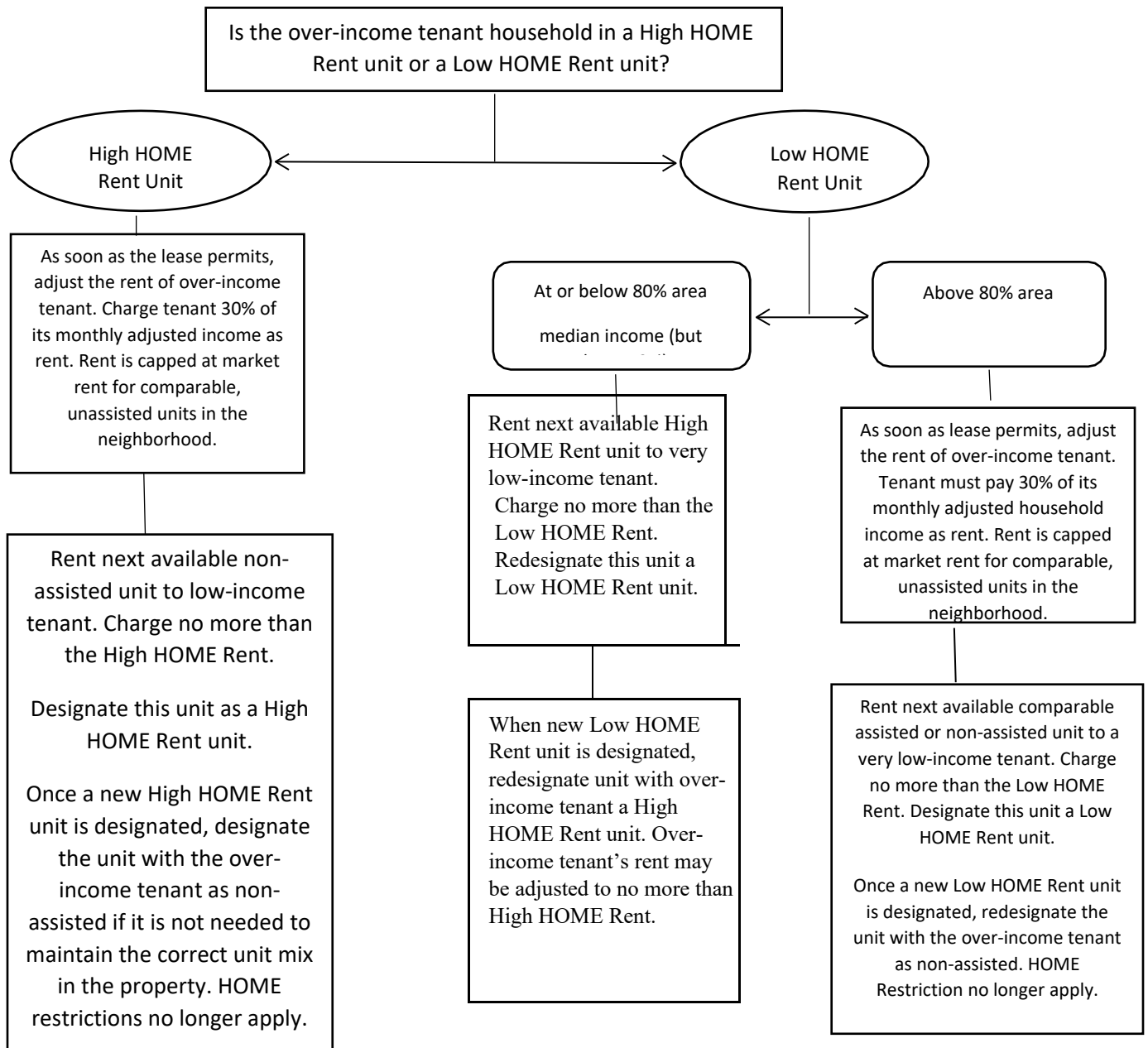
Fixed Unit Projects

- If the income of a tenant occupying a Low HOME rent unit increases above 50% of median, but does not exceed 80% of area median income, that unit remains a Low HOME rent unit until a HOME-assisted unit can be substituted.
- The owner may not increase the tenant’s rent above the Low HOME rent limit for as long as the unit retains the Low HOME unit designation and is occupied by the low-income household whose income increased above 50% of median but does not exceed 80% of median.
- When a High HOME rent unit in the property vacates, that unit must be re-designated as a Low HOME rent unit. This unit must be rented to a very low-income tenant, at no more than the Low HOME rent.
- Once the new Low HOME rent unit has been designated, the previous Low HOME rent unit that is occupied by the tenant at between 50% and 80% of median must be re-designated as a High HOME rent unit. At this time, the owner can increase the tenant’s rent up to the High HOME rent, subject to the terms of the lease.
- If a tenant’s income increases above 80% of the area median income, the unit this tenant occupies is still considered to be a HOME-assisted unit, but the tenant’s rent must be adjusted as follows:
 - Over-income tenants with incomes over 80% of the area median in HOME-assisted fixed units must pay 30% of their adjusted income for rent and utilities. There is no rent cap for fixed units.
 - If the person whose income went over 80% of median was in a Low HOME unit and they

elect to vacate the property, the new tenant must be at or below 50% of median income and rented at a Low HOME rent.

- If the person whose income went over 80% of median was in a High HOME unit and they elect to vacate the property, the new tenant must be at or below 80% of median income and rented at a High HOME rent.
- When the tenant of a HOME unit becomes over-income, the unit and property are in temporary noncompliance with the HOME requirements.
 - Temporary noncompliance is permissible if the owner/manager takes steps, at the next available opportunity, to restore the property's compliance.
 - The owner/manager cannot terminate or fail to renew the tenant household's lease because the household is over-income, but the household's rent must be adjusted. Over-income tenants are protected by the terms of their leases; rent changes go into effect only when the lease permits.

Note: In assisted units that are financed with both HOME and Low-Income Housing Tax Credits (LIHTCs), the LIHTC rules apply when existing assisted tenant rents exceed 80% of median. Under the LIHTC program, the tenant's rent is not adjusted, and the unit does not need to be replaced by another comparable unit until the tenant's income rises above 140 percent of the LIHTC program eligibility threshold. This rule only applies to over income tenants in existing assisted units. DGCD, Recipients, and owners **may not** defer to LIHTC rents in HOME units when initially developing assisted units.



A **low-income** household has an annual gross income that is not more than 80% of the area median income. A **very low-income** household has an annual gross income that is not more than 50% of the area median income. An **over-income household resides in a HOME-assisted unit and has either:** (1) an annual gross income over 80% of area median income, **or** (2) an annual gross income over 50% of area median income that occupies a Low HOME Rent unit.

Floating Unit Projects

Generally, the owner can draw on all the units in the property to designate High and Low HOME rent units. This means that the owner is not restricted to those units initially designated as HOME-assisted units when looking to redesignate a comparable unit as the new Low or High HOME unit.

The owner is not required to designate more HOME-assisted units than was agreed upon in the written agreement with DGCD and the Recipient.

- When the income of a tenant occupying a Low HOME rent unit income increases over 50% of the median but does not exceed 80% of the area median income, the unit that is occupied by the over-income tenant is considered a Low HOME rent unit until a comparable unit can be substituted.
 - The rent of the tenant whose income has gone above 50% of median must not exceed the Low HOME rent limit while the unit has a Low HOME rent unit designation.
 - To replace the Low HOME rent unit, the owner must rent the next available High HOME-assisted unit to a very-low-income tenant. The newly designated Low HOME rent unit must be rented to a tenant whose income does not exceed the very low-income limit (50% of median), at a rent that does not exceed the Low HOME rent limit.
 - Once a new Low HOME rent unit has been designated, subject to the terms of the lease, the rent of the initial tenant whose income has increased may be increased to the High HOME rent for the unit. This process should not increase the number of assisted units.
 - Note that the owner is not required to re-designate a vacated market rate unit as a HOME assisted unit unless one of the existing HOME-assisted units is occupied by an over-income household (over 80% of median). If one of the HOME-assisted units is occupied by an over-income person, that unit can become a market rate unit when the next vacant market rate unit is designated as a HOME-assisted unit. As noted above, the point is to maintain the total number of HOME assisted units in the project.
- If a tenant's income increases above 80% of the area median income, the unit this tenant occupies is still considered to be a HOME unit, but the tenant's rent must be adjusted as described:
 - The next available market unit in the project of comparable size or larger must be rented to a HOME-eligible household. The unit occupied by the over-income tenant is no longer considered HOME-assisted, and the rent of that unit can be adjusted.
 - Over-income tenants in HOME-assisted "floating" units must pay 30 percent of their adjusted income for rent and utilities; however, the rent may not exceed the market rent for comparable, unassisted units in the neighborhood.

10.14 Leases

The lease between the owner and the tenant in a HOME-assisted property must be for at least one year, unless by mutual agreement between the tenant and the owner.

The lease between the owner and tenant in a HOME-assisted property cannot contain any of the following provisions:

- Agreement to be sued: Agreement by the tenant to be sued, to admit guilt, or to a judgment in

favor of the owner in a lawsuit brought in connection with the lease.

- **Mandatory Supportive Services:** Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.
- **Treatment of property:** Agreement by the tenant that the owner may seize or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This provision does not apply to disposition of personal property left by a tenant who has vacated a property.
- **Excusing owner from responsibility:** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.
- **Waiver of notice:** Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
- **Waiver of legal proceedings:** Agreement of the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant can present a defense, or before a court decision on the rights of the parties.
- **Waiver of a jury trial:** Agreement by the tenant to waive any right to a trial by jury.
- **Waiver of right to appeal court decision:** Agreement by the tenant to waive the tenant's right to appeal or to otherwise challenge in court a court decision in connection with the lease.
- **Tenant chargeable with cost of legal actions regardless of outcome:** Agreement by the tenant to pay attorney's fees or other legal costs, even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

Owners may terminate tenancy or refuse to renew a lease only upon 30 days' written notice, and only for serious or repeated violation of the terms and conditions of the lease, violation of applicable federal, state or local law, completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan, or for other good cause.

An owner of HOME-assisted rental housing must adopt written tenant selection policies and criteria that:

- Are consistent with the purpose of providing housing for very low-income and low-income families
- Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease
- Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable
- Provide for the selection of tenants with special needs
- Owners of HOME-assisted rental housing are permitted to limit eligibility or give a preference to a particular segment of the population only if ADFA permits in its written agreement
- Preferences may be given to disabled families who need services offered at a project, if certain conditions are met:
 - Must be limited to the population of families (including individuals) with disabilities whose disabilities significantly interfere with their ability to obtain and maintain housing
 - Such families are not able to obtain and maintain themselves in housing without appropriate services; and
 - Such services cannot be provided in a non-segregated setting.

- Limitations or preferences must not violate nondiscrimination requirements as listed in §92.350.
- Do not exclude an applicant with a certificate or voucher under the CHAPTER 8 Tenant- Based Assistance; Housing Choice Voucher Program (24 CFR part 982) or applicant participating in a HOME tenant-rental program.
- Give prompt written notification to any rejected applicant of the grounds for any rejection.
- Assisted living projects may not require a tenant to avail themselves of the food services or supportive services as a condition of the lease.

10.15 Inspections

DGCD must inspect each project at completion and during the period of affordability to determine that the project meets the property standards applicable under §92.251. The frequency of those inspections is as follows:

- An on-site inspection must be performed at the completion of the project.
- The first ongoing property inspection must occur within 12 months after project completion.
- An on-site inspection will be performed at least once every 3 years thereafter during the period of affordability.
 - If there are observed deficiencies for any of the inspectable items in the property standards, a follow-up on-site inspection to verify that deficiencies are correct must occur within 12 months.
 - Life-threatening (health & safety) deficiencies must be corrected immediately if the unit is occupied.
- DGCD will establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re- inspection.
- DGCD will inspect more frequently for properties which have been found to have health and safety deficiencies.
- Annual Certification. The property owner must submit an annual certification to DGCD that each building and all HOME-assisted units in the project are suitable for occupancy. DGCD provides the Annual Certification form to HOME assisted programs for completion when inspections by DGCD staff aren't required.
- For each inspection, DGCD must determine how many HOME-assisted units must be inspected in the project (for inspectable items - site, building exterior, building systems, and common areas).
 - For projects with 1 to 4 units, the inspectable items for each building with HOME-assisted units and 100% of the HOME units must be inspected.
 - For projects with more than 4 HOME-assisted units, the inspectable items for each building with HOME-assisted units will be based upon a statistically valid sample on a per project basis.
 - But not fewer than 4 units in each project and 1 HOME-assisted unit in each building will be inspected.

10.16 Record Keeping

As for all program activities, HOME requires documentation for rental projects to show that all program regulations have been met. Because of the long-term monitoring required for rental projects, however,

record-keeping responsibilities are slightly more substantial. This CHAPTER briefly describes the record-keeping responsibilities associated with rental housing for DGCD, Recipients, and the property owner. *For a more detailed discussion of the record-keeping responsibilities see CHAPTER 14: Record Keeping, Reporting and Monitoring.*

Recipient records

In addition to the general program and project documentation described in *CHAPTER 14: Record Keeping, Reporting and Monitoring*, Recipients have the following responsibilities:

- Records of its regular inspections of each rental project: These records should demonstrate that DGCD or the Recipient checked for and enforced compliance with the following HOME requirements:
 - Property standards: The records should show that a sufficient sample of HOME- assisted units were inspected, as well as exterior and common areas, and that any deficiencies identified were corrected.
 - Rent and occupancy requirements: Inspection records should also show that DGCD reviewed a sample of unit files to verify that HOME rent and occupancy requirements were met.
 - Lease requirements: In its review of unit files, DGCD should also ensure that leases meet HOME requirements.
 - Affirmative Marketing. In its review of project files, DGCD should ensure the owner has adopted written tenant selection policies and criteria.
 - Other items in the written agreement: If the written agreement between DGCD or the Recipient and the property owner contained any other provisions that require monitoring, DGCD records should reflect that they were monitored.
- Other project oversight responsibilities: The Recipient should also conduct additional oversight of rental projects by analyzing the projects for financial stability, management capacity and other long-term viability issues.
 - This type of oversight will help to identify financial or management issues before they affect the project's ability to remain a viable component of DGCD or the Recipient's affordable housing stock.
 - During the period of affordability, DGCD will examine at least annually the financial condition of HOME-assisted rental projects with 10 HOME assisted units or more to determine the continued financial viability of the housing and take actions to correct problems, to the extent feasible.

Property owner records

Owner must keep adequate records and demonstrate compliance with HOME requirements. The owner should keep both project and tenant records.

- Project records should include documentation to back-up rent and utility allowance calculations. If the project's HOME-assisted units are floating, the owner should also keep records to show how HOME occupancy targets were met (for example, rental logs to show that as units were vacated or tenants became over-income, HOME- assisted units were properly replaced).
- Tenant files should include the documentation necessary to demonstrate that each HOME-

assisted unit is properly occupied by an income-eligible tenant. Such documentation includes: the tenant’s application, initial income verification documents, subsequent income recertification documents and the tenant’s lease.

- General rental housing records must be kept for five years after project completion.
- Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the affordability period.

Troubled HOME Assisted Rental Housing Projects

DGCD may invest additional HOME funds into HOME-assisted rental housing projects that are no longer financially viable during the period of affordability and are at-risk of foreclosure. A HOME-assisted rental projects is no longer financially viable when its operating costs significantly exceed its operating revenue.

- The use of HOME funds may include, but are not limited to, rehabilitation of the HOME units and recapitalization of project reserves for the HOME units (to fund capital costs).
- The total HOME funding for the project (original investment plus additional investment) may not exceed the maximum per-unit subsidy limit established in §92.250(a).

DGCD may require the period of affordability to be extended and/or an increase in the number of HOME assisted units, based on the amount of additional HOME funds.

- DGCD may permit the reduction in the number of HOME-assisted units if the project contains more than the minimum number of units required to be designated as HOME-assisted units. The reduction will be determined based upon the period of affordability and the amount of the HOME assistance provided to the project.

HUD Headquarters must approve any new investment of HOME funds and/or reduction of HOME-assisted units.

- HUD’s approval will be based on the assessment of the market needs, available resources, and the likelihood of the project’s return to financial viability.
- HUD’s approval will be in the form of a written memorandum of agreement.

10.17 Other Federal Requirements

See CHAPTER 7: Other Federal Requirements to fully identify the cross-cutting regulations that apply to rental housing activities.

SUMMARY OF OTHER FEDERAL REQUIREMENTS

Other Federal Requirements	Applies to Rental Housing Program?	Special Issues/Considerations	Regulatory Citations and References
<i>Non-Discrimination and Equal Access Rules</i>			

Fair Housing and Equal Opportunity	Yes	DGCD and Recipients must affirmatively further fair housing. Pay particular attention to signs of discrimination in leasing practices.	<ul style="list-style-type: none"> • 92.202 and 92.250 Title VI of Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) Fair Housing Act (42 U.S.C. 3601-3620) Executive Order 11063 (amended by Executive Order 12259) Age Discrimination Act of 1975, as amended (42 U.S.C. 6101) • 24 CFR 5.105(a)
Affirmative Marketing	Yes; for projects containing five or more HOME-assisted units.	ADFA and Recipients must adopt specific procedures and requirements. If a project is implementing tenant preferences and/or limit eligibility, the affirmative marketing plan must have procedures and requirements that apply in the context of the limited/preferred tenant	<ul style="list-style-type: none"> • 92.351
Handicap Accessibility	Yes		<ul style="list-style-type: none"> • CHAPTER 504 of the Rehabilitation Act of 1973 (implemented at 24 CFR Part 8)
			<ul style="list-style-type: none"> • For multi-family buildings only, 24 CFR 100.205 (implements the Fair Housing Act)
Employment and Contracting Rules			
Equal Opportunity Employment	Yes	Contracts and subcontracts over \$10,000 should include language prohibiting discrimination.	<ul style="list-style-type: none"> • Executive Order 11246 (implemented at 41 CFR Part 60)
CHAPTER 3 Economic Opportunity	Yes, if amount of assistance exceeds \$200,000.	Include CHAPTER 3 clause in contracts and subcontracts.	<ul style="list-style-type: none"> • CHAPTER 3 of the Housing and Urban Development Act of 1968 (implemented at 24 CFR Part 75)
Minority/Women Employment	Yes	DGCD and Recipients must prescribe procedures and include in contracts and subcontracts.	<ul style="list-style-type: none"> • Executive Orders 11625, 12432 and 12138 • 24 CFR 85.36(e)
Davis-Bacon	Yes, if construction contract includes 12 or more HOME-assisted units.	Include language in all contracts and subcontracts. Requirements apply to whole project not just the HOME- assisted units.	<ul style="list-style-type: none"> • 92.354 • Davis-Bacon Act (40 U.S.C. 276a - 276a-5) • 24 CFR Part 70 (volunteers) • Copeland Anti-Kickback Act (40 U.S.C. 276c)
Conflict of Interest	Yes	ADFA should ensure compliance both in-house and when using Recipients.	<ul style="list-style-type: none"> • 92.356 • 24 CFR 85.36 • 24 CFR 84.42
Debarred Contractors	Yes	ADFA and Recipients should check HUD list of debarred contractors.	24 CFR Part 5 www.epls.gov

Environmental Requirements			
Environmental Reviews	Yes	Level of review depends upon the activity. For rehabilitation and new construction (4 or fewer units); categorically excluded subject to 58.5. New Construction (more than 5 units) subject to environmental assessment.	<ul style="list-style-type: none"> • 92.352 • 24 CFR Part 58 • National Environmental Policy Act (NEPA) of 1969
Flood Insurance	Yes, for Recipients that are cities or counties. No for State programs.	Must obtain flood insurance if located in a FEMA designated 100-year flood plain. Community must be participating in FEMA's flood insurance program.	<ul style="list-style-type: none"> • CHAPTER 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106)
Site and Neighborhood Standards	Yes, for new construction only		<ul style="list-style-type: none"> • 24 CFR 893.6(b)
Lead-Based Paint	Yes, for rehabilitation of pre-1978 units. Applies to HOME and non-HOME-assisted units. Requirements differ depending on whether	Rehabilitation Notices to owners. Paint testing of surfaces to be disturbed. Risk assessment, if applicable, based on level of rehabilitation assistance. Appropriate level-hazard reduction activity (based on level of rehabilitation assistance).	<ul style="list-style-type: none"> • 92.355 • Lead Based Paint Poisoning Prevention Act of 1971 (42 U.S.C. 4821 et. seq.) 24 CFR Part 35
	rehabilitation work is performed.	Safe work practices and clearance. Provisions included in all contracts and subcontracts	<ul style="list-style-type: none"> • 982.401(j) (except paragraph 982.401(j)(1)(i))
Other Federal Requirements	Applies to Rental Housing Program?	Special Issues/Considerations	Regulatory Citations and References
Lead Based Paint (Continued)		Activities not involving rehabilitation Notices to purchasers and tenants. Visual assessment must be performed. Paint stabilization must be completed (if applicable). Safe work practices and clearance. Provisions included in all contracts and	
Relocation	Yes	Displacement must be minimized; existing tenants must be provided a reasonable opportunity to lease a dwelling unit in the building upon completion of the project. Reimbursement for temporary relocation, including moving costs and increase in monthly rent/utilities, must be provided, as well as advisory services.	<ul style="list-style-type: none"> • 92.353 • Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) 49 CFR Part 24 • 24 CFR Part 42 (subpart B)

10.18 Using the Low-Income Housing Tax Credit (LIHTC) with HOME Funds

There are ways HOME funds can be used with low-income housing tax credits:

- Market rate loan: The Housing and Economic Recovery Act (HERA) eliminated below-market federal loans from the definition of federally subsidized properties, allowing 9 percent Credit on all federally = subsidized properties, except tax-exempt bond financed properties, effective for

buildings placed in service after date of enactment. In accordance with HERA, HOME loans below market in LIHTC projects located in QCT and DDAs are also eligible for the 30% basic boost.

- Below market rate loan with 4% credit: Some projects qualify only for a 4% credit regardless of the way HOME funds are invested in the project. For example, a project with other federal or tax-exempt mortgage revenue bond funds included in the basis is only eligible for a 4% credit under any circumstance, so HOME funds can be lent at any below market interest rate terms without consequence to the credit.

Projects using HOME funds with LIHTC have to consider a number of items in blending the two sets of program rules. The exhibit provides an overview of tax credit rules and the requirements for combining the two programs.

Rules for Combining HOME Funds and Tax Credits		
	Tax Credit Program Rules	Combining Tax Credits with HOME
Occupancy Requirements	At least 20 percent of assisted units must be reserved for households with incomes at or below 50 percent of area median; or 40 percent of the units must be reserved for households with incomes at or below 60 percent of area median income.	Otherwise, at least 20 percent of the units must serve households with incomes at or below 50 percent of area median income (to meet HOME requirements). DGCD may designate (in its written agreement with project owner) more than the minimum HOME units in a rental housing project, regardless of project size, to Low HOME Rents.
Rent Requirements	Rents for qualified units must not exceed the rent limit set for the program. These limits are set by bedroom size and are based on the qualifying incomes of an imputed household size. They are published by HUD.	For units to qualify as both tax credit and HOME-assisted units, rents cannot exceed either program limit. Low HOME rent units are subject to Low HOME rents and tax credit limits and High HOME rent units are subject to High HOME rents and tax credit limits.
Establishing Tenant Eligibility	<i>Documentation</i> -- Tenants must provide acceptable documentation of income from a third-party source. All sources of income are verified. <i>Definitions</i> -- The tax credit program defines income using the CHAPTER 8 definition of annual (gross) income. <i>Asset Income</i> -- Assets \$5000 or less: tenants certify asset amount and income. Use actual income. Assets above \$5000: verify amount and income. Use larger of actual income from assets or imputed asset income.	<i>Documentation</i> -- Initial tenant eligibility documentation for both programs is the same. <i>Definitions</i> -- Use the CHAPTER 8 definition of income. <i>Asset Income</i> -- Follow more stringent HOME rules and verify all asset income

Reexaminations of Income	Reexaminations are performed annually following the same procedures as at initial certification; however, an owner may request a waiver from reexamination requirements if all units in the project are tax credit units. State housing credit agency determines the frequency.	Tax credit/HOME projects may request waivers from the tax credit allocating agency to perform reexaminations similar to HOME. For years ending October 1, 2008 and later, some LIHTC properties will not have a LIHTC requirement to re-certify tenant incomes. The change does not affect CHAPTER 8 recertification requirements. Follow HOME rules for tenant income reexaminations.
Over-Income Tenants	Rent for over-income tenants remains restricted. An owner may increase an over-income tenants rent, but only after the unit is replaced with another low-income unit in the project, thereby keeping the portion of low-income units above the minimum amount required for the owner to be eligible for the credit. "Over-income" is defined as above 140 percent of the project rent limit.	HOME rules defer to tax credit rules -- rent remains restricted. (In other words, in no case can the rent exceed limits set by the tax credit program).
Monitoring	Projects are monitored annually throughout the affordability period. Affordability period: 30 years (15-year compliance period, 15-year extended use period). Statement of compliance is submitted annually with documentation of occupancy. On-site inspections are required at least every three years for at least 20% of Sec. 42 units. Use UPCS (Public Housing inspection standards).	DGCD and the Recipient will each monitor according to their program requirements.

Occupancy requirements

Tax credit projects must set aside at least 20% of their units for tenants with incomes at or below 50% of the area median (20/40 set-aside) or 40% of their units for tenants with incomes at or below 60% of the area median income (40/60 set-aside). When combining HOME and tax credits, occupancy requirements depend on the type of credit taken and the type of HOME funding provided:

- Projects must ensure that they meet both sets of program rules.
- Of course, projects may choose to exceed these standards. Owners/ developers of tax credit projects will generally try to maximize their credits by creating higher set-asides for qualified occupants.

Rents

When combining the two types of funding, two sets of rent rules apply.

- Qualified tax credit units must not exceed tax credit rent limits, while HOME-assisted units must meet HOME rent requirements. If a unit is being counted under both programs, the stricter rent limit applies.
 - Low HOME rent units are subject to the lower of the Low HOME rent and the tax credit rent (usually the Low HOME rent.)
 - High HOME rent units are subject to the lower of the High HOME rent and the tax credit rent (usually the tax credit rent.)

- When tenants receive additional subsidy through rental assistance programs such as CHAPTER 8, additional requirements apply.
 - Under tax credit rules, if the rental assistance program rent limit exceeds the tax credit rent, the unit rent may be raised to the higher limit if tenants pay no more than 30% of their adjusted monthly income for housing costs.
 - HOME allows the rent to be raised to the rental assistance program limit only if the tenant pays no more than 30% of adjusted income, the subsidy is project- based (not tenant-based), and the tenant's income is less than 50% of the area median income. All units that receive project based rental assistance must be occupied by households with incomes at or below 50% of the AMI.
 - In a joint tax credit/HOME-assisted unit, the stricter HOME requirements would apply.

- Establishing tenant eligibility. Both the HOME and tax credit programs require project owners to certify tenants' incomes, to ensure that they are income-eligible and that the project is in compliance with initial occupancy requirements.
 - To demonstrate eligibility under both programs, property managers must have tenants certify their income, and obtain supporting documentation. This documentation must be kept in project unit files for review by the monitoring agencies.
 - Under tax credit rules, only the CHAPTER 8 definition of annual (gross) income is used, whereas HOME allows a choice of three definitions. Projects using HOME funds and tax credits must use the CHAPTER 8 definition of income.
 - Another difference between HOME and tax credit rules is that HOME requires verification of all asset income, whereas the tax credit rules require verification of asset income if the household's assets are greater than \$5,000.
 - For total assets of less than \$5,000, the tax credit program allows tenants to provide a signed statement of asset income.
 - A tenant in a unit subsidized by both sources of funds would have to comply with the stricter HOME requirements.

- Re-examinations of tenant eligibility. HOME allows for alternative methods of tenant recertification. For projects after October 2008, LIHTC projects may not have to reexamine tenant income.

- Over-income tenants. The HOME and tax credit programs have slightly different approaches to over-income tenants.
 - The definition of an over-income tenant differs under the two programs. Tax credit rules define over-income as having income above 140% of the project income limit. Under HOME, the tenants are considered over-income if their income rises above 80% of area median income.
 - Further, unlike under HOME, the rent remains restricted under the tax credit program. An owner may increase an over-income tenants rent, but only after the unit is replaced with another low-income unit in the project, thereby keeping the portion of low-income units above the minimum amount required for the owner to be eligible for the credit. To resolve this conflict, HOME rules state that when funds from both programs are used on the same unit, the tax credit rules should be followed.

Monitoring

Both programs require monitoring at least once every three (3) years to ensure compliance with program rules over the length of a pre-established affordability period. Different agencies may monitor a project for compliance with the specific requirements of each program.

- Under the tax credit program, the affordability period is generally 30 years, unless the allocating agency establishes a longer one.
- Projects combining HOME funds and tax credits are subject to two sets of affordability periods. These periods may be set to be equal in length, or the project may be subject to one set of requirements for a shorter time period than the other.
- The tax credit program requires on-site inspections annually for no less than 20% of the tax credit units. HOME program units are subject to on-site inspections. Upon completion of the project, there will be an on-site inspection to confirm that contracted work is completed, and the property meets the property standards. The first ongoing property inspection must occur within 12 months of project completion, and an inspection must be conducted at least once every three years thereafter.

Managing for Ongoing Compliance

To maintain compliance with HOME rules, property owners will need to ensure that:

- The project is marketed to qualified applicants,
- Tenants are screened for eligibility,
- Rent and occupancy targets are observed, and
- Adequate property maintenance is conducted.
- Hiring a qualified property manager will help ensure all necessary actions are taken.

CHAPTER 11: Homeowner Housing Activities- Owner Occupants

11.1 Eligible Activities

DGCD's homeowner assistance program allows for rehabilitation and reconstruction of owner-occupied properties where the homeowners can document ownership through fee simple title. Refinancing may be done in some cases as part of individual rehabilitation assistance to homeowners.

Eligible rehabilitation activities

To be eligible for DGCD HOME funds, the repairs to the existing structure of the home must address all health, safety and property code problems identified at inspection.

- Rehabilitation must be performed according to DGCD's written property standards, which include both written rehabilitation standards (methods and techniques), as well as the state code.
- Any unit receiving assistance under the program must also be brought up to the applicable local code. *See CHAPTER 7: Other Federal Requirements, A. Site and Neighborhood Standards; CHAPTER 8: Minimum Property Standards* for further information on property standards requirements.

Ineligible rehabilitation activities

Because rehabilitation work funded by HOME must address all health, property code and safety problems, the Recipient may not undertake special purpose or limited homeowner repair programs such as:

- Weatherization programs
- Luxury items
- Emergency repair programs; or
- Handicapped accessibility programs
 - Weatherization, emergency repairs, and accessibility are only permitted if the property is brought up to all the applicable property standards. In other words, weatherization, emergency repairs, and accessibility can be included in the overall scope of the rehabilitation work if it is part of a larger scope of work to bring the property to applicable property standards.

Eligible reconstruction activities

Reconstruction is defined as the rebuilding, on the same lot, of housing that is standing on a site at the time of application approval by DGCD. The dwelling must also be owner-occupied at the time of DGCD approval.

- Reconstruction is considered homeowner rehabilitation even though this activity involves construction of a new housing unit, so long as the following requirements are met:
 - The number of housing units on the lot has not decreased or increased as part of a reconstruction project.
 - Note that the number of rooms per unit may be increased or decreased.
 - An existing substandard unit of manufactured housing is replaced with a new or standard unit of manufactured housing.

- DGCD defines reconstruction as replacing an existing manufactured housing unit with a newly constructed housing unit, as homebuyer housing development and not owner-occupied rehabilitation/reconstruction.
- Recipients are replacing a manufactured housing units with newly constructed housing units must meet the relevant homebuyer requirements in *CHAPTER 8: Homebuyer Housing Activities*.

Eligible refinancing activities

In combination with either rehabilitation or reconstruction assistance, HOME Program funds may be used to refinance an existing mortgage loan with a current balance of five thousand dollars (\$5,000) or less.

- Refinancing is eligible for existing secured debt if:
 - The housing is owner-occupied;
 - HOME funds are loaned for rehabilitation; and
 - Refinancing allows the borrower’s overall housing costs to be reduced and the housing is made more affordable.
- HOME funds **cannot** be used to refinance federal debt (e.g., FHA loan).

11.2 Forms of Financial Assistance

There are two forms of financial assistance that can be provided: forgivable loans and repayable loans. DGCD has established standard loan terms and requirements that must be used for each type of loan.

- **Forgivable Loans.** These loans are forgiven on a prorated basis each month over the term of the loan.
 - The interest rate on forgivable loans is 0%.
 - A forgivable loan requires no monthly repayment but must be repaid if the homeowner fails to maintain compliance with all terms and conditions outlined in the loan agreement. (For example, failure to maintain the unit as the homeowner’s principal residence.)
 - Only \$25,000 in HOME assistance may be made available as a 0% forgivable loan to homeowners.
 - For reconstruction units, where the HOME assistance exceeds \$25,000, 50% of the HOME assistance will be in the form of a forgivable loan and the other 50% will be a repayable loan.
- **Repayable Loans.** These loans will require monthly repayment of principal and interest.
 - The interest rate on repayable loans is subject to current market interest rates.
 - Loan terms will coincide with the City-imposed affordability period (5, 10, 15, or 20 years) as determined by the total amount of HOME assistance to the homeowner.
 - To qualify for a repayable loan, the homeowner must meet the following criteria:
 - Total monthly housing expense may not exceed 33% of monthly gross income. Housing expenses include principal, interest, taxes, and insurance.
 - Total monthly debt related expenses, including care loan payments and credit card debt payments, may not exceed 43% of monthly gross income.
- A credit inquiry must be performed to determine the homeowner’s ability to repay the repayable portion of the HOME Program Loan.

- Loans for reconstructed units will be a combination of the two forms of assistance: a 50% repayable and 50% forgivable loan.

11.3 Loan Documentation and Payments

In all cases where HOME Program assistance is provided, a promissory note will be executed along with a mortgage and deed restriction will be recorded by DGCD in the local land records as a lien against the property's title.

Only DGCD approved lien documents will be used.

- HOME Program assistance may not be less than a junior lien position to private lender financing if the combined loan-to-value does not exceed 100%.
- An exception to the policy will require Mayor and Commissioner approval.

Although Recipients administer the homeowner rehabilitation/reconstruction program, DGCD provides the direct HOME assistance to the homeowner. As such, all monthly mortgage payments on repayable loans will be paid by the homeowner to DGCD.

A request to convert a HOME loan to a grant can be accomplished once the affordability period is met. If the affordability period has not be met, the City of Atlanta may forgive the HOME loan in increments, forgiving one-fifth of the loan each year over five years. The borrower will be responsible for the remaining balance after the five-year period.

Payments should be remitted to:

The City of Atlanta
Department of Grants and Community Development
55 Trinity Avenue; Suite 3500
Atlanta, Georgia 30303

All loan conversion requests should be submitted in writing to The Department of Grants and Community Development. The Commissioner for the Department of Grants and Community Development will review and approve requests. Please allow 15- 30 days for a response.

11.4 Eligible Costs

Eligible costs under the HOME Program may include the hard costs and soft costs of rehabilitation, as well as the project related soft costs. Recipients must ensure only these eligible costs are incurred.

Hard Costs

Hard costs include actual costs associated with the rehabilitation (renovation, remodeling, and repair) or reconstruction of owner-occupied housing units.

- Garages are eligible under the homeowner rehabilitation construction costs in the following circumstances:
 - Attached garages may be rehabilitated with HOME funds, in conjunction with rehabilitation of the residential living space.

- Detached garages may only be rehabilitated with HOME funds if the structure has documented existing health and safety code violations and is performed as part of the rehabilitation of the housing unit.
- For reconstruction, garages may be constructed if attached to the dwelling unit.
- Detached garages are permitted only if the structure is required by local ordinance or to accommodate a person with disabilities and has received prior written approval by DGCD.
- The reconstruction of a garage without a dwelling unit as part of the project is ineligible.
- The cost of rehabilitation must be reasonable compared to the value of the house (i.e., the level of rehabilitation is intended to allow continued owner occupancy for at least the affordability period as regulated by the DGCD HOME Program).
- **Broadband internet connections**
 - The HOME rule at § 92.206(a)(3)(ii) states that HOME may pay for the development costs to make utility connections, including connections from the property line to the adjacent street. This includes broadband internet connections.
 - However, HOME funds cannot be used for any off-site improvements, including running broadband internet cable or wires to the project site. Use of HOME funds is limited to the improvements on the project site, i.e., the land, owned by the project owner, upon which the HOME-assisted project is located.
 - Further, the HOME rule at § 92.205(d)(1) specifies that only the actual HOME development costs of the assisted units may be charged to the program. If a multi-unit project does not contain 100 percent HOME-assisted units, then only a portion of the cost of the utility connections may be charged to the HOME program.

Soft Costs

Eligible soft costs are usual, reasonable, and necessary for the completion of a rehabilitated owner-occupied housing unit. These include:

- Financing fees
- Credit reports
- Title reports and updates
- Architectural/Engineering fees, including specifications and job progress inspections.
- Recordation fees, transaction taxes
- Legal and accounting fees
- Appraisals
- Lead-Based Paint testing, risk assessments and clearance
- Surveys

Program and Project Administrative Costs

Program and project administrative costs are limited to 10% of the final allocation amount for the proposed owner-occupied rehabilitation/reconstruction program.

- Recipients must submit an itemized budget for program and project administrative costs as a part of their initial application.
- Administrative costs are eligible only for costs associated with the homeowner rehabilitation units.

- Project-related soft costs are eligible only for costs directly associated with the HOME Program funded development and must be allocated on a prostrated basis among HOME Program assisted units when combined with other funding sources.
- A certification of costs must be submitted with all requests for program administration and project-related soft costs.

Program and project administrative costs include those costs that are general across the entire administration of the program. Examples include:

- Staffing costs such as labor hours, including overhead fringe benefits, related to the following activities:
 - Ensuring compliance with HOME Program requirements.
 - Preparing reports and other documents for DGCD.
 - Coordinating the resolution of program monitoring and audit findings; and
 - Providing public information on the program.
- Charging project delivery soft costs to units that do not end up being HOME assisted.

Administrative and project-related soft costs must be supported by the following source documentation and maintained on file by the Recipient:

- Detailed bill. A copy of a detailed bill highlighting the costs to be reimbursed. The detailed bill must be substantiated by a cancelled check, a copy of the bank statement, or other proof of payment. The detailed bill should, at a minimum, include vendor identification, a description of the services received, the quantity (hours, units, etc.), and the price for services received. Handwritten invoices will not be accepted.
- Authorized signature. All invoices must have an authorized signature of the Recipient's Executive Director, or their designee. The authorization must also include payment approval, verification of satisfactory services, and the relevant month for costs incurred and date.
- Copies of subcontracts, as applicable. A copy of any subcontracts for professional services (i.e. consultants, architects, contractors, etc.) must be provided in the initial application outlining the cost of the service rendered and the payment schedule or terms.
- While a change order that results in an increase to the project budget doesn't increase either the administrative or project delivery soft cost amount, a reduction in the project budget will result in a decrease of administrative or project delivery soft costs.

HOME Eligible Homeowner Rehabilitation Costs

<p>Hard Costs:</p> <ul style="list-style-type: none"> • Meeting the rehab standards • Meeting the applicable codes, standards, and ordinances. • Essential improvements • Energy-related improvements • Lead-based paint hazard reduction • Accessibility for disabled persons • Repair or replacement of major housing systems • Site improvements and utility connections • Demolition and reconstruction 	<p>Soft Costs:</p> <ul style="list-style-type: none"> • Financing • Credit Reports • Title reports and updates • Architectural/engineering fees, including specifications and job progress inspections • Flood insurance- up to one year • Recordation fees, transaction taxes • Legal and accounting fees • Appraisals • Lead-Based paint testing, risk assessments, and clearance • Surveys
---	--

11.5 Eligible Properties

Eligible Property Types

Occupied by an income-eligible homeowner

The owner's principal residence

Property types included under the program for either rehabilitation or reconstruction:

- Traditional single-family housing that is owned fee simple or homeowner may have a 99-year lease (structure may contain one to four dwelling units);
- A condominium unit that is owned fee simple or homeowner may have a 99-year lease; and
- A manufactured housing unit, including a mobile home or trailer, is eligible only for reconstruction. If the HOME-assisted unit qualifies for reconstruction, the unit must be located on land that is owned by the manufactured housing unit's homeowner and permanently affixed to a foundation.

Ineligible Property Types

- Properties that are not owner-occupied (i.e., vacation homes);
- Rental properties; or
- Manufactured housing units (mobile homes or trailers) are ineligible for rehabilitation.

11.6 Maximum Property Value

The value of the assisted property after rehabilitation/reconstruction must not exceed the 95% of the area median purchase price existing in the area using data from FHA single family mortgage program data for existing housing for the type of property being assisted. HUD will provide these limits.

Determining after-rehabilitation/reconstruction value: To establish project eligibility, the Recipient must establish the after-rehabilitation value prior to initiating work on the unit. The after-rehabilitation value may be established by one or more of the following methods:

- Estimates of value: Estimates of value by the Recipient may be used. Project files must contain the estimate of value and document the basis for the value estimates (e.g., comparable sales by a

knowledgeable staff person). Comparable is defined as sales within the last six to twelve months in an adjacent neighborhood of similar property type that involved the same features, amenities, and square footage.

- Appraisals: Appraisals establishing the post rehabilitation value, whether prepared by a licensed fee appraiser or by a staff appraiser of the Recipient, may be used. Project files must document the appraised value and the appraisal approach used. Appraisals must indicate post-rehabilitation value, therefore the proposed scope of work must be provided to the appraiser prior to site visit.
- Tax assessments: Tax assessments for a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value if the assessment is current and accurately reflects market value after rehabilitation.

DGCD requires the Recipient to submit prior documentation of maximum property value and method used to establish value at the time of application.

11.7 Property Standards

Review CHAPTER 7: Other Federal Requirements, D. Site and Neighborhood Standards; CHAPTER 8: Minimum Property Standards for a full description of all required property standards.

11.8 Ownership Requirements

The homeowner must provide proof of fee simple title or 99-year lease and owner occupancy for the past three (3) consecutive years and then approved through the Recipient’s application.

- A family or individual owns the property if they have fee simple title or 99-year leasehold to the property, and there are no restrictions or encumbrances that would unduly restrict the good and marketable nature of the ownership interest.
- If refinancing is involved, a mortgage history letter on the current lien is due at the time of application submission.
- An executed and recorded warranty deed or 99-year lease in the name of the owner is required as proof of ownership. To ensure proper ownership, a title search must be performed prior to funding the activity.
- Existing mortgages may be acceptable but will be reviewed for acceptable on a case-by-case basis provided documentation is submitted from the mortgagee showing current loan status.
- The homeowner must provide proof of hazard insurance at an amount sufficient to cover replacement of the structure prior to release of retainage for all housing projects.

Life estates, land installment contracts, or contracts for deeds are not eligible forms of ownership.

11.9 Affordability Period Terms and Conditions

DGCD requires an affordability period for homeowner rehabilitation projects. During this affordability period (loan term), homeowners must maintain the unit as their principal residence and abide by certain rules in the event of a refinancing or change in ownership. Recipients must ensure these requirements are described to homeowners prior to application, and then met post application.

Total Loan Amount	Loan Term
\$1,000 to \$15,000	5 years
\$15,001 to \$40,000	10 years
Over \$40,001 +	15 years

Reconstruction	20 years
----------------	----------

Principal Residence Requirement

- During the affordability period, the homeowner must maintain the unit as their principal residence and as a result, may not rent out their unit to another household.
- Recipients should have a method for annual principal residence verification. Some options include:
 - Certified letter sent to the homebuyer
 - Verification of hazard insurance on the property; and/or
 - Review of annual tax records.

Prepayment and Refinancing

- For the outstanding HOME loan, it is acceptable for the homeowner to prepay DGCD.
- When DGCD's prior approval, the homeowner may refinance their first mortgage (i.e., the non-HOME debt) during the affordability period.
 - DGCD permits refinancing only to allow the owner to obtain a lower interest rate.
 - Owner cannot receive cash proceeds from the transaction, and
 - Total indebtedness does not exceed the value of the property.

Temporary Non-Compliance Status

DGCD will allow a homeowner who is unable to reside in the home as their principal residence due to health conditions or a life-threatening situation. A Temporary Non-Compliance Status (TNCS) may be granted by DGCD for up to six (6) months per request when supported by source documentation from such authority as a physician's order, rehabilitation facility confirmation, medical authority analysis, etc.

CHAPTER 12: Tenant-Based Rental Assistance (TBRA)

12.1 Introduction to Tenant-Based Rental Assistance (TBRA)

Tenant Based Rental Assistance (TBRA) is a rental subsidy that helps individual households with housing costs such as rent and security deposits. Subrecipients may also assist tenants with utility deposits, but only when HOME is also used for rental assistance or security deposits.

Types of TBRA Programs

- The most common type provides payments to make up the difference between the amount a household can afford to pay for housing and local rent standards.
 - The CHAPTER 8 Housing Choice Voucher Program is an example of a typical TBRA program.
 - It is the majority type program used by most Subrecipients because of the CHAPTER 8 model design already successfully in place.
- Other TBRA programs help tenants pay for costs associated with their housing, such as security and utility deposits. Under the HOME Program, utility deposit assistance can only be provided in conjunction with rental assistance programs or security deposit programs.

How TBRA differs from other HOME rental housing activities:

- TBRA programs help individual households rather than subsidizing specific rental projects.
- TBRA assistance moves with the tenant. If the household no longer wishes to rent their current unit, the household may take it TBRA and move to another rental property.
- The level of TBRA subsidy varies. The level of subsidy is based upon the income of the household, the unit the household selects, and the Subrecipient's rent standard (rather than being tied to the High and Low HOME rents).

12.2 Eligible Activities and Costs

TBRA program funds may be used to provide:

- Rental assistance to help pay the cost of monthly rent and utility costs for up to 24 months.
- Security deposits in conjunction with rental assistance in an amount not to exceed one month's rent for the unit.
- Utility deposit assistance in conjunction with rental assistance and security deposit assistance.
- Administrative (admin) funds and certain project delivery costs to be paid in association with TBRA administration, not to exceed 10% of the overall budget.

12.3 Ineligible Costs (Activities)

HOME TBRA funds **may not** be used for the following activities:

- To make commitments to specific owners for specific projects. Tenants must be free to use the assistance in any eligible unit.
- To prevent displacement of or provide relocation assistance to tenants as a result of activities other than the HOME Program.
- To provide TBRA to homeless persons for overnight or temporary shelter.
- To provide assistance for more than 24 months (the term of rental assistance contract providing assistance with HOME funds will be for 12 months, but may be renewed, subject to the availability of HOME funds.)

- To duplicate existing rental assistance programs that already reduce the tenant’s rent payment to 30 percent of income.
- To provide assistance outside of the City of Atlanta.

HOME TBRA funds **cannot** be used for the following costs:

- Application fees for housing units
- Applicant background checks
- Telephone and cable deposits
- Landlord vacancy and/or damage claims
- Down payment and/or closing costs in conjunction with a lease-purchase program

12.4 TBRA Assistance

Rent Assistance Standard

The TBRA program is based on the premise that decent, safe, sanitary, and affordable housing can be obtained on the private market for very low to low-income families. The unit chosen by the family should not exceed HUD published Fair Market Rents (FMRs).

- The subrecipient may request DGCD to approve, on a unit-by-unit basis, a rent standard that exceeds the applicable fair market rent by up to 10 percent for 20 percent of units assisted.
- A unit is determined to fall within the FMR of a specific area by adding the contract rent and the applicable utility allowance for the unit. For the purposes of the TBRA program subsidy, the sum of both numbers cannot exceed the FMR of a unit. The tenant may select a unit that falls over the FMR if the unit meets rent reasonableness standards in the area and if the tenant is willing to pay the excess rent.
- No unit assisted by TBRA can be less than 80 percent of the published FMR for the unit.

Security Deposit

The subrecipient may use TBRA funds to provide loans or grants for security deposits associated with rental assistance. The following criteria must be followed:

- Only the prospective tenant may apply for security deposit assistance.
- The subrecipient must pay the security deposit directly to the landlord.
- The security deposit may not exceed one month’s contract rent for the unit. If the unit is furnished and/or a pet deposit is required, an additional ½ month’s rent for either circumstance may be collected. The total security deposit must not exceed the equivalent of one month of rent.
- The security deposit shall be used to provide compensation to the owner if the tenant, upon vacating, owes money for damages and unpaid rent in the unit.
- The assisted household may receive any security deposit refunded by the owner upon vacating the unit. However, if the subrecipient receives any security deposit funds returned from the owner upon the tenant vacating the unit, it must use the funds for future security deposits under the guidelines of the program. In the event the funding agreement has expired with the subrecipient, any returned deposits must be transmitted to the DGCD.

Utility Deposit

The subrecipient may use TBRA funds to provide funds for utility deposits. TBRA utility deposits can only be made if the subrecipient provides an ongoing HOME funded rental assistance and/or HOME funded security deposit program.

If the subrecipient pays a utility deposit, the following criteria must be followed:

- The family, housing unit, and all other eligibility criteria for assistance must be followed.
- Only the prospective tenant may apply for utility deposit assistance.
- The subrecipient must pay the utility deposit directly to the service provider.
- TBRA utility deposit assistance is limited to the paying of deposits.
- Deposits should be returned to the tenant. If the subrecipient receives the return of any deposit, it must use the funds for the next eligible HOME cost under the guidelines of the program or return the funds to DGCD. In the event the funding agreement has expired with the subrecipient, any returned deposits must be transmitted to the DGCD.

12.5 Marketing & Outreach

HOME rules require affirmative marketing for any program or project with 5 or more HOME assisted units. Consequently, the TBRA program must be affirmatively marketed, with procedures to be approved by DGCD.

HOME TBRA should be affirmatively marketed to all persons within the target population and/or special needs group. The marketing plan must address:

- how the program will be announced (i.e., which media and other sources);
- where applications will be taken (i.e., at one site or more);
- when applications will be accepted (i.e., daily, during normal working hours or extended hours for a specified period); and
- the method for taking applications (i.e., in person, by mail).

The willingness of owners to participate in the HOME TBRA program significantly affects the options and opportunities available to coupon holders. Grantees should conduct outreach to owners of rental property to stimulate their interest in the program. Mailing program notices to owners using tax or PHA records as sources and participating in meetings of owner and realtor associations are often effective outreach methods.

12.6 Application for Rental Assistance

All applications must be in written form and must contain, at a minimum, information that enables the Grantee to determine household composition, income, and eligibility. Each application received must be reviewed for completeness and to determine if the applicant is obviously ineligible.

Grantees may elect to fully determine eligibility at the time the household completes the application. It is rare, however, that households bring or provide sufficient documentation to confirm eligibility at the time of application. The subrecipient should place all applicants who are apparently eligible on the waiting list pending verification of information provided.

A tenant file must be created for each application. This file will ultimately contain the application, documentation of the household's eligibility, copies of program forms, correspondence, etc.

12.7 Selection of TBRA Recipients

Subrecipients administering HOME-funded TBRA programs must have a written tenant selection policy that clearly specifies how households will be selected for participation in its TBRA program. There are two major components of tenant selection: income eligibility (as referenced above) and preferences established by the subrecipient.

NOTE: Program access cannot be limited to a particular facility or program's clients.

Households cannot receive HOME TBRA if they are receiving rental assistance under another federal, state or local rental assistance program IF the HOME subsidy would result in duplicative subsidies. If another rental subsidy program does not provide assistance sufficient to lower a tenant's rental payment to 30 percent of their monthly adjusted income, HOME TBRA could be provided as supplemental assistance to further reduce the tenant's rent payment to 30 percent of monthly adjusted income.

TBRA rental assistance may be provided only to families whose annual income does not exceed 60 percent of the median family income for the area, as determined and made available by HUD with adjustments for smaller and larger families at the time of occupancy.

The subrecipient must determine whether an applicant:

- Qualifies as a family
- Is income-eligible; and
- Is a member of a target population under approved preferences, if any

Eligibility Evaluation and Housing Assistance Factors

The following definitions shall be applicable to all housing assisted under the TBRA Program:

- **Dependent** - A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a person with disabilities or is a full-time student.
- **Disabled person** - A person who is under a disability as defined in CHAPTER 223 of the Social Security Act (42 USC 423), or who has a developmental disability as defined in CHAPTER 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6001(7)).
- **Displaced Person** - A person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed due to a disaster declared or otherwise formally recognized under Federal disaster relief laws.
- **Elderly Family** - A family whose head or spouse (or sole member) is an Elderly, Disabled, or Handicapped person. It may include two or more elderly, disabled, or handicapped persons living together, or one or more of those persons living with one or more live-in aides.
- **Elderly Person** - A person who is at least 62 years of age.
- **Family** - Includes, but is not limited to, an elderly family or single person, the remaining member of a tenant family, and a displaced person.
- **Handicapped Person** - A person having a physical or mental impairment that:
 - Is expected to be of long continued and indefinite duration.
 - Substantially impedes the person's ability to live independently, and,

- Is of such a nature that the tenant’s disability could be improved by more suitable housing conditions.
- **Live-in Aide** - A person who resides with an elderly, disabled, or handicapped person, or persons who:
 - Is determined to be essential to the care and well-being of the person(s)
 - Is not obligated for the support of the person(s)
 - Would not be living in the unit except to provide the necessary supportive services; and
 - Is not related to the household receiving the rental assistance
- A Live-in Aide may only reside in the unit with the approval of the administrator, subject to the following requirements:
 - The income of the Live-in Aide shall not be counted as household income. The Live-in Aide may be counted in terms of household/unit size if the Live-in Aide resides with the tenant on a full-time basis.
 - Part time Live-in Aides may not be counted in terms of family or unit size.
 - The tenant’s physician must sign the Physician’s Verification of Live-in Aide form. The form must be placed in the tenant file.
 - The tenant, Live-in Aide and the Landlord must sign the Live-in Aide Housing Agreement. A copy of the agreement must be placed in the tenant file.
 - The Live-in Aide qualifies for occupancy only as long as the tenant needs supportive services. In the event the tenant no longer requires a Live-in Aide, the TBRA subsidy shall revert to HUD guidelines as to the applicable rents for the number of bedrooms allowed for the household.
 - If the household member requiring assistance dies, the Live-in Aide shall vacate the unit within ten days of said household member’s death. If the household member requiring assistance moves out, the Live-in Aide shall vacate the unit no later than the tenant’s vacate date.
 - Upon the termination of the Live-in Aide’s services for any other reason, the Live-in Aide shall vacate the unit within 24 hours.
 - The Live-in Aide shall not violate any of the landlord’s house rules. The Landlord may evict the Live-in Aide if s/he violates any of the House Rules.
- **Single Person.** A person who lives alone or intends to live alone, and who does not qualify as an elderly family or a displaced person, or as the remaining member of a tenant family.

Applicants must disclose all real, potential, or perceived conflicts of interest as outlined in 24 CFR 92.356. All conflicts of interest must be disclosed and resolved prior to providing HOME TBRA assistance to the household.

Annual Income

Income must be verified before assistance is provided and re-examined annually thereafter. Income limits are established by household size and revised annually by the U. S. Department of Housing and Urban Development (HUD).

Household income under HOME-funded TBRA program must be calculated using the definition of annual income at 24 CFR Part 5 (CHAPTER 8). Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets for the 12-month period following the effective date of certification of income.

Annual income includes, but not limited to:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services.
- The net income from operation of a business or profession.
- Interest, dividends, and other net income of any kind from real or personal property.
- The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including lump-sum payment from a delayed start of a periodic payment.
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.
- Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling.
- All regular pay, special pay, and allowances of a member of the Armed Forces.

Annual income does not include the following:

- Income from employment of children (including foster children) under the age of 18 years.
- Payments received for the care of foster children.
- Lump-sum additions to family assets, such as inheritances, insurance payments, capital gains, and settlement for personal or property losses.
- Amounts received by the family that is specifically for, or in reimbursement of the cost of medical expenses for any family member.
- Income of a Live-in Aide.
- Amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the Government for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Amounts received under training programs funded by HUD.
- Temporarily, nonrecurring or sporadic income (including gifts).

If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period must be annualized.

Verification of Income

The subrecipient must determine annual income by reviewing source documents for at least two months, evidencing annual income (for example, wage statement, interest statement, unemployment compensation) for the TBRA-assisted household.

Income and asset source documentation for new TBRA recipients is good for a six-month period. If a TBRA contract is not executed before the six months has expired, the household's income eligibility must be reviewed again before assistance may be provided. It is the obligation of the subrecipient to

obtain complete information from applicants and thoroughly document the methods by which it has verified all pertinent information in the applicant's file.

Preferences

DGCD's 2020-2024 Consolidated Plan Priorities include several categories that may fit with a subrecipient's proposed TBRA program, including:

- Affordable housing supply and support
- Safe, sanitary and low barrier housing and supportive services for people living with HIV/AIDS
- Assistance to currently homeless persons and families

Written Notice of Rejection

If an applicant is rejected for the program, the subrecipient must provide in writing the reason(s) for rejection and provide an administrative process for the applicant to appeal the determination.

Waiting List

After a family has been determined eligible for the TBRA program, the subrecipient shall place the family on a waiting list in chronological order of completed application received. The waiting list shall comply with 24 CFR Part 92.253(d). The waiting list should show the family's name, date and time of application, local preferences if applicable, and appropriate size of units in bedroom units.

Families currently on a CHAPTER 8 or other rental assistance waiting list who received TBRA shall not be harmed or removed from the subrecipient waiting list. In any case where assistance under CHAPTER 8 becomes available, recipients of TBRA will qualify for tenant selection preferences to the same extent as when they received TBRA.

Determination of Unit Size

The unit size designated shall be assigned in accordance with the following criteria:

- No more than two persons are required to occupy a bedroom.
- Persons of different generations (i.e., grandparents, parents, children), persons of the opposite sex (other than spouses/couples) and unrelated adults are not required to share a bedroom.
- Children of the same sex (regardless of age) and spouses must share the same bedroom for purpose of assigning the bedroom size on housing coupon.
- Unborn child may be considered for purpose of assigning the bedroom size on housing coupon.

In some cases, however, the relationship, age, sex, health, or handicap of the family members may warrant the assignment of a larger unit size. Such flexibility is permissible to the extent the determinations are made based on these factors. Such allowable determination should be fully documented in the applicant's file. For example, a two-bedroom unit may be used by a two-member family which consists of a single parent and child or by a couple who, due to medical reasons, must have separate bedrooms, as approved by the subrecipient.

Fair housing rules permit a household to select smaller units that does not create seriously overcrowded conditions. Participants may also select larger units at their own expense (i.e., TBRA subsidy will not cover the increased cost of a larger unit). In addition to the number of bedrooms, both the size of the unit and the size of the bedrooms should be considered when evaluating the individual circumstances of the family.

Rental Assistance Calculation

The rental assistance payment is the maximum amount that the HOME TBRA program may pay to assist any given household and is the difference between 30% of the household's adjusted monthly income (using the requirements in 24 CFR Part 5.611) and the rent limit established by the subrecipient, known as the payment (rent) standard.

Adjusted income is derived by subtracting any of five deductions (or allowances) that apply to the household from the household's annual (gross) income. The household's eligibility for deductions depends, in part, on the type of household it is. For disabled households, deductions are permitted for:

- Elderly or disabled household deduction - \$400 per household.
- Dependent - \$480 for each household dependent (non-head of household under 18, disabled, or a full-time student).
- Childcare expenses.
- Medical expenses in excess of 3% of annual income.
- Disability assistance expenses in excess of 3% of annual income.

These deductions must be calculated and documented as specified in HOME Program guidance, including Chapter 4 of the Technical Guide for Determining Income and Allowances for the HOME Program, available at: <https://www.hudexchange.info/resources/documents/HOMEGuideForIncomeAndAllowances.pdf>.

The calculated gap is designated as the constant amount of monthly TBRA assistance. The household is free to select an actual unit that costs more or less than the subrecipient's payment (rent) standard.

- For units costing more: If the household selects a unit costing more than the payment (rent) standard, the household's monthly payment will exceed 30 percent of its monthly adjusted income. Should a household elect a unit that exceeds the subrecipient's payment (rent) standard, the subrecipient should obtain documentation signed by the household that it understands the unit is considered unaffordable to their income level.
- For units costing less: If the household selects a unit costing less than the payment (rent) standard, the household's monthly payment will be less than 30 percent of its monthly adjusted income.

Rental assistance is subject to the following limits:

- Minimum Family Contribution: Participating households must pay at least \$10.00 per month (the greater of \$10.00 or 30% of their adjusted monthly income) towards rent and utilities.
- Maximum TBRA Subsidy: The TBRA subsidy may not exceed the difference between the Payment Standard and 30 percent of the household's monthly adjusted income.

12.8 Issuance of Rental Subsidy Assistance Approval and Unit Approval Process

The Tenant Based Rental Assistance approval document authorizes the individual/family to look for an eligible rental unit for the TBRA program. The approval document should specify the appropriate unit size necessary to meet the family's needs and should also include the FMR total for the designated bedroom size.

Unit Approval

The HOME TBRA program offers households great flexibility in selecting a housing unit. Households must be free to select the unit of their choice.

- Public or private: Units under the TBRA program may be publicly or privately owned. Publicly owned units include public housing, CHAPTER 811, CHAPTER 202, HOPE 6, Continuum of Care, and HOPWA.

Combining rental assistance with another rental assistance program

HOME TBRA rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance (e.g., CHAPTER 8 or Continuum of Care rental assistance) or living in a housing unit receiving project-based rental assistance or operating assistance through other public sources.

Combining security and utility deposit assistance with another security or utility deposit program

HOME TBRA security and utility deposit assistance cannot be provided to a program participant who is receiving security deposit or utility deposit assistance through other public sources.

Rents must be reasonable

Subrecipients must disapprove a lease if the subrecipient determines the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.

Rent Reasonableness

The subrecipient must certify all units assisted with TBRA are reasonable in relation to rents currently being charged for comparable units in the private unassisted market, and not more than rents currently being charged by the owner for comparable unassisted units. The subrecipient must document the basis for its rent reasonableness determination. Key components of a comparability analysis include:

- Location: In many markets, location is the key determinant of housing price
- Size: Only units of comparable size (both in terms of number of bedrooms and square footage) should be used
- Utilities Included: Consider the type and fuel source of utilities
- Condition: Only units in similar condition should be compared
- Amenities: Consider such amenities as garage, appliances and lot size

HOME-funded units are OK

Households may select units developed or rehabilitated with HOME assistance. However, the subrecipient may not require the household to select a HOME unit as a condition of receiving TBRA. Households must be permitted to move out at the end of the HOME lease term, taking their TBRA assistance with them.

- DGCD does not allow TBRA assistance to be used outside of the City of Atlanta.

12.9 Environmental Review, Property and Occupancy Standards

Environmental Review

Per 24 CFR 58.35(b), TBRA projects are Categorically Excluded Not Subject To 58.5 (CENST). Subrecipients must receive Environmental Review clearance from DGCD, however, before any assistance activities may be conducted. DGCD cannot reimburse “choice limiting action” activities, including leasing assistance prior to environmental clearance being achieved.

Property and Occupancy Standards

It is not sufficient to approve a unit merely because its gross rent is within the applicable FMR limits. Any TBRA-assisted property must meet all applicable city housing codes and ordinances and the CHAPTER 8 Housing Quality Standards (NSPIRE), which utilize the National Standards for the Physical Inspection of Real Estate (NSPIRE). Inspections to verify compliance with NSPIRE and occupancy standards are made before the tenant signs a lease and annually during the term of the TBRA assistance. A written inspection form must be completed, signed, and dated by the sub-recipient and retained in the tenant file. The sub-recipient must apply the occupancy standards that specify the number of bedrooms households of various sizes and compositions need. The sub-recipient must also ensure that the landlord makes reasonable accommodations for the tenant's accessibility needs.

National Standards for the Physical Inspection of Real Estate (NSPIRE) Administrative Procedures, Final Notice PIH 2023-16/H 2023-07. The NSPIRE Administrative notice covers the process and operational requirements for public housing and multifamily housing-assisted properties, which are covered by the final rule. It includes what to expect before, during, and after a **Real Estate Assessment Center (REAC)** inspection. It contains policies and procedures for properties participating in inspections, submitting evidence of deficiency correction, submitting technical reviews, administrative reviews, and other administrative requirements associated with the final NSPIRE rule.

This notice implements portions of the final rule, “Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE)” or the “NSPIRE final rule.” The NSPIRE final rule establishes a new approach to defining and assessing housing quality called the National Standards for the Physical Inspection of Real Estate (NSPIRE). NSPIRE aims to strengthen HUD’s physical condition standards and improve HUD oversight by aligning and consolidating the inspection regulations used to evaluate “HUD housing,” as defined in 24 CFR 5.701(c), across multiple programs. Implementation of the NSPIRE final rule ensures that residents of HUD housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units of HUD housing are functionally adequate, operable, and free of health and safety hazards. NSPIRE also provides for minimum, or affirmative, habitability requirements for each “area” (unit, inside, outside). The areas must meet these requirements for habitability. These affirmative habitability requirements are noted specifically in the Standards but can also be found in 24 CFR 5.703(b), (c), and (d). DGCD would have to ensure that inspections are conducted in compliance with NSPIRE standards and regulations, adhering to all applicable guidelines and protocols.

Lead Based Paint Visual Inspection

The TBRA program must adhere to Federal Regulation 24 CFR Part 35 regarding Lead Based Paint.

- Tenants must receive the fact sheet “Ten Tips to Protect Children from Pesticide and Lead Poisonings around the Home” (EPA) and the pamphlet “Protect Your Family from Lead” (EPA) at the time of application.
- Tenants must receive the Elevated Blood Level form (tenant signature optional) and the Tenant Notice of Defect/Notice of Elevated Blood Level Above 15 ug form prior to move in.
- A sign off form indicating that the tenant has received the four documents must be in place in tenant files.
- Visual assessment of units built prior to 1978 must take place during the NSPIRE inspection.

Exemptions include 0-bedroom units, SROs, and units exclusively for the elderly and disabled where children aged 6 and under will not/do not occupy the unit.

If deteriorated paint is identified in the visual assessment for non-exempt units:

- Lead based paint stabilization/abatement procedures must take place at the expense of the owner within 30 days of notification to the owner (24 CFR Part 35.1330(a) and (b).)
- The owner of the unit must meet the requirements of paint stabilization as defined in 24 CFR Part 35.110. Paint stabilization must be conducted in accordance with procedures outlined at 24 CFR 1330(a) & (b). Owners must pay for stabilization and/or abatement procedures prior to move-in (or during occupancy). If the owner declines to provide stabilization, another unit must be selected.
- Owner must provide a copy of the clearance report performed in accordance with 24 CFR 35.1340 whenever paint stabilization is undertaken. Owner must provide tenant with a written notice of the results of the clearance exception (24 CFR 35.1215(c)).

If lead-based paint or deteriorated paint in non-exempt units is identified following move in and/or during an annual or periodic re-inspection, depending on the scope of the work to stabilize the paint, and if necessary, the owner is responsible for relocating the tenants to a comparable dwelling free of lead-based paint hazards while the work is taking place.

Owners must adopt procedures to ensure that on-going maintenance activities are conducted in accordance with 24 CFR 35.1355 during the term of assisted tenancy.

12.10 Lease Requirements

After a family finds a unit suitable for their needs, the subrecipient shall review the request to determine if the owner is eligible, if the unit is eligible, if the lease complies with the program requirements in 92.253 governing prohibited and required lease provisions, and if the lease complies with state and local laws.

- The lease between the owner and the tenant in a HOME TBRA assisted property must be for at least one year.
- The lease between the owner and tenant in a HOME TBRA assisted property **cannot** contain any of the following provisions:
 - Agreement to be sued: Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease.
 - Mandatory Supportive Services: Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.
 - Treatment of property: Agreement by the tenant that the owner may seize or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This provision does not apply to disposition of personal property left by a tenant who has vacated a property.
 - Excusing owner from responsibility: Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.

- Waiver of notice: Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
- Waiver of legal proceedings: Agreement of the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- Waiver of a jury trial: Agreement by the tenant to waive any right to a trial by jury.
- Waiver of right to appeal court decision: Agreement by the tenant to waive the tenant's right to appeal or to otherwise challenge in court a court decision in connection with the lease.
- Tenant chargeable with cost of legal actions regardless of outcome: Agreement by the tenant to pay attorney's fees or other legal costs, even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- VAWA lease addendum: Includes the provisions of the Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA).

Termination

Subrecipients must establish standards for when a landlord may elect to terminate or refuse to renew the lease of a TBRA household, and the standards must be in writing. These standards must also be included within the lease and/or in the contract between the Subrecipient and the tenant.

- The landlord may only refuse to renew or terminate the lease of a tenant residing in a HOME assisted unit if there is good cause. Good cause is defined as repeated violation of lease terms, violation of federal, state or local law, or for completion of the tenancy period for transitional housing.
- Tenants' failure to participate in any required supportive services of transitional housing is a permissible basis for terminating a tenancy or refusing to renew a lease.
- An increase in a tenant's income does not constitute good cause for termination of, or refusal to renew, a lease.
- The landlord is required to serve written notice to tenant specifying the grounds for the action at least 30 days before the termination or refusal to renew the lease.

Subrecipients should have a contract or written agreement with the tenant that clearly explains the temporary nature of the TBRA assistance. Because HOME TBRA funding is contingent upon annual HOME funding and DGCD program priorities, there is no guarantee Subrecipients will receive continued funding on an annual basis.

Final Subsidy Calculation

Once the unit has been approved, a final subsidy calculation is required to determine the tenant's share and assistance amount.

Execution of Rental Assistance Payment Contract

After a unit has been approved, the subrecipient must prepare for execution of the lease between the family and the owner. No rental assistance will be paid until the contract has been executed. The subrecipient must retain a copy of the contract and lease in the family's file.

12.11 Annual Housing Quality Standards (NSPIRE) Unit Inspections

All units assisted with TBRA funds must meet National Standards for the Physical Inspection of Real Estate (**NSPIRE**). Each unit under contract must be inspected at least annually to ensure all **NSPIRE** requirements are met. A unit may also be inspected due to housing quality complaints initiated by the owner or tenant.

If a unit fails to pass an inspection, the owner may be given a reasonable period (i.e., 24 hours for emergency conditions or 30 days for less serious conditions) to correct the deficiencies. If the owner fails to correct the deficiency, the program administrator has several options:

- With adequate notice to the owner and household, terminate the HOME Rental Assistance Contract and require the household to move to another location to continue to receive assistance; or
- Temporarily suspend its payments until the owner remedies the **NSPIRE** deficiencies. (Note: If this second approach is taken, the tenant should be encouraged to continue to pay their share of the rent to prevent eviction.)

Annual Income Eligibility Determination for Renewal Leasing Assistance

Each household's eligibility to participate in the program and its share of the rent must be confirmed annually. If a participating household's income exceeds the CHAPTER 8 Low-Income Limit (i.e., 80% of Area Median) the household's assistance must be ended.

DGCD recommends that subrecipients begin the re-examination process 90-120 days in advance of the household's one year anniversary date to ensure the process is completed on time and that 30-day notice is given to both the owner and tenant regarding any changes in the household's eligibility or share of the rent.

Rent Increases

Unless the initial rent negotiations were for a two-year period, owners may request a rent increase at the end of the first year of the contract. The program administrator must again determine that the proposed rent is reasonable in comparison to rents charged for other comparable, unassisted units.

Rental Assistance Payment Contract Termination

The contract automatically terminates when:

- The family vacates the unit in violation of the lease.
- The family has moved from their unit according to the lease terms or secured the owner's permission for an early termination date, and the lease term has therefore ended.
- The owner has required the family to move according to the lease term, and the lease term has therefore ended.
- The owner has evicted the family with subrecipient authorization.
- The owner does not wish to enter into a new contract or refuses to renew or extend the current one.
- The length of assistance provided the family with the existing TBRA grant has reached contract end.

Under the following circumstances, the subrecipient may terminate the contract prior to its regular termination date:

- The unit is not in compliance with **NSPIRE** or other contract requirements, and the owner refuses to correct the deficiencies.
- The unit is overcrowded or under occupied due to family composition change which requires the family to move.
- The family, at recertification, has been determined ineligible due to their income.
- The subrecipient is unable to approve a new request for unit approval where a contract is expiring due to gross rent exceeding FMR.
- The subrecipient has determined that the owner is not in compliance with the terms of the contract.
- The subrecipient has determined that the family is not in compliance with the terms of its rental coupon.
- A family has been determined to have abused the program, or to have engaged in fraudulent activities.

The subrecipient shall complete a project close-out form when a family is terminated for any reason from the TBRA program.

Lease Terminations/Evictions

During the term of the lease, the owner may only terminate the tenancy for the following reasons:

- Serious or repeated violation of the lease.
- Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises.
- Criminal activity.
- Other good cause.

Owners must comply with all state and local laws. Other requirements should only be imposed if the subrecipient has a specific reason for intervening in the tenant-landlord relationship. For example, subrecipients using TBRA assistance in conjunction with some other program (i.e., self-sufficiency, life-skills, etc.) in which they are providing additional counseling or support may want to consider requiring the owner to notify them before taking any termination action.

The Grantee must also identify how termination of tenancy will affect the tenant's TBRA assistance. For example, if the household is evicted for cause, the subrecipient's policy must identify whether assistance will also be terminated or whether the tenant may receive assistance in another unit.

Tenant Move

A tenant may elect to move to another unit as permitted by the lease. A TBRA rental assistance contract should contain provisions that terminate the program's agreement with the owner when the household moves out. To assure that TBRA subsidies are not paid on units no longer occupied by an eligible tenant, the lease agreement must require that the household provide a minimum of 30 days written notice of their plans to relocate to both the owner and program administrator. If the tenant is compliant with program requirements, the TBRA assistance may be transferred to another eligible units, following the same procedures for determining unit eligibility and rent assistance.

12.12 Recordkeeping and Reporting

The subrecipient is responsible for ensuring that TBRA funds are used in accordance with all program requirements of 24 CFR Part 92, and for documenting compliance. The subrecipient must establish and maintain sufficient records to enable DGCD to determine whether the subrecipient has met all requirements of the TBRA program.

Tenant Records

Recordkeeping and Record Retention requirements must be compliant with 24 CFR 92.508. For TBRA projects, records must be retained for five years after the period of rental assistance ends **or** from the time the project is closed, whichever is longer. The tenant files shall contain, but are not limited to, the following:

- Original application with copies of social security cards for each household member.
- Income verifications, along with source documentation.
- Annual release of information forms.
- Rental coupon, Request for Unit Approval, and other materials related to coupon issuance.
- Completed **NSPIRE** inspection form for the unit.
- Lead based paint disclosure forms to indicate receipt of required pamphlets and required tenant notification forms prior to move-in.
- Descriptions of any required paint stabilization activities, clearance reports and required tenant notifications.
- Annual adjusted income worksheet and other related documents.
- Utility allowance schedule.
- Total Tenant Payment / Total Rent form.
- Rental Assistance Payments Contract and Lease Agreement.

CHAPTER 13: Community Development Organizations (CHDOs)

A CHDO is a private nonprofit, community-based organization that has staff with the capacity to develop affordable housing for the community it serves. In order to qualify for designation as a CHDO, the organization must meet certain requirements pertaining to their legal status, organizational structure, and capacity and experience. At least 15% of HOME Investment Partnerships Program (HOME) funds must be set aside annually for specific activities to be undertaken by CHDOs to carry out all eligible HOME activities established by DGCD in its approved Consolidated Plan. Because of the set-aside requirement, it is important for DGCD to continuously foster relationships, provide ongoing training and technical assistance to agencies interested in becoming a CHDO, and to support and encourage existing CHDOs as they conduct eligible affordable housing activities to benefit the community.

13.1 CHDO Activities

Conduct CHDO Outreach

- Contact reputable non-profits.
- Discuss CHDO operations at non-profit meetings.
- Conduct informational sessions.

Receive Applications from Potential CHDOs

- Make funding applications available on the DGCD website and allow applications to be accepted on an annual basis for non-construction-based projects or on a rolling basis for construction-based activities. CHDO verification documentation must be submitted with the funding application.
- Determine if all criteria are satisfied (**See Appendix I: CHDO Requirement Checklist**)
- Applications will include an initial affordable housing plan that incorporates a financial feasibility and marketing analysis.
- Evaluate an agency's capacity and readiness to complete the proposed project.

Designate CHDOs

Send an official letter stating that agency has been designated as a CHDO.

Develop an Affordable Housing Plan

- Work with agency to further develop a housing plan.
- Obtain specific budgets for the use of operational and development funds in order to obtain DGCD Program Operations Director approval.

Form a Written Agreement

- All CHDO funds are committed by use of a contract with DGCD, approved by DGCD designated HOME staff, Program Operations Manager and Director, DGCD Commissioner, the City of Atlanta Mayor, and the contract is approved by City Council prior to execution.
- The guidelines for proceeds/program income should be written into the contract with the CHDO, if applicable.
- Specify in contract whether resale or recapture provisions will apply. DGCD uses the recapture method for its HOME funds.
- Describe the CHDO project activities and include a CHDO budget with the contract.

- CHDOs must act as owner, developer, or sponsor of HOME funded projects. This role should be clear in the contract and/or in DGCD’s affordable housing plan.
 - a. CHDO as an Owner: A CHDO is considered an owner of a property when it holds valid legal title. The CHDO may be an owner with one or more individuals, corporations, partnerships, or other legal entities. A CHDO can own and operate housing that it does not develop. A nonprofit that will undertake property ownership and management must demonstrate ownership/management experience. While a CHDO may be sole owner and have another entity act as a developer, it also can be the owner and developer of its own project. The CHDO may own a property in partnership with either a majority or minority interest. However, the CHDO, in partnership with a wholly owned, for-profit or nonprofit subsidiary, must be the managing general partner with effective control (in decision-making authority) of the project.
 - b. CHDO as a Developer: A CHDO is considered a developer when it either owns the property and develops the project or has the contractual obligation to a property owner to develop a project. Under 24 CFR 92.252, if the CHDO owns the property, it must be in total control of the development process, which includes:
 - Zoning
 - Securing non-HOME financing
 - Selecting architects, engineers and general contractors
 - Overseeing the progress of the work; and
 - Determining the reasonableness of costs.
 - c. CHDO as a Sponsor: A CHDO may be a sponsor for both HOME-assisted rental housing and homebuyer housing. A CHDO sponsor must always own the project before and/or during the development phase of the project. For HOME-assisted rental housing, the CHDO also owns the property during the development and throughout the period of affordability. For HOME-assisted homebuyer projects, the CHDO must transfer title of the property and the HOME obligations to an eligible homebuyer within a specified time frame of project completion.

Allocation of Funds

- DGCD will follow HUD guidelines when obligating and expending HOME funds. CHDO set-aside funds will be reserved within 24 months of signing the HOME Investment Partnerships Agreement with HUD. The Department of Grants and Community Development ensures that CHDO reservations result in commitments to specific projects in a timely manner.
- Per HUD guidelines, CHDO operating funds are limited to \$50,000, or no more than 50% of the agency’s total operating budget.
- DGCD will maintain a tracking spreadsheet for quick identification of funds across funding years.
- DGCD will create and maintain a tracking spreadsheet for newly contracted HOME funds.

13.2 IDIS

- After execution of a contract, DGD will follow the HUD guidelines for setting up a funded project in IDIS. If operating funds are awarded to a CHDO, this project receives a separate contract and IDIS number from HOME set-aside or regular program funds; whereas program

funds receive one number, even when multiple units are to be produced. A HOME project may not be set up in IDIS until a contract has been executed.

- Recipient accomplishment data must be entered into IDIS when the project has been completed and prior to close-out (expenditure of all contract development funds and completion of development plan).

13.3 Environmental Reviews

- Submit property addresses, as they are approved, to the designated Environmental Review Specialist for completion of environmental reviews. This documentation is maintained in a single file. Once a review is completed, insert a page into project file stating that it is complete and in the file room.
- No project will be approved for startup until the Environmental Review has been completed, and any mitigating factors have been cleared.

13.4 File Documentation

- For homebuyer activities, the CHDO will maintain documentation on lead-based paint, participant eligibility, property eligibility, affordability, along with documentation for all other relevant cross-cutting federal requirements.
- The CHDO will maintain other agency information in files such as correspondence, audits, financial statements, procurement documents, and progress reports.

13.5 Monitoring and Evaluation

- DGCD conducts desk monitoring on an ongoing basis based on communications with CHDO staff, processing of reimbursement requests, approval of sites, site visits, inspections, etc.
- DGCD conducts on site monitoring on an annual, and as-needed basis using the HUD in-house monitoring guide (CHDO Monitoring Guide) and monitoring materials from the HOME monitoring manual and CHDO toolbox. CHDOs will be informed in writing of any findings or concerns from either the general monitoring visits or from the home inspections.
- DGCD will recertify a CHDO each time it is awarded additional funds, **OR**, in the event that problems or concerns about eligibility, capacity, or leadership arise and while it is still expending funds on an existing contract. Recertification shall consist of completion of the CHDO Staff Experience & Organizational Capacity checklist, board composition roster, and member certification forms filled out by each board member.

13.6 Performance Review/Capacity Building

- DGCD will offer continual technical support and assistance to inform CHDOs about outside training opportunities as they arise.
- CHDO performance is to be reviewed on an annual basis through meetings with DGCD, and review of CHDO activities and accomplishments over the calendar year based on the CHDOs Annual Performance Report and information provided by staff.
- In the event a CHDO is unable to carry out its activities or experiences a board change that makes it ineligible to be an operating CHDO, funds shall be reallocated to another designated CHDO or returned to contingency funds for reallocation to a new CHDO, as determined by the DGCD Commissioner.

13.7 Further Information

For more information on Community Housing Development Organizations, see 24 CFR 92 Subpart G:

- 24 CFR 92.208: Eligible community housing development organization (CHDO) operating expenses and capacity building costs.
- 24 CFR 92.300: Set-aside for community housing development organizations
- 24 CFR 92.301: Project-specific assistance to community housing development organizations.
- <https://www.hudexchange.info/resources/documents/Building-HOME-Chapter-3-CHDO-Requirements-and-Activities.pdf>

CHAPTER 14: Record Keeping, Reporting and Monitoring Requirements

14.1 Overview

The general rule is that PJs must establish and maintain sufficient records to document that program requirements are met. The HOME regulations define the minimum records retention requirements and are intended to crosscut with the basic program requirements. DGCD has established its own requirements for record-keeping and reporting by HOME Recipients. These requirements enable DGCD to meet HUD requirements and maintain complete information about the projects for which it provides funding.

Recent Changes

Under the Final Rule, the requirements for record-keeping were revised to:

- Ensure consistency with HOME program requirements
- Clarify the record retention periods; and
- Include new records that must be kept by PJs that exercise any of the three new options allowed in the Final Rule (i.e., multi-family refinancing, presumption of affordability for homebuyer assistance, and locally established 95% of area median purchase price limits).

Categories

2 CFR Part 92.508 regulations use the following record-keeping categories:

- Records concerning designation as a PJ
- Program records
- Project records
- CHDO records
- Financial records
- Program administration records
- Records concerning other federal requirements

14.2 Records that Must Be Maintained

Program Records

- Efforts to maximize participation by the private sector
- Forms of assistance used
- Subsidy layering guidelines
- Multi-family refinancing guidelines
- Procedures for establishing 95 percent of median value

- Resale/recapture guidelines

TBRA Records

- Consolidated Plan TBRA certification
- Market Conditions/Needs Assessment
- Selection policies and criteria
- If using preferences for persons with special needs, supporting documentation on categories used
- Rent standards and minimum tenant contributions
- Compliance with requirement that 90 percent of assisted families have incomes at or below 60 percent of median income

Compliance with matching requirements; and

Compliance with set-aside and funding commitment requirements.

Project Records

- Description of each project:
 - Location (with a map)
 - Form of assistance
 - Number and identification of units or tenants associated with HOME
- Source and application of funds
- Compliance with maximum per-unit subsidy limits and subsidy layering guidelines
- Compliance with property standards and lead-based paint requirements
- Compliance with income-eligibility requirements
- For TBRA, compliance with written tenant selection policies, lease provisions and other applicable requirements
- For rental projects, compliance with income targeting, affordability and lease requirements
- If multi-family or single-family refinancing is provided, compliance with established guidelines and/or requirements
- If multi-family new construction, results of the site and neighborhood standards review conducted
- For homeownership projects, compliance with maximum property value and affordability requirements; and
- If pre-award costs, compliance with applicable requirements

CHDO Records

- Written agreements reserving funds for CHDOs
- Efforts to identify and encourage CHDOs
- Names and qualifications of each CHDO, and amount of set-aside funds reserved and committed
- Documentation of compliance with written agreements
- Use of CHDO set-aside funds, including funds for capacity building
- Use of HOME for operating expenses and compliance with applicable requirements
- Tenant participation plan; and
- Use of HOME as project-specific assistance, including issues surrounding repayment

Financial records

- Source and application of funds
- Treasury and local HOME accounts
- Source and application of program income, repayments and recaptured funds; and
- Budget control measures, including periodic account reconciliations

Program Administration Records

- Compliance with written agreements
- Compliance with applicable uniform administrative requirements
- Inspections, monitoring reviews and audits, and resolution of any findings or concerns

Compliance Documentation for Federal Requirements

- Equal opportunity and fair housing
- Affirmative marketing and minority/women's business outreach
- Environmental review
- Acquisition, relocation, displacement and replacement of housing
- Labor standards
- Lead-based paint
- Conflict-of-interest
- Debarment and suspension

Record Retention

With the effective date of the Final Rule, the record retention period was lengthened to five years. This is also in keeping with the DCGD Consolidated Plan requirements.

- Rental: For rental housing records:
 - General records must be kept for five years after project completion, as noted in IDIS; and
 - Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the affordability period ends.
- Homeownership: Homeownership records must be kept for:
 - Five years after project completion, as noted in IDIS; and
 - For resale/recapture records, five years after the affordability period ends.
- TBRA: TBRA records must be kept for five years after rental assistance ends.
- Written agreements: Generally, all written agreements must be maintained for five years after the agreement ends.
- Displacement and acquisition: Displacement and acquisition records must be kept for five years after final payment to displace.

Access to Records

- DGCD provides citizens and other interested parties with reasonable access to record by posting reports, training sessions, and ongoing updates to its public website. This access is consistent with applicable state and local laws regarding privacy and obligations of confidentiality.
- The Consolidated Plan regulations require that PJs provide citizens, public agencies and other interested parties with reasonable and timely access to information and records relating to a PJ's

Consolidated Plan and the use of assistance under the programs covered by the Consolidated Plan. DGCD's Consolidated Plan is posted on its public website year-round for easy access and review. DGCD also posts any updates to the Consolidated Plan, Annual Action Plan and CAPER reports on its public website and publishes notifications in two local newspapers.

- HUD and the Comptroller General of the United States, or any of their representatives, have the right to access any records of DGCD's for auditing, excerpt or transcript purposes.

14.3 Reporting Requirements

- DGCD submits a Consolidated Annual Performance Evaluation Report (CAPER) through IDIS to HUD within 90 days of the close of the program year in accordance with the Consolidated Plan regulations at 24 CFR Part 91 that includes:
 - A summary of programmatic accomplishments and an assessment of progress toward the priority needs and specific objectives set forth in DGCD's Consolidated Plan.
 - A summary of resources and programmatic accomplishments, and the status of actions taken during the year to implement DGCD's overall strategy, which includes a self-evaluation of progress during the past year in addressing priority needs and specific objectives.
- DGCD submits and Annual Action Plan (AAP) through IDIS to HUD within 45 days before the start of a new grant year in accordance with 24 CFR Part 91 that includes objectives and outcomes of identified activities to be undertaken by subrecipients as these projects related to priorities within DGCD's Consolidated Plan.
 - DGCD reports HOME match contributions made for the period covered by the Consolidated Plan to HUD annually.
- DGCD reports contracts and subcontracts with Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) to HUD annually.

14.4 Monitoring Requirements

DGCD is responsible for managing the day-to-day operations of their HOME Programs and ensuring that HOME funds are used in keeping with program requirements. Implementation of HOME Program activities by other entities (state recipients, subrecipients, CHDOs, etc.) does not relieve DGCD of this responsibility.

Per regulations, DGCD is required to monitor the performance of each contractor and Subrecipient receiving HOME funds at least annually.

- Any subrecipient receiving DGCD HOME funds for an eligible project must be monitored to ensure compliance with applicable program requirements.
- More frequent reviews may be appropriate based on the length and complexity of the activity being undertaken, and the experience and capacity of the funding recipient.

DGCD must monitor projects throughout the affordability period for applicable HOME compliance areas as outlined in Homebuyer Activities and Rental Housing Activities. DGCD also conducts additional oversight of rental projects by analyzing the projects for financial stability, management capacity and other long-term viability issues.

The purpose of DGCD's monitoring protocols is to safeguard production and accountability of funded projects, to ensure compliance with HOME and other federal requirements by each funded projects and to evaluate organizational and project performance as well as project viability (financial health, management capacity, etc.).

Monitoring Plan

DGCD has a developed desk monitoring and on-site monitoring plan of all HOME funded entities as projects are awarded funding. This monitoring plans include:

- Objectives of the monitoring plan
- Standardized procedures for reporting by funding recipients
- Standardized procedures for review and monitoring; How risk will be identified and addressed
- Frequency of meetings, monitoring reviews and inspections
- Pre-monitoring preparation
- Use of staff and other resources for monitoring
- Monitoring checklists and sample monitoring letters

Staffing the Monitoring Responsibilities

DGCD's desk and on-site monitoring policies include clearly defined roles and tasks for Compliance Division and Program Operations Division staff. Depending upon the funding source, staff assigned to HOME activities will participate in the monitoring process for all projects under evaluation and review.

Risk Assessment

For programs and projects, DGCD performs a risk assessment to identify which funding recipients require comprehensive monitoring. High-risk funding recipients include those that are:

- New to the HOME program
- Experiencing turnover in key staff positions
- Plagued by past compliance or performance problems
- Undertaking multiple HOME-funded activities for the first time
- Not submitting timely reports

For experienced funding recipients that are successfully carrying out activities, DGCD may plan a more narrowly focused monitoring to examine areas where the regulations have changed, new activities that are being undertaken, or program aspects that led to problems in the past.

Desk Reviews

Desk reviews are a key component of basic DGCD monitoring activities. This process involves examining information and materials provided to DGCD by funded recipients that enables us to track performance and identify potential problem areas.

- Staff performing desk reviews review monthly progress reports, compliance reports and financial information to assess performance more adequately and to look for indicators of performance or compliance problems.
- When questions or concerns arise from the review, staff gathers additional information through telephone calls, emails or by the collection of additional documents or written materials.

Program Monitoring

Step 1: DGCD prepares for the monitoring visit by reviewing the following types of in-house data prior to a site visit or desk monitoring.

- Application for funding
- Written agreement
- Progress reports
- Draw-down requests
- Cash and Management Information (C/MI) System or Integrated Disbursement and Information System (IDIS) reports
- Correspondence
- Previous monitoring reviews
- Copies of audits

Step 2: DGCD conducts the site monitoring visit or desk monitoring review.

- Notification: DGCD begins the monitoring process by emailing funding recipients to explain the purpose of the visit and to agree upon dates for the visit. A formal notification by email and letter follows at least two weeks before the planned visit and includes:
 - Confirmation of the dates for the review
 - Scope of the monitoring
 - Information needed for review during the visit; and staff needed for interviews or other assistance during the review.
- Entrance conference: DGCD conducts an entrance conference at the beginning of monitoring visit, usually with the executive director or other top official of the organization, to make sure the Subrecipient has a clear understanding of the purpose, scope and schedule for the monitoring.
- Documentation, data gathering and analysis: DGCD keeps a clear record of information reviewed and conversations held with Subrecipient staff during the monitoring visit.
- Exit conference: At the end of the monitoring visit, the reviewers meet again with key representatives of the Subrecipient organization to:
 - Present preliminary results of the monitoring
 - Provide an opportunity for the Subrecipient to correct any misconceptions or misunderstandings
 - Secure additional information to clarify or support their position
 - If applicable, provide an opportunity for the Subrecipient to report on steps the organization may already be taking to address areas of noncompliance or nonperformance

Step 3: Follow-up. At the end of the process, DGCD provides the Subrecipient with formal email and written notification of the results of the monitoring review. This letter points out problem areas and recognizes successes.

- The follow-up letter creates a permanent written record of what was found during the review.
- The letter outlines concerns and findings and sets deadlines for a written response and corrective actions.

Project Monitoring

For individual projects, monitoring begins at project pre-development and continues through the period of affordability. For example, once construction has started, DGCD requires progress reports monthly with each draw request to flag any pending or anticipated problems, staff holds regular meetings to discuss issues and provide any technical assistance needed; and makes periodic site visits to evaluate progress.

Other general areas for monitoring review include project schedule, project accomplishments, expenditures, on-target costs, quality control, property standards, production, etc. Onsite inspections are conducted based on regulatory standards of the HOME Final Rule.

Corrective Actions

DGCD is responsible for taking appropriate actions when performance problems arise. Written agreements should be the primary mechanism for enforcement in situations of noncompliance. Intervention stages are used by DGCD based on the severity of the performance issues and concerns and may include temporary suspension of activities if noncompliance issues cannot be overcome quickly.

CHAPTER 15: Procurement

15.1 Overview of Procurement Requirements

Federal Requirements: Procurement Procedures

Whether a sub-recipient occasionally purchases office supplies or contracts for millions of dollars of construction services, the requirements governing the purchasing process are designed to ensure that subrecipients follow a free and open competitive process in securing those products or services. Subrecipients must document purchasing activities and decisions, observe the special rules for specific purchases (i.e., small purchases, competitive sealed bids, competitive proposals, and sole source procurement), properly bond and insure work involving large construction contracts and/or subcontracts, and contract with minority and/or women-owned businesses to the maximum extent feasible.

15.2 General Procurement Requirements

The standards and procedures for procurement established in 2 CFR Part 200.320 are intended to ensure that supplies, equipment, construction and other services acquired in whole or part with federal funds are obtained as efficiently and economically as possible, and are procured in a manner that provides, to the maximum extent practical, open and free competition.

Solicitations for goods and services must be based on a clear and accurate description of the materials, products or service to be procured and cannot contain features that unduly restrict competition. Some of the situations considered to be restrictive of competition include placing unreasonable qualifying requirements on firms, requiring unnecessary experience and excessive bonding, specifying only "brand name" products instead of allowing "an equal" product, non-competitive pricing practices between firms or affiliated companies and non-competitive awards to consultants on retainer contracts.

Procurement contract awards are to be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to an agency, price and other factors considered. All bids may

be rejected when it is in an agency's interest to do so. A Subrecipient agency must ensure that the award is only made to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement contract. Consideration should be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The federal guidelines for contracting are designed to further ensure that contracts are structured and managed in a way that is consistent with good administrative practices and sound business judgment. The federal requirements for these administrative areas are found in 2 CFR 85.36 for governmental Subrecipients and 24 CFR 84.40 for sub-recipients that are nonprofit organizations, and 2 CFR Part 200 establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities.

General procurement requirements include:

- A sub-recipient agency must maintain records to detail the significant history of their procurement. agency must maintain files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract (for non-profit sub-recipients, 24 CFR 84.44 specifies that procurement records and files for purchases in excess of \$100,000 must be approved by ACCGOV and include the basis for Contractor selection, justification for lack of competition when competitive bids or offers are not obtained, and the basis for the award cost or price).
- Pre-qualified lists of vendors/contractors, if used, must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time during the solicitation period (24 CFR 85.36(c)(4)).
- As part of its efforts to eliminate unfair competitive advantage, a sub-recipient must exclude contractors that develop or draft specifications included in grant application, requirements, statements of work, invitations for bids and/or requests for proposals from competing for such procurement (24 CFR 84.43).
- A Subrecipient must ensure that awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension" (24 CFR 85.35 and 24 CFR 84.44(d)).
- There must be written selection procedures for procurement transactions, and the procedures must be adequate to ensure compliance (24 CFR 85.36(b) and 24 CFR 84.44 (a)).
- The purchase of unnecessary or duplicate items should be avoided. Where appropriate, an analysis should be made of lease versus purchase alternatives (24 CFR 85.36(b)(4) and 24 CFR 84.44(a)).
- Whenever possible, use of federal excess and surplus property, or of intergovernmental agreements for procurement or use of common goods and services, should be considered to foster greater economy and efficiency (24 CFR 85.36(b)(5) and (6)).
- All purchase orders (and contracts) must be signed by the authorized official(s) of an agency.
- Items delivered and paid for must be consistent with the purchase order and/or contract for the goods or service.
- Timely payment to vendors must occur once the order is delivered, inspected, accepted and payment authorized.

- A cost or price analysis shall be performed for every procurement action, including contract modifications and documentation to that effect should be maintained in the sub-recipient files. The method and degree of analysis is dependent on the facts surrounding the procurement situation, but as a starting point, sub-recipients must make independent estimates before receiving bids or proposals (24 CFR 85.36(f) and 24 CFR 84.45).
- Profit or fee should be negotiated separately from price where competition is lacking or a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of past performance and industry rates for the area (24 CFR 85.36(f)(2)).
- The list of provisions in 24 CFR 85-36(I) or 24 CFR 84.48, as appropriate, must be included in any contracts.
- The agency must not use "cost plus a percentage of cost" pricing for contracts (24 CFR 85.36(0)(4) and 24 CFR 84.44(c)); in addition, sub-recipients should use "time and material" type contracts only after a determination is made that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk (24 CFR 85.36(b)(10)).
- Public agencies must have protest procedures in place to handle and resolve disputes relating to their procurement and in all instances report such disputes to the grantee (24 CFR 85.36(b)(12)).
- There must be a documented system of contract administration for determining the adequacy of contractor performance (24 CFR 85.36(b)(2) and 24 CFR 84.47).
- The agency must have a written code of conduct governing employees, officers or agents engaged in awarding or administering contracts (24 CFR 85.36(b)(3) and 24 CFR 84.42).
- In accordance with 24 CFR 84.45, some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Cost analysis, as defined in the federal regulations, is the review and evaluation of each element of cost to determine reasonableness, allocability and allow-ability. Typically, the appropriate documentation would be records of oral or written price quotations.

15.3 Types of Procurement

Procurement regulations are applicable to all purchases of goods and services with HUD funds. Depending on the scarcity of the item or service desired, and the size of the purchase, different methods of procurement are available for use by subrecipients under the federal regulations. DGCD, however, requires subrecipients to follow the most stringent procurement requirements from the following options:

- 2 CFR Part 200.320: Methods of procurement to be followed
- State of Georgia procurement laws, or
- City of Atlanta, GA

Appendix

Appendix A: HOME Income and Rent Limits

2022 Adjusted HOME Income Limits for Atlanta GA Metro FMR Area (effective June 15, 2022)

Income Limits	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% (Extremely Low)	20250	23150	26050	28900	31250	33550	35850	38150
50% (Very Low)	33750	38600	43400	48200	52100	55950	59800	63650
60%	40500	46320	52080	57840	62520	67140	71760	76380
80% (Low)	54000	61700	69400	77100	83300	89450	95650	101800

2022 HOME Rent Limits for Atlanta GA Metro FMR Area (effective June 15, 2022)

Rent Limits	Efficiency	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Low Home Rent Limit	843	904	1085	1253	1398	1543	1687
High Home Rent Limit	1078	1131	1289	1595	1760	1923	2087
Fair Market Rent	1111	1131	1289	1596	1951	2244	2536
50% Rent Limit	843	904	1085	1253	1398	1543	1687
65% Rent Limit	1078	1156	1388	1595	1760	1923	2087

Appendix B: City of Atlanta’s Conflict of Interest Policy

CHAPTER 5-401. Conflicts of interest provisions applicable to city officials and employees.

- (a) Except as otherwise provided by general law, no elected official, appointed officer, or employee of the city or any office, department, or agency thereof, shall knowingly:
- (1) Engage in any business or transaction with, or have a financial or personal interest, direct or indirect, in the affairs of, the city, except through a procedure employing sealed bids;
 - (2) Engage in or accept private employment or render services for private interests when such employment or service is in conflict or incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of official duties;
 - (3) Disclose confidential information or use information, including information obtained at meetings which are closed pursuant to Title 50, Chapter 14, of the O.C.G.A., as now or hereafter amended, concerning the property, government or affairs of the city or any office, department, or agency thereof, not available to members of the public and gained by reason of his or her official position

for his or her personal gain or benefit, to advance his or her financial or other private interest, or to advance the financial or private interest of any other person or business entity;

- (4) Represent other private interests in any action or proceeding against the city or any office, department, or agency thereof;
- (5) Vote or otherwise participate in the negotiation or the making of any contract with any business entity in which he or she has a financial interest.
- (b) No elected official, officer, or employee shall use property of the city for his or her personal benefit or profit except in accordance with policies and procedures of the city.
- (c) All elected officials, appointed officers or employees of the city or any office, department, or agency thereof, shall abide by any further standards of conduct adopted or as may be adopted by an ordinance of the council.
- (d) As used in this chapter, the word "relative" shall mean an individual who is related to the elected official, appointed officer, or employee as father, mother, son, daughter, brother, sister, husband, wife, domestic partner registered under CHAPTER 94-133, grandfather, grandmother, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, any other relative living in the household of the elected official, appointed officer, or employee or who otherwise holds himself or herself out as or is generally known as the person whom the elected official, appointed officer, or employee intends to marry or with whom the elected official, appointed officer, or employee intends to form a household, or any other natural person having the same legal residence as the elected official, appointed officer, or employee.

(1996 Ga. L. (Act No. 1019), p. 4469; Ord. No. 2006-55, § 1, 8-29-06)

CHAPTER 5-402. Disclosures.

- (a) Any elected official, appointed officer, or employee who has any financial interest, directly or indirectly, in any contract or matter pending before or within any office, department, or agency of the city shall disclose such interest in writing to the council by filing a written memorandum with the municipal clerk. Any elected official who has a financial interest in any contract or matter before the council shall disclose such interest as provided in Article 2 within this Charter.
- (b) Any elected official shall disclose publicly the identity of any relative, as defined in the Code of Ordinances, employed by the city on or before February 15th of each year, by the submission of an electronic form prescribed by the board of ethics.

(1996 Ga. L. (Act No. 1019), p. 4469; Ord. No. 2006-23, § 1, 5-18-06; Ord. No. 2006-59, § 1, 9-13-06)

CHAPTER 5-403. Contracts voidable and rescindable.

Any contract between the city and another party shall be voidable or rescindable at the discretion of the council at any time if any elected official, officer, or employee has any interest in such contract and does not disclose such interest in accordance with the provisions within this chapter.

(1996 Ga. L. (Act No. 1019), p. 4469)

CHAPTER 5-404. Ineligibility of elected officials.

No elected official shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which that official was elected to office, unless this provision is waived by a three-fourths vote of the council.

(1996 Ga. L. (Act No. 1019), p. 4469)

CHAPTER 5-405. Hearings and determinations.

Any hearings and determinations regarding any violations of the provisions herein shall be in accordance with the provisions of this Charter or any ordinance regulating standards of conduct as adopted by the council.

(1996 Ga. L. (Act No. 1019), p. 4469)

Appendix C: Resale and Recapture

HOME Resale and Recapture Summary

Scenario	Amount Owed Back to HOME Account	Income to PJ Considered	HOME Requirement Discussion	Examples
Recapture				
Owner remains in unit and repays HOME mortgage principal and interest to PJ over time	Periodic loan payments— Receipt the program income (PI) in IDIS	Program income	None	<ul style="list-style-type: none"> Homebuyer gets \$20,000 HOME loan from PJ. Owner repays \$200 per month in principal plus interest to PJ. Monthly \$200 is program income
Owner remains in unit but elects to pay off outstanding balance of HOME loan	Loan payoff—Receipt the PI in IDIS	Program income	The repayment of the HOME loan does not terminate the affordability period. The period remains in effect for written agreement timeframe unless the unit is sold. Significant impacts of this are principal residence requirement and shared appreciation at sale (if this option is chosen by PJ).	<ul style="list-style-type: none"> Homebuyer gets \$18,000 HOME loan from PJ. In year 3, owner decides to pay off existing loan balance and pays \$15,000 to PJ to pay off the HOME loan. \$15,000 is program income Owner is still subject to principal residence and if the PJ stipulated it in its original agreement with the buyer, any net proceeds agreement for shared appreciation until the 10 year affordability period is complete.
Owner does not sell but moves out and fails to occupy as principal residence during the afford period (subleases the home)—assumes that the owner does not return to the unit or sell it	Total outstanding HOME investment. This is HOME investment minus HOME principal payments received from owner to date. Repayment process involves wiring funds back to HUD and/or paying by check (if less than \$2,000) and amending draws within IDIS.	Repaid funds	PJ must attempt to bring unit into compliance and enforce the HOME written agreement. First, the PJ should try to get the owner to reoccupy the unit. Second, if re-occupancy doesn't occur, the PJ must try to recoup the amount owed back by the owner. The PJ must have a clause in its HOME written agreement that states repayment is triggered if the principal residency requirement. If the PJ does not, they are unlikely unable to enforce the principal residence requirement and the PJ itself may have to repay the outstanding HOME investment (in essence it becomes an ineligible project).	<ul style="list-style-type: none"> Homebuyer gets \$16,000 HOME forgivable loan from PJ. \$1600 is forgiven for each year of occupancy. In year 8, owner moves out and rents the home. Of the \$16,000 HOME loan, \$12,800 has already been forgiven (8X\$1600). However, owner and/or PJ owes program back the whole \$16,000 in initial HOME investment since none has been repaid by owner to date. If instead the loan was amortizing and the owner had already paid the PJ \$10,000 in HOME principal + interest, the PJ/owner would only owe \$6,000 back to the HOME account.

HOME Resale and Recapture Summary (cont'd)

Scenario	Amount Owed Back to HOME Account	Income to PJ Considered	HOME Requirement Discussion	Examples
Recapture				
Owner voluntarily sells during affordability period	Net proceeds—Receipt process identical to PI in IDIS	Recaptured funds	PJ must stipulate recapture approach, subject to net proceeds, in its agreement with buyer (PJ paid first, owner paid first, forgiveness over time, or proportional + shared appreciation option).	<ul style="list-style-type: none"> • Homebuyer gets \$27,000 HOME loan from PJ. In year 5 owner decides to sell. • Outstanding HOME loan balance is \$22,000. Net proceeds are \$12,000. • Owner repayment to PJ capped at \$12,000 • \$12,000 divided between PJ and owner according to PJ's selected net proceeds approach
Unit is foreclosed and sold to another owner	Net proceeds—Receipt process identical to PI in IDIS	Recaptured funds	PJ must stipulate recapture approach, subject to net proceeds, in its agreement with buyer (PJ paid first, owner paid first, forgiveness over time, or proportional + shared appreciation option).	<ul style="list-style-type: none"> • Homebuyer gets \$32,000 HOME loan from PJ. In year 8, private lender forecloses and home is sold. • Outstanding HOME loan balance is \$28,000. After bank is paid at foreclosure, remaining net proceeds are \$2,000. • PJ gets \$2,000 in net proceeds and no additional money is owed

HOME Resale and Recapture Summary (cont'd)

Scenario	Amount Owed Back to HOME Account	Income to PJ Considered	HOME Requirement Discussion	Examples
Resale				
Owner remains in unit and repays HOME mortgage principal and interest to PJ over time	Periodic loan payments—Receipt the PI in IDIS	Program income	None	<ul style="list-style-type: none"> • Homebuyer gets \$20,000 HOME loan from PJ. Owner repays \$200 per month in principal plus interest to PJ. • Monthly \$200 is program income
Owner remains in unit but elects to pay off outstanding balance of HOME loan	Loan payoff—Receipt the PI in IDIS	Program income	The repayment of the HOME loan does not terminate the affordability period. The resale provision stays in place including the entire affordability period remains in effect and the principal residency requirement, as initially determined by the PJ based on the amount of HOME investment in the unit.	<ul style="list-style-type: none"> • Homebuyer gets \$18,000 HOME loan from PJ. In year 3, owner decides to pay off existing loan balance and pays \$15,000 to PJ to pay off the HOME loan. • \$15,000 is program income • Owner is still subject to principal residence and at the time of sale if during the affordability period, must sell to another low income buyer at an affordable price
Owner does not sell but moves out and fails to occupy the unit as its principal residence during the afford period (subleases the home)—assumes that the owner does not return to the unit or sell it	Total outstanding HOME investment. This is initial HOME investment minus HOME loan principal payments received to PJ from owner or developer to date, if any. Repayment process involves wiring funds back to HUD and/or paying by check (if less than \$2,000) and amending draws within IDIS.	Repaid funds	PJ must attempt to bring unit into compliance (enforce the HOME written agreement). First, the PJ should try to get the owner to reoccupy the unit. Second, if re-occupancy doesn't occur, the PJ must try to recoup the amount owed back by the owner. The type of income these funds would be depends on whether owner received a HOME loan or if financing was only provided to developer. If owner received a HOME loan, the PJ should include language about principal residence and owing money back to the PJ for noncompliance. Amount owed back for noncompliance would then be the HOME loan minus any program income (PI) received to date. If construction financing was provided to a developer it is unlikely that the homebuyer has repaid any PI to the PJ. However, the PJ's or developer's agreement with the owner must still specify the resale requirements, including principal residence requirement, and should specify penalties for noncompliance. If the developer has repaid the HOME construction loan to the PJ, that PI would be counted toward the amount owed back to the program for the noncompliant unit.	<ul style="list-style-type: none"> • CHDO gets \$70,000 construction loan from PJ. The CHDO pays back \$50,000 of this initial investment once construction is done and unit is sold to homebuyer. • In year 8, the owner moves out and rents the home (but does not sell). • Owner and/or PJ owes program back the \$20,000 remaining from the initial HOME investment (\$70,000 - \$50,000), depending on the written agreement and its enforceability. • If the PJ had allowed the CHDO to keep the funds earned from the initial sale as CHDO proceeds and none was repaid to the PJ (no \$50,000 payment), the PJ and/or owner would owe the program the full \$70,000 initial HOME investment for the noncompliant unit.

HOME Resale and Recapture Summary (cont'd)

Scenario	Amount Owed Back to HOME Account	Income to PJ Considered	HOME Requirement Discussion	Examples
Resale				
Owner voluntarily sells during affordability period	Loan payoff, if any—Receipt the PI in IDIS	Program income	None	<ul style="list-style-type: none"> • Homebuyer gets \$27,000 HOME loan from PJ. In year 5 owner decides to sell. • Outstanding HOME loan balance is \$22,000. • Owner repays the \$22,000 to the PJ and sells to another low income buyer at affordable price.
Unit is foreclosed and sold to another owner	<p>Answer depends on what happens under foreclosure: If affordability period survives foreclosure and unit is sold to another low income buyer at afford price, no repayment is required unless the household has an outstanding HOME loan. Depending on the home's value and foreclosure sale price, the PJ may get some repayment for that HOME loan.</p> <p>If the affordability period does not survive, PJ owes total outstanding HOME investment. This is initial HOME investment minus program income (loan principal payments—not interest) received to PJ from owner or developer to date, if any.</p>	<p>Program income if unit affordability period survives foreclosure and some of the outstanding HOME loan is repaid through foreclosure sale</p> <p>Repaid funds if affordability period is terminated</p>	None	<ul style="list-style-type: none"> • CHDO gets \$40,000 construction loan from PJ. They repay back \$30,000 of this loan to the PJ. The owner also gets \$15,000 in a HOME downpayment assistance grant. • In year 6, the owner defaults and lender forecloses and the affordability period is wiped out. The home is sold on the open market. • Owner and/or PJ owes program back the \$15,000 downpayment, depending on the written agreement and its enforceability. • The PJ and/or CHDO also owes the \$10,000 of initial investment it did not get earn back as PI • In total \$25,000 is owed back to the PJ's HOME account, either from the owner (unlikely in this scenario), CHDO or PJ itself (\$10,000 plus \$15,000).

Appendix D: Construction Environmental Review Request Form



CITY OF ATLANTA

DEPARTMENT OF GRANTS AND COMMUNITY DEVELOPMENT
 55 TRINITY AVENUE, S.W. SUITE 3500 – ATLANTA, GEORGIA 30303
 404-330-6390 - TDD: 404-658-7820
<http://www.atlantaga.gov>

TO: GMenvironmentalreview@atlantaga.gov
 FROM: _____
 SUBJECT: Environmental Review Request for _____
 DATE: _____

Project information

Sub-recipient/Developer Name:		
Project Name:		
Project Activity:	<input type="checkbox"/> Acquisition existing structure <input type="checkbox"/> New Construction <input type="checkbox"/> Rehab (Major) <input type="checkbox"/> Reconstruction <input type="checkbox"/> Down Payment Assistance	<input type="checkbox"/> Acquisition vacant land <input type="checkbox"/> Conversion of building use <input type="checkbox"/> Repair (Minor) <input type="checkbox"/> Pre-Development/Operating <input type="checkbox"/> Demolition
Program Name:	<input type="checkbox"/> CDBG <input type="checkbox"/> HOME <input type="checkbox"/> NSP <input type="checkbox"/> ESG <input type="checkbox"/> OTHER <input type="checkbox"/> COVID	
Funding Year:		
Grant No:		
Estimated Program Funding Amount:	\$	
Estimated Total Development Costs:	\$	
Estimated Replacement Value/After Rehab Value:	\$	

Property Information

Property Type	<input type="checkbox"/> Single Family (1 - 4 units) <input type="checkbox"/> Multifamily (5+ units)
Address	
# of Units	
Parcel Identification #	
Year Built	
Is the structure more than 50 years old?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is 106 Clearance requested?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the property historic?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Neighborhood Name	
NPU	
Square Footage	
Will density increase/decrease more than 20%	<input type="checkbox"/> Yes <input type="checkbox"/> No

Brief Scope of Work:

Appendix E: Non-Construction Environmental Review Request



CITY OF ATLANTA
 DEPARTMENT OF GRANTS AND COMMUNITY DEVELOPMENT
 55 TRINITY AVENUE, S.W. SUITE 3500 – ATLANTA, GEORGIA 30303
 404-330-6390 - TDD: 404-658-7820
<http://www.atlantaga.gov>

Environmental Review Request

TO: Gmenvironmentalreview@atlantaga.gov
 FROM: _____ Email: _____
 SUBJECT: Environmental Clearance Request for _____ DATE: _____

Project information						
Sub-recipient Name						
Project Name						
Program Nam	<input type="checkbox"/> HOPWA	<input type="checkbox"/> ESG	<input type="checkbox"/> CDBG	<input type="checkbox"/> CoC	<input type="checkbox"/> HOME	<input type="checkbox"/> COVID
Activity	<input type="checkbox"/> TBRA	<input type="checkbox"/> PHP	<input type="checkbox"/> PBRA	<input type="checkbox"/> Master Leasing	<input type="checkbox"/> Construction	

Funding Information	
Grant Number	
Project Number	
Estimated Program Funding Amount	\$
Monthly Rent:	\$
Annual Rent:	\$

Funding Information			
Property Type	Address	Complex name	
<input type="checkbox"/> Single Family Home <input type="checkbox"/> Multifamily Apartment <input type="checkbox"/> Other _____			
Parcel Identification Number This number can be found on the County Tax Assessor's Website		Number of bedrooms #	# of Units

Brief Project Description

COA use only:

Appendix F: Temporary Relocation Guidelines

The relocation budget, *at a minimum* should allow for \$500.00 per person or a “reasonable” amount (reasonableness will be determined by HUD standards of calculating the cost of a move in the event of a dispute between the tenant and contractor/developer or owner) to move a resident to an on-site temporary unit, and \$750 per move, per tenant to an off-site temporary unit location.

A. Appropriate Advisory Services to Tenants

Including reasonable advance written notice of:

- The date and approximate duration of the temporary relocation
- The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period
- The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the rehabbed building/complex upon completion of the project
- The requirements for reimbursement of reasonable out-of-pocket expenses as described in this CHAPTER directly above

Information and counseling should also include:

- Referrals to other available assistance and human services (e.g., health services, public assistance, childcare, job training, and voter registration) and such other help as may be appropriate for each tenant.
- Information about federal, state, and local housing assistance programs and how to apply for them (e.g., housing vouchers/certificates for rental assistance).
- Information about the household’s rights under the Fair Housing Act.
- It is important to have some type of “sign-off” document or statement as verification that the tenants received proper advisement. If you are holding group informational meetings, you will need to provide COA-BUREAU OF HOUSING with dated, sign-in sheets along with a meeting agenda of what was discussed at the meeting.

B. Tenants MUST be given Proper Notices in a Timely Manner

Virtually everyone in the project needs a notice of some kind. All occupants are entitled to timely notices explaining whether they will be displaced.

FAILURE TO PROVIDE CORRECT AND TIMELY NOTICES CAN LEAD TO PERMANENT DISPLACEMENT AND CAN BE A VERY COSTLY RELOCATION MISTAKE ALL

Notices must be understandable to the recipient and personally served and signed for or sent by certified or registered first-class mail---return receipt requested, as proof of delivery. These original documents must be kept on file if COA-BUREAU OF HOUSING or HUD would need to review them as evidence of compliance. (Certified mail is usually less costly.)

The following “Relocation Notices” should be sent to the “Stayers”. “Stayer” refers to anyone who will not be permanently displaced. This will include anyone who will only be temporarily relocated on or off the actual site and to any tenant who will remain in the project but will be permanently placed in a unit

other than their original unit. For informational purposes and to quell any misunderstandings, the GIN should be sent to every resident of the project, even to those who will be making NO moves at all.

1) General Information Notice—Residential Tenant that will not be Displaced (GIN) (A sample copy of the GIN from HUD’s 1378 Handbook is attached as “**Exhibit D**” to this document)

The GIN should be sent as soon after applying for HOME funding as is feasible. At the very latest, however, the GIN **MUST be sent immediately after being informed of project approval (Conditional Reservation)**. The Applicant needs to provide **every occupant within the property a “General Information Notice”**. For the “Non-Displaced Tenant”, this is an advisory notice that does the following:

1. Explains that the project has been proposed and cautions the person not to move. It is very important that this notice stresses “**DO NOT MOVE**”. The sample attached GIN (Exhibit D) stresses in bold letters that the tenant should not vacate the premises. This notice also informs the tenant that they will be notified if they will be required to move temporarily and provided with suitable temporary housing and reimbursement of all reasonable out of pocket moving expenses.
2. Explains that the person **will not** be displaced
3. Explains what is to occur **if** the tenant is to be temporarily relocated (i.e.: approximately how long they should expect to be displaced from their current unit, how will the Applicant accommodate them with replacement housing while they are displaced, how will the Applicant assist them with any moving costs they incur from their temporary move).
4. Explains that they will be able to move back into their unit or to another decent, safe and sanitary unit within the rehabilitated development.

2) Notice of Non-Displacement to Residential Tenant*

(A sample copy of the *Notice of Non-Displacement to Residential Tenant* from HUD’s 1378 Handbook is attached as “**Exhibit E**” to this document).

When you are awarded HOME funding, this notice may be sent to **ALL** residents who will remain in the project after rehabilitation **including** those who may be required to move temporarily during the rehabilitation period. It also applies to tenants who will be permanently moved to another unit **within** the same building/complex. This notice needs to inform the tenant that:

The Applicant’s request for HOME funding was approved, that the rehabilitation will begin soon, and that the tenant will not be displaced. If the tenant will be “Temporarily” relocated, the notice should include:

- An explanation of the applicable policies covering the temporary relocation, including:
 - Project Schedule--- the date and approximate duration of the temporary relocation (not to exceed 1 year)
 - Address of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period
 - Reasonable terms and conditions under which the person may continue to lease and occupy the property upon completion of the project
 - Costs that will be reimbursed
 - Advisory services which will be available to them. If a person is ineligible for relocation assistance (i.e., an Alien not lawfully present in the U.S. or an Unlawful occupant), HUD

policy requires that such persons be provided with a written notice of their ineligibility for relocation assistance, the reason they are ineligible, and their right to appeal the Agency's determination.

3) 90 Day / 30 Day Notices

For temporary relocation ONLY, the 90-day notice is not mandatory. However, whenever possible we would suggest that it be given to the tenants, just as a common courtesy to help them be better prepared for the upcoming move. **Remember, the key element of Temporary Relocation is “Reasonableness”.**

If using the 90-Day Notice that notice should:

- State the specific date by which the property must be vacated **or**
- Specify the earliest date by which the occupant may be required to move and indicate that the occupant will receive a vacate notice indicating, **at least 30 days in advance**, the specific date by which he or she must move.

30 Day Notice

If you gave the specific date by which the property must be vacated in the 90-Day Notice, the 30-Day Notice is not necessary. **However, if you did not give the specific date in the 90-Day notice, you will need to send the vacate notice at least 30 days in advance for all temporary relocations.**

At a minimum, HUD recommends that a “30 days’ notice to move” be provided to persons who will not be permanently displaced but who will need to be temporarily relocated. Shorter notices periods *may* be appropriate based on urgent need due to danger, health or safety issues or if the person will be temporarily relocated for only a short period of time.

Please contact COA-OFFICE OF HOUSING if an instance for which you believe a shorter notice is warranted.

It is extremely important that you provide the appropriate notices listed above to **ALL** tenants in the project, **even if the tenant will not be asked to make any type of move**. All tenants in the development need to be kept informed. If a tenant moves permanently from the property and had not been given timely notices, it is HUD's position that that person will usually qualify as a “displaced person” and be entitled to claim full relocation benefits. Tenants must be given timely information essential in making an informed judgment about a move.

Proper and Timely notices are crucial. *It is permissible, to combine the information required in the “Notice of Non-Displacement to Residential Tenant” with the “General Information Notice”. You may also include the information required in the “90-Day Notice” and make one combined notice if everything required by each notice is covered in the combined notice.*

Suitable Housing (for Temporary Relocation)

- The “temporary relocation” unit need not be comparable, but it must be suitable for the tenant's needs - COA-DGCD Relocation Policy (Rev. 10/2008) Page 14 of 38 Pages. **The unit must be decent, safe, and sanitary.**

- Be sure that the “temporary unit” is inspected and approved before the tenant moves into it (even if the tenant finds his/her own unit). The CHAPTER 8 HUD Checklist (HUD-52580) may be used to document the inspection. We do not want to put anyone in an unsafe or unsanitary environment. **Please provide COA-DGCD with a copy of all HUD inspection forms (HUD-52580A) showing approval.**
- Temporary relocation units can be in hotel rooms with no cooking facilities, if necessary, as long as meal stipends are provided for the household and the conditions and terms of the temporary relocation remain “reasonable”. COA-BUREAU OF HOUSING will use the Federal government’s per-diem rate as a guideline for meal reimbursement, using one-half of the daily rate for children in the household who are under 10 years of age.
- If a tenant claims to be paying rent to a friend or a family member, you will need to document that the rent has been paid and that the housing is suitable.
- Upon return to the rehabilitated development, the family must be offered a unit that is safe and sanitary and appropriate for the household’s size. It will also need to be affordable for the family.

Also, be aware that temporary relocation is limited to 1 year or less. Any residential tenant temporarily relocated beyond 1 year must be offered permanent relocation assistance. Keep in mind, that if at some point during the tenant’s temporary relocation, for whatever reason, it becomes evident that the resident will become permanently displaced...at that point the tenant will become a “Displaced Person” and be eligible for URA benefits listed in the next CHAPTER.

Appendix G: Rehabilitation Standards

The following rehabilitation standards are requirements for all City of Atlanta, federally funded projects and pertain to all single family and multifamily residential units.

Minimum Rehabilitation Standards

All gut rehabilitation or new construction (i.e., general replacement of the interior of a building that may or may not include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls) of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes.

All gut rehabilitation or new construction of mid- or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20 percent (which is the Energy Star standard for multifamily buildings piloted by the Environmental Protection Agency and the Department of Energy).

Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken, e.g., replace older obsolete products and appliances (such as windows, doors, lighting, hot water heaters furnaces, boilers, air conditioning units, refrigerators, clothes washers and dishwashers).

1 – Health & Safety

Contaminants [GREEN STANDARD]	
Repair Standard	Minimum Life – 5 years

N/A	
Replacement Standard	Minimum Life – N/A
<p>All materials installed will meet the following standards to minimize the presence of Volatile Organic Compounds (VOC) and Formaldehyde:</p> <ul style="list-style-type: none"> • All paints and primers must meet the most recent Green Seal G-11 Environmental Standard. Http://www.greenseal.org/certification/standards/paints and coatings.pdf • Adhesives must comply with Rule 1168 of the South Coast Air Quality Management District. Http://www.aqmd.gov/rules/reg/reg11/r1168.pdf • All caulks and sealants, including floor finishes, must comply with regulation 8, rule 51, of the Bay Area Air Quality Management District. • All particleboard components will meet ANSI A208.1 for formaldehyde emission limits, or all exposed particleboard edges will be sealed with a low-VOC sealant or have a factory-applied, low-VOC sealant prior to installation. All MDF edges will meet ANSI A208.2 for formaldehyde emission limits, or all exposed MDF edges will be sealed with a low-VOC sealant or have a factory-applied, low-VOC sealant prior to installation. 	

Lead Based Paint (LBP) [GREEN STANDARD]	
Repair Standard	Minimum Life – 5 years
<p>For all houses constructed prior to 1978 – four (4) floors, two (2) windowsills and two (2) window troughs (all randomly selected) plus a blank sample must be submitted to an EPA-accredited lead analytical laboratory and the dust samples must pass a dust wipe test for lead content as per the protocol in the HUD Guidelines. Lead-safe work practices must be followed, and only certified abatement contractors used to perform the work. See: Http://www.hud.gov/offices/lead/lbp/hudguidelines/</p>	
Replacement Standard	Minimum Life – 20 years
<p>When stabilization of surfaces containing LBP is impractical, the most affordable solution for abatement of the component will be chosen. Walls containing LBP may be covered with drywall or gutted and replaced with drywall. Trim and other wood or metal components containing LBP may be removed and replaced with similar materials. Lead-safe work practices must be followed, and only certified abatement contractors used to perform the work.</p>	

Asbestos [GREEN STANDARD]	
Repair Standard	Minimum Life – N/A
<p>Non-friable intact Asbestos materials that are not creating a hazard such as cementitious exterior wall shingles may be left intact and painted if appropriate. Asbestos-resilient floor tiles may be labeled as such and covered with underlayment and new resilient flooring.</p>	
Replacement Standard	Minimum Life – N/A
<p>Friable asbestos components such as boiler or pipe insulation, badly deteriorated cementitious shingles or deteriorated flooring will be removed and, if necessary, replaced with non-hazardous materials.</p>	

Radon [GREEN STANDARD]	
Repair Standard	Minimum Life – 5 years
<p>All housing in this program will be subject to a “Short Term” Radon Test, and if the result is a reading of 4 pCi/L or higher, a follow-up “Short Term” test will be performed. When a second test is required, average the results. If the average is above 4 pCi/L, remediation will be required.</p>	
Replacement Standard	Minimum Life – 20 years
<p>If, as a result of the testing above, there is a presence of Radon at or above the 4 pCi/L level, remediation will be undertaken per the EPA guidance in their Consumer’s Guide to Radon Reduction. Http://www.epa.gov/radon/pubs/consguid.html</p>	

Mold [GREEN STANDARD]	
Repair Standard	Minimum Life – N/A
Any presence of mold is unacceptable and must be addressed per the National Center for Healthy Housing protocol “Creating a Healthy Home.” http://www.nchh.org/Portals/0/Contents/FloodCleanupGuide_screen .pdf	
Replacement Standard	Minimum Life – N/A
All carpeting, drywall or other gypsum-based wall coverings or any other non-structural components with mold present will be removed and replaced. The National Center for Healthy Housing protocol “Creating a Healthy Home” will be followed for remediation of structural components.	

Fire Safety – Egress	
Repair Standard	Minimum Life – N/A
N/A	
Replacement Standard	Minimum Life – N/A
Egress windows are required in all new sleeping and living areas unless other secondary means of escape requirements are met. The minimum dimensions for egress window clear openings are 20” wide by 24” tall, with a clear opening of 5.7 square feet. No bedrooms should be created in attics or basements unless Life Safety Code egress requirements are met.	

Fire & CO Alarms [GREEN STANDARD]	
Repair Standard	Minimum Life – 5 years
Existing fire and smoke, carbon monoxide and security systems that meet code will be repaired to operating condition.	
Replacement Standard	Minimum Life – N/A
Directly wired smoke detectors are required on each dwelling floor and in all bedrooms. CO detectors are required with all fuel-burning furnaces and water heaters in sleep areas and on each floor level.	

2 – Site

Grading [GREEN STANDARD]	
Repair Standard	Minimum Life – 5 years
All grading adjacent to the building and for a distance of at least 10 feet away from the building will slope away from the structure at a pitch of at least 1 inch per foot. All bare earth will be reseeded or sod will be installed to cover.	
Replacement Standard	Minimum Life – N/A
N/A	

Fencing	
Repair Standard	Minimum Life – 3 years
Fencing on property lines is preferred. If repairs are needed, replacing CHAPTERs in kind is permissible if the budget permits.	
Replacement Standard	Minimum Life – N/A
Wholesale replacement of deteriorated fencing is discouraged and should only be undertaken if the budget permits.	

Paving & Walks [GREEN STANDARD]	
Repair Standard	Minimum Life – 5 years

Essential paving, such as front sidewalks and driveways with minor defects, will be repaired to match. Tripping hazards greater than 3/4" must be addressed. Non-essential, highly deteriorated paving, such as sidewalks that are unnecessary, will be removed and appropriately landscaped.

Replacement Standard	Minimum Life – N/A
Un-repairable essential walks and driveways will be replaced with permeable paving when financially feasible or concrete per City Ordinance. Wood-framed, handicapped-accessible ramps are an eligible expense.	

3 – Exterior Building Surfaces

Exterior Cladding [GREEN STANDARD]	
Repair Standard	Minimum Life – 10 years
Siding and trim will be intact and weatherproof. All exterior wood components will have a minimum of one continuous coat of paint, and no exterior painted surface will have any deteriorated paint. Buildings designated as historic will have existing wood siding repaired in kind. New exterior wood will blend with existing and will be spot-primed and top-coated in a lead-safe manner.	
Replacement Standard	Minimum Life – N/A
Buildings not designated as historic may have siding replaced with vinyl siding to match the existing configuration. CertainTeed, Mastic, and Wolverine brands are approved. If replaced, soffit material will be vented/perforated vinyl.	

Exterior Porches	
Repair Standard	Minimum Life – 5 years
Deteriorated concrete porches will be repaired when possible. Unsafe wood porch components will be repaired with readily available materials to conform closely to historically accurate porches in the neighborhood. Porch repairs will be structurally sound, with smooth and even decking surfaces. Deteriorated wood structural components will be replaced with preservative-treated wood.	
Replacement Standard	Minimum Life – N/A
Porches on building designated as historic will be rebuilt to conform closely to historically accurate porches in the neighborhood. Decks on non-historic porches will be replaced with 5/4" preservative-treated decking. Replaced railings will meet code. Replaced wood structural components will be preservative-treated.	

Exterior Railings	
Repair Standard	Minimum Life – 5 years
Existing handrails will be structurally sound. Guard rails are required on any accessible area with a walking surface over 30" above the adjacent ground level. Sound railings may be repaired if it is possible to maintain the existing style. On historic structures railing repairs will be historically sensitive.	
Replacement Standard	Minimum Life – N/A
Handrails will be present on one side of all interior and exterior steps or stairways with more than two risers and around porches or platforms over 30" above the adjacent ground level and will meet local codes. Handrails and guard rails will conform to the style of similar components in the neighborhood. On historic structures new railings will be historically sensitive.	

Exterior Steps & Decks	
Repair Standard	Minimum Life – 5 years
Steps, stairways, and porch decks will be structurally sound, reasonably level, with smooth and even surfaces. Repairs will match existing materials.	
Replacement Standard	Minimum Life – N/A

In non-historic structures wood decking may be replaced with 5/4" X 6" preservative-treated material and new steps will be constructed from nominal 2" preservative-treated wood. On historic structures new wood decking will be 3/4" clear T & G fir, primed on all 6 sides before installation.

4 – Foundations & Structure

Firewalls	
Repair Standard	Minimum Life – 5 years
Party walls will be maintained without cracks and plaster deterioration and covered with 5/8" type X gypsum, glued and screwed to structure.	
Replacement Standard	Minimum Life – N/A
When frame walls and floors adjoining other dwellings are gutted, new wall finish installations will conform to local requirements for fire ratings. (Subject to budget confines)	

Foundations	
Repair Standard	Minimum Life – 15 years
Foundations will be repaired to be sound, reasonably level, and free from movement.	
Replacement Standard	Minimum Life – N/A
Foundation replacements are beyond the scope of the program.	

Structural Walls	
Repair Standard	Minimum Life – 15 years
Structural framing and masonry will be free from visible deterioration, rot, or serious termite damage, and be adequately sized for current loads. Prior to rehab, all sagging floor joists or rafters will be visually inspected, and significant structural damage and its cause will be corrected.	
Replacement Standard	Minimum Life – N/A
New structural walls will be minimum 2" x 4", 16" OC. All exterior walls that are part of the building envelope (the air barrier and thermal barrier separating the conditioned space from the non-conditioned space) will be insulated with a minimum R-13 insulation and sheathed to code.	

Additions	
Repair Standard	Minimum Life – N/A
N/A	
Replacement Standard	Minimum Life – 60 years
New additions are not acceptable within the limited repair program.	

5 – Windows & Doors

Interior Doors	
Repair Standard	Minimum Life – 5 years
Baths and occupied bedrooms will have operating doors and lock sets.	
Replacement Standard	Minimum Life – N/A
Hollow-core, pressed-wood product consistent with the style of existing doors including a brass-plated bedroom lock set.	

Exterior Doors	
Repair Standard	Minimum Life – 5 years
Exterior doors will be solid, weather-stripped and will operate smoothly. They will include a peep site, a dead bolt, and an entrance lock set.	
Replacement Standard	Minimum Life – N/A

Replacement doors at the front of the property for historically significant buildings will be historically sensitive. Steel, six-panel doors may be installed at entrances not visible from the front street and on the front of the property for buildings that are not historically significant. Dead bolt locks will be installed on all exterior doors keyed to match. All new doors will be weather-stripped to be airtight.

Windows [GREEN STANDARD]

Repair Standard	Minimum Life – N/A
All windows will operate, remain in an open position when placed there, lock when closed and the open CHAPTER will be covered with a screen. (Screens only required if HVAC is not installed).	
Replacement Standard	Minimum Life – N/A
Windows that are not repairable, or that are older and obsolete, may be replaced and will meet the ENERGY STAR standard for this geographic region. http://www.energystar.gov/index.cfm?c=windows_doors.pr_anat_window Windows on key façades of historically sensitive properties will be wood of the style original to the building. New windows on other properties may be vinyl and double-glazed.	

Basement Windows

Repair Standard	Minimum Life – 5 years
A minimum of 2 basement windows on opposite sides of the building must be operable for ventilation, in good working order, and lockable.	
Replacement Standard	Minimum Life – N/A
Basement windows may be replaced with glass block. If so, a minimum of 2 glass block windows on opposite sides of the building must have operable and lockable center vents.	

6 – Roofing

Flat & Low-Slope Roofing

Repair Standard	Minimum Life – 2 years
Built-up roofing that is leak-free will be re-coated and flashing and accessories repaired if their minimum life is questionable.	
Replacement Standard	Minimum Life – N/A
The most cost-effective roof – either 3-ply, hot built-up or EPDM – will be installed.	

Pitched Roofs

Repair Standard	Minimum Life – 5 years
Missing and leaking shingles and flashing will be repaired on otherwise functional roofs. Slate, metal and tile roofs will be repaired when possible. Antennae will be removed.	
Replacement Standard	Minimum Life – N/A
No more than 2 layers of roofing are permitted. Fiberglass, asphalt, 3-tab, class A shingles with a prorated 25-year warranty with a continuous ridge vent will be installed over 15-lb. felt with new drip edge on all edges.	

Gutters & Downspouts [GREEN STANDARD]

Repair Standard	Minimum Life – 5 years
Gutters and downspouts must be in good repair, leak free and collect storm water from all lower roof edges. Concrete splash blocks will be installed to move water away from the foundation. The system must move all storm water away from the building and prevent water from entering the structure. In addition to positive drainage away from the building, outlets will be a minimum of 5 feet away from the foundation.	

Replacement Standard	Minimum Life – N/A
5” aluminum gutters with gutter guards and 3x4 downspouts will be installed and collect storm water from all lower roof edges. Concrete splash blocks will be installed to move water away from the foundation. The system must move all storm water away from the building and prevent water from entering the structure. In addition to positive drainage away from the building, outlets will be a minimum of 5 feet away from the foundation.	

7 – Insulation & Ventilation

Insulation [GREEN STANDARD]	
Repair Standard	Minimum Life – N/A
N/A	
Replacement Standard	Minimum Life – 20 years
The envelopes of all homes of units will have a continuous air barrier and a continuous thermal barrier that is in contact with the air barrier. Attic insulation shall be a minimum of R38 with soffit baffles installed when there are soffit vents to maintain ventilation at the eaves. All exterior walls and floors over a crawl space opened during renovations shall be insulated with un-faced fiberglass batts or damp spray cellulose to R13 for 2x4 framing and R19 for 2x6 framing. Whenever financially feasible, 1-inch, foil-faced polyisocyanurate foam board will be added under new siding. Rim joists will be insulated to R19 with either foil-faced foam board or Class 1-rated spray foam. Crawl space walls shall be insulated with 1-inch, foil-faced polyisocyanurate foam board and a 6-mil plastic vapor barrier will be installed continuously over the ground to the sill plate with all seams sealed. Improve insulation in floor so that it is in contact with the subfloor and install a poly/plastic ground cover to completely cover the floor of the crawl space with a minimum of 6 mil poly. The 10-mil poly/plastic is recommended because of its durability. Upgrade the insulation value in the attic from a typical R-19 value to R-30 or for attics with no insulation, insulate attic to R-30. If conditions are suitable enclose crawl space with insulation in floor or walls and place a commercial grade dehumidifier in the crawl space. The ENERGY STAR Thermal Bypass Inspection Checklist shall be completed for each home. http://www.energystar.gov/ia/partners/bldrs_lenders_raters/downloads/Thermal_Bypass_Inspection_Checklist.pdf	

Whole House Ventilation [GREEN STANDARD]	
Repair Standard	Minimum Life – 5 years
All homes shall meet the most recent ASHRAE 62.2 standard by using one bathroom fan continuously operating at a verified CFM rate sufficient to meet the ASHRAE standard and creating ≤ 0.3 Sones of fan noise. The fan will also have a ≥ 80 CFM boost function switched one of three ways: by a switch at the entrance, with an adjustable time-delay function that runs the fan for an additional period after the switch is turned off; or a motion detector with an adjustable time-delay function that runs the fan for an additional period after the motion detector ceases to see motion; or by a humidistat.	
Replacement Standard	Minimum Life – N/A
As stated in the Repair Standard	

Bath Ventilation [GREEN STANDARD]	
Repair Standard	Minimum Life – N/A
N/A	
Replacement Standard	Minimum Life – 10 years
One bathroom must have a bath fan that meets the Whole House Ventilation requirement and also have a ≥ 80 CFM boost function switched one of three ways: by a switch at the entrance, with an adjustable time-delay function that runs the fan for an additional period after the switch is turned off;	

or a motion detector with an adjustable time-delay function that runs the fan for an additional period after the motion detector ceases to see motion; or by a humidistat. Any additional bathrooms must be mechanically vented to the ≥ 80 CFM standard with the time-delay switching described above.

Kitchen Ventilation [GREEN STANDARD]

Repair Standard	Minimum Life – 2 years
All kitchens must have functional mechanical ventilation operating at a minimum 120 CFM.	
Replacement Standard	Minimum Life – N/A
All kitchens must have mechanical ventilation operating at a maximum of 20 Sones and producing a minimum of 150 CFM after accounting for ducting losses. All ductwork will be heavy gauge galvanized metal, air tight with mastic-sealed seams (no duct tape). It is preferred that mechanical ventilation exit at side walls and not at the soffit to minimize the potential for ice damming.	

Roof Ventilation [GREEN STANDARD]

Repair Standard	Minimum Life – 5 years
1 square foot of free venting must be supplied for every SF of area directly under the roof if there is no soffit venting. 1 square foot of free venting must be supplied for every 300 SF of area directly under the roof if 20% of the venting is soffit vent and if the living space ceiling directly below the roof has a rating of one perm or less. (1 perm is achievable with a coating of ICI Dulux Ultra Hide Vapor Barrier paint 1060-1200 per manufacturer’s instructions.)	
Replacement Standard	Minimum Life – N/A
The venting requirement is the same as with the Repair Standard above with a strong preference for a combination of ridge vents, soffit vents and the one perm-rated ceiling required for the 1 to 300 ratio.	

8 – Interior Standards

Interior Walls & Ceilings

Repair Standard	Minimum Life – 3 years
Holes, cracks and deteriorated and un-keyed plaster will be repaired to match the surrounding surfaces. All visual surfaces will be stabilized to minimize lead paint hazards using premium vinyl acrylic paint.	
Replacement Standard	Minimum Life – N/A
When necessary, plaster will be replaced by ½” gypsum board. Fire-rated assemblies will be specified on a project-by-project basis as required by local codes.	

Flooring [GREEN STANDARD]

Repair Standard	Minimum Life – 3 years
Bathroom, kitchen and other water-susceptible floor areas will be covered with water-resistant flooring that is free from tears or tripping hazards. Damaged wood floor will be repaired. When existing deteriorated carpet is installed over hardwood floors, the hardwood will be refinished whenever possible. Basement floors will be continuous concrete at least 1" thick.	
Replacement Standard	Minimum Life – N/A
Baths will receive resilient sheet goods over plywood underlayment, and kitchens will receive resilient sheet goods or tile over plywood underlayment. Whenever possible rooms other than kitchens and baths with existing wood flooring will be maintained as wood floors and refinished when appropriate. Rooms other than kitchens or baths without usable wood floors may be finished with carpet and associated products that are Carpet and Rug Institute’s Green Label certified. New basement slabs will be at least 3" thick and have a 6-mil vapor barrier.	

Closets

Repair Standard	Minimum Life – 5 years
Existing closets with a minimum depth of 2 feet will be maintained in good repair and have a shelf and clothes rod.	
Replacement Standard	Minimum Life – N/A
New closets may be created if there is a significant lack of storage space and the budget permits. New closets will have a depth of 2 feet and include a shelf and clothes rod.	

Kitchen Cabinets & Countertop [GREEN STANDARD]	
Repair Standard	Minimum Life – 3 years
Kitchens will have a minimum of 10 feet of countertop with base and wall cabinets (or dishwasher) to match. Existing cabinets with hardwood doors and face frames may be repaired if in good condition. All cabinets will be sound and cleanable.	
Replacement Standard	Minimum Life – N/A
New kitchen cabinets will meet the ANSI A208.1 and A208.2 standard for formaldehyde content of particleboard and MDF or have exposed edges of particleboard and MDF sealed to prevent the out-gassing of formaldehyde. Cabinets will have hardwood doors and face frames. There will be a minimum of 10 lineal feet of post-formed countertop with corresponding base cabinets and wall cabinets, and a dishwasher. Corners in countertop designs are permitted if factory assembled. A drawer base (12” or 15”) will be included in new cabinetry. A plastic laminate panel to match the countertop will be installed as a base cabinet to wall cabinet backsplash behind the range and extending 6 inches past the range on both sides, or if the range is in a corner along the side wall and trimmed with chrome metal edging.	

9 – Electric

Ground Fault Interrupter Circuits	
Repair Standard	Minimum Life – 3 years
Non-functioning GFCIs will be replaced. Kitchen counter, bath and laundry receptacles within 6' of a sink will be replaced with a GFCI-protected receptacle or protected by a GFCI device.	
Replacement Standard	Minimum Life – N/A
Kitchen counter, bath and laundry receptacles within 6' of a sink will be replaced with a GFCI-protected receptacle or protected by a GFCI device.	

Exterior Lights [GREEN STANDARD]	
Repair Standard	Minimum Life – N/A
N/A	
Replacement Standard	Minimum Life – N/A
Installation of front and back fluorescent porch lights with dusk to dawn operation feature.	

Passage Lighting [GREEN STANDARD]	
Repair Standard	Minimum Life – 7 years
All lights and switches in hallways, stairs and other passages will be operable and safe. Existing fixtures with incandescent lamp fittings will have minimum 7W CFL replacement lamps installed.	
Replacement Standard	Minimum Life – N/A
All halls, stairs and rooms necessary to cross to other rooms and stairways must be well lit and controlled by a 3-way switch using concealed wiring. Attics, basements and crawl spaces must have utility fixtures. All new light fixtures will be ENERGY STAR labeled.	

Kitchen Electric Distribution

Repair Standard	Minimum Life – 5 years
Existing receptacles, fixtures and switches will be safe and grounded.	
Replacement Standard	Minimum Life – N/A
Permanently installed or proposed stoves, refrigerators, freezers, dishwashers and disposals, washers and dryers will have separate circuits sized to N.E.C. Two separate 20-amp counter circuits are required with each kitchen area.	

Interior Electric Distribution	
Repair Standard	Minimum Life – 7 years
Exposed knob and tube will be replaced. Every room will have a minimum of two duplex receptacles, placed on separate walls and one light fixture or receptacle switched at each room entrance. Where the source wiring circuit is accessible (e.g. first floor above basements, in gutted rooms, etc.), receptacles will be grounded. All switch, receptacle, and junction boxes will have appropriate cover plates. Wiring will be free from hazard, and all circuits will be properly protected at the panel. Floor receptacles will be removed and a metal cover plate installed. Exposed conduit is allowed. Bedrooms receptacles will be protected by an Arc Fault breaker. There must be one electrical receptacle at the service panel. Basements will have a minimum of 3 keyless bare bulb fixtures switched at the top of the stairs.	
Replacement Standard	Minimum Life – N/A
When a room's wall finishes are removed, it will be rewired to the latest version of the National Electric Code.	

Service & Panel	
Repair Standard	Minimum Life – 10 years
Distribution panels will have a main disconnect, at least 10 circuit-breaker-protected circuits, a 100-amp minimum capacity and be adequate to safely supply existing and proposed devices. If a working central air conditioning system is present, the minimum service will be 150 amp.	
Replacement Standard	Minimum Life – N/A
200-amp service with a main disconnect panel containing at least 30 circuit breaker positions. (not applicable to apartment)	

10 – Plumbing System

Drain, Waste, Vent Lines	
Repair Standard	Minimum Life – 1 year
Waste and vent lines must function without losing the trap seal.	
Replacement Standard	Minimum Life – N/A
When walls are removed exposing vent and waste lines those lines will be reworked to the current mechanical code.	

Plumbing Fixtures [GREEN STANDARD]	
Repair Standard	Minimum Life – 3 years
All fixtures and faucets will have working, drip-free components. Toilets with greater than a 1.6 GPF rating will be replaced with a maximum 1.3 GPF model.	
Replacement Standard	Minimum Life – N/A
Single lever, metal faucets and shower diverters with 15-year, drip-free warranty and maximum 2.0 GPM flow. White ceramic low-flow toilets (1.3 Gal), double bowl stainless steel sinks, and fiberglass tubs with surrounds. It is recommended that items with a WaterSense label be installed to meet this standard.	

Plumbing Minimum Equipment [GREEN STANDARD]	
Repair Standard	Minimum Life – 3 years
Existing equipment will be repaired to conform to the Housing Quality Standards.	
Replacement Standard	Minimum Life – N/A
Every dwelling unit will have a minimum of one single bowl sink with hot and cold running water in the kitchen and at least one bathroom containing a vanity with a sink, and a shower/tub unit, both with hot and cold running water, and a toilet. Redesigned kitchens will include an ENERGY STAR-labeled dishwasher.	
http://www.hudnsphelp.info/media/resources/GuidanceonNSPEligibleAppliancePurchases.pdf	

Water Heaters [GREEN STANDARD]	
Repair Standard	Minimum Life – 7 years
Each housing unit will have a working water heater less than 3 years old with a minimum capacity of 40 gallons if it is gas-fired. Gas water heaters more than 3 years old may be repaired if it is clear that a repair will make it operable. All electric water heaters will be replaced with a gas-fired model.	
Replacement Standard	Minimum Life – N/A
All units will have a minimum 40-gallon, gas-fired water heater with a 10-year warranty installed to the mechanical code and Energy Star-labeled. High efficiency power-vented or sealed combustion tankless models are required. Standards also apply to boilers. If the combustion is not sealed, isolate equipment from conditioned space by locating the equipment within a sealed and insulated combustion closet.	

Water Supply	
Repair Standard	Minimum Life – 10 years
The main shut off valve must be operable and completely stop the flow of water to the house. All fixtures must be leak-free and deliver sufficient cold water and, where applicable, hot water.	
Replacement Standard	Minimum Life – N/A
The main shut off valve must be operable and completely stop the flow of water to the house and should be replaced if it does not. Lead and galvanized pipe that is part of the water service or the distribution system will be replaced with copper. All fixtures will have brass shut off valves. One freeze-protected exterior hose bib is required.	

11 – HVAC

Air Conditioning [GREEN STANDARD]	
Repair Standard	Minimum Life – N/A
Non-functioning, non-repairable air conditioners will be removed and drained of all CFCs. Existing central air conditioning will be inspected, serviced and refurbished to operate safely.	
Replacement Standard	Minimum Life – N/A
New HVAC systems will have a rough-in installed for air conditioning (≥ 13 SEER) and will be Energy Star-labeled.	

Distribution System	
Repair Standard	Minimum Life – 5 years
Duct work and radiator piping will be well supported, insulated in unconditioned space and adequate to maintain 68°F measured 36" off the floor when the outside temperature is the average yearly minimum, in all habitable and essential rooms. All duct work will be insulated to R-7, sealed at all seams with mastic (not tape) and pressure tested to eliminate leakage.	
Replacement Standard	Minimum Life – 25 years

All duct work will be insulated to R-7, sealed at all seams with mastic (not tape), pressure tested to eliminate leakage and run in concealed space.
--

Heating System [GREEN STANDARD]	
--	--

Repair Standard	Minimum Life – 5 years
------------------------	------------------------

Workable existing heating systems will be inspected and serviced to operate in a safe manner. Regardless of condition, resistance electric heating systems will be removed and replaced with systems as described below, unless the home has either a very low heating load to super-insulation, solar gain or a mild climate.
--

Replacement Standard	Minimum Life – 25 years
-----------------------------	-------------------------

Gas-fired heating plants will be rated at $\geq 92\%$ AFUE or better. Oil-fired furnaces will be rated at $> 83\%$ AFUE or better. Oil-fired boilers will be rated at $> 85\%$ AFUE or better. Heat pumps will be rated at ≥ 15 SEER. Setback thermostats are required. When electric resistance heating systems are replaced, soffits for ductwork and/or new distribution pipes for hot water heating systems will be provided. Up to 4 lineal feet of resistance electric heating strips per 1000 square feet of floor area may be retained or installed in areas that are not cost effective to heat via ductwork or hot water distribution systems.

12 – Appliances

Kitchen Appliances [GREEN STANDARD]	
--	--

Repair Standard	Minimum Life – 3 years
------------------------	------------------------

All units will have a working and cleanable range. If there is an existing dishwasher in working and cleanable condition, it may be retained with minor repairs.
--

Replacement Standard	Minimum Life – 15 years
-----------------------------	-------------------------

All redesigned kitchens will have ENERGY STAR-labeled appliances where applicable. All new cooking ranges will be electric.

Appendix H: Rental Market Study Guidelines

This Market Study Guideline applies to all Entities seeking HOME funding for multi-family developments. By requiring specific information in all market studies, the OPPO staff will be able to assess the affordable housing need in competing communities through a comparison of similar characteristics. By requiring that all market studies be prepared in accordance with a specific outline, staff will be able to perform a more comprehensive and expeditious review. The objective of the market study is to demonstrate the existence of sufficient need for the proposed affordable rental development. Staff also wants to ensure that the proposed development will not cause an adverse effect in the community. The market study must be conducted at the applicant's expense by a disinterested third party.

All market studies must include a letter, signed by the market analyst, certifying to the following:

1. Name, address, telephone number and e-mail address of person authorizing the market study
2. Qualifications of the organization that prepared the study
3. A statement advising that the organization may be contracted for further questions, if any and have personally examined the site of the proposed development
4. Development type, i.e., acquisition/rehabilitation and/or new construction

5. Date of the market study (Current-within six months of the application date)
6. A statement that there exists no identity of interest between the analyst and the applicant or its principals; and
7. A statement that recommendations and conclusions are based solely on the professional opinion and best efforts of the analyst.

The document should also be inclusive but not limited to the following:

1. Table of Contents
 - Each CHAPTER of the market study must be identified with the corresponding page number.
 - Any exhibit or chart within the market study must be numbered for easy reference.
2. Photographs
 - Good, quality color photographs of the subject property must be included. The photographs must be properly labeled.
 - Properties must include photographs of each side of each building, on-site, community amenities, north, south, east and west orientations of the property with views of the neighborhood, surrounding neighborhoods, and street scenes.
 - Photographs of all comparable developments.
3. A map clearly identifying the location of the development is required.
4. The map should also identify the following:
 - Existing and proposed comparable developments; and
 - Existing grocery stores, medical and/or pharmaceutical facilities, schools, public transportation and other service facilities in the Market Area.
5. Executive Summary and Conclusions – the following must be included:
 - A concise description of the site and adjacent parcels, particularly neighborhood housing.
 - The description must include the development's name, street address (if available), city, county, zip code and census tract number.
 - A statement of assumptions and limited conditions considered by the analyst.
 - Brief summary of the development, including the type of construction (new and/or rehabilitation), number of buildings, number and type of units, proposed gross rents and population served.
 - A brief description of the Market Area.
 - A precise statement of the analyst's opinion of market feasibility including the prospect for long-term performance of the development given housing, market demand estimates including any rent burdened households, demographic trends and economic factors. The statement must include a capture rate of the need for each unit type, based on the targeted income group determined by the gross rent for such unit, in the expected year of market entry.
 - A summary of market related strengths and/or weakness which may influence the subject development's marketability, including but not limited to: compatibility with surrounding uses; the appropriateness of the subject development's location; service facilities; on-site amenities; off-site amenities and their driving distance from the development; units sizes and configurations; and number of units.
 - Precise statement of key conclusions reached by the analyst, supported by the data contained in the market study. These conclusions must include:

- A summary of positive and negative attributes and issues such as any adverse change in local economic conditions due to plant or business closings, increased unemployment rate, general economic decline in the Primary Market Area (PMA) that will affect the property's performance and lease-up, the analyst's observations that would mitigate or reduce any negative attributes, and any recommendations and/or suggested modifications to the proposed development
- An evaluation of the proposed development, given the target population and market conditions. This evaluation should include market justification for the proposed development, including the proposed rents by unit and population type, estimated absorption rate, and should further evaluate the proposed unit, development, and on-site amenities given the market
- Information about any anticipated new developments in the market area that are under construction or proposed that might be competitive with the applicant project; and
- An objective review of past, present, and future demographic and economic trends in the defined Market Area and include an estimate of how the proposed development will be integrated into the Market Area based on existing and proposed comparable rental developments

Appendix I: CHDO Requirements Checklist

Before committing CHDO set-aside funds to an organization, the PJ must certify that the organization:

1. Meets the definition of a “community housing development organization” in §92.2
2. Has a project eligible for the set-aside that the organization will own, develop, or sponsor in accordance with §92.300(a)
3. Has paid staff with demonstrated experience appropriate to the role the organization will play for the project being funded.

Additionally, before committing funds for CHDO predevelopment loans under §92.301 or CHDO operating expenses under §92.208, the PJ must certify that the organization meets the definition of a “community housing development organization” in §92.2 and that other requirements, outlined in CHAPTERS 6 (predevelopment) and 7 (operating) below, have been satisfied.

CHDO Requirements	Rule Citation	Requirement satisfied & documented
ORGANIZATIONAL REQUIREMENTS		
1. Legal structure		
1.1. The organization is organized under state or local law.	§92.2 CHDO Definition ¶ (1)	£
1.2. The organization has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons.	§92.2 CHDO Definition ¶ (7)	£
1.3. The organization has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.	§92.2 CHDO Definition ¶ (2)	£
1.4. The organization is not under the control or direction by any individual or entity seeking to derive profit or gain.	§92.2 CHDO Definition ¶ (3)	£
1.5. The organization has one of the following IRS tax exempt statuses: 1.5.1. Exemption under 501(c)(3) or 501(c)(4); 1.5.2. Subordinate of a central nonprofit under IRC CHAPTER 905; or 1.5.3. A private nonprofit that is a wholly owned subsidiary of an organization that has 501(c)(3) or (c)(4) status and meets the CHDO definition.	§92.2 CHDO Definition ¶ (4)	£
1.6. The organization is not a governmental entity (any of the following: participating jurisdiction, other jurisdiction, Indian tribe, public housing agency, Indian housing authority, housing finance agency, or redevelopment authority).	§92.2 CHDO Definition ¶ (5)	£
2. Independence		
2.1. Public officials & employees of a governmental entity may comprise no more than 1/3 of the board.	§92.2 CHDO Definition ¶ (5)	£

CHDO Requirements	Rule Citation	Requirement satisfied & documented
2.2. Officers and employees of a governmental entity cannot be officers (e.g. CEO, CFO, or COO) or employees of a CHDO.	§92.2 CHDO Definition ¶ (5)	£
2.3. If the organization was created by a governmental entity, then the governmental entity that created the organization may not appoint more than 1/3 of the board members and board members appointed by the governmental entity may not appoint remaining 2/3.	§92.2 CHDO Definition ¶ (5)	£ Applicable
2.4. If the organization was created by a for-profit entity, then 2.4.1 through 2.4.4 apply:		£ Applicable
2.4.1. The for-profit entity that sponsored or created the organization may not have as its primary purpose the development or management of housing, such as a builder, developer, or real estate management firm.	§92.2 CHDO Definition ¶ (3)(i)	£
2.4.2. The for-profit entity that created the organization may not appoint more than 1/3 board members, and for-profit-appointed members may not appoint remaining 2/3 of board.	§92.2 CHDO Definition ¶ (3)(ii)	£
2.4.3. Officers and employees of the for-profit entity that created the organization cannot be officers or employees of the CHDO.	§92.2 CHDO Definition ¶ (3)(iv)	£
2.4.4. The organization must be free to contract for goods & services with others.	§92.2 CHDO Definition ¶ (3)(iii)	£
3. Accountability to the Low-Income Community		
3.1. The organization must have a designated service area (i.e. the “community” in which it produces housing). A community can be a neighborhood or neighborhoods, city, county, metropolitan area, or multi-county area (but not the entire State).	§92.2 CHDO Definition ¶ (8)(i)	£
3.2. At least 1/3 of the board members are: 1) low-income; 2) residents of a low-income neighborhood; or 3) elected representatives of a low-income neighborhood organization.	§92.2 CHDO Definition ¶ (8)(i)	£
3.3. The organization has a formally adopted process for low-income beneficiaries to advise it on decisions regarding design, siting, development, and management of housing.	§92.2 CHDO Definition ¶ (8)(ii)	£
3.4. The organization has at least 1 year of serving the community, or, if it is formed by local churches, service organizations, or neighborhood organizations, its parent organization meets this requirement.	§92.2 CHDO Definition ¶ (10)	£
4. Capacity		
4.1. The organization has financial management systems that conform to 2 CFR 200.302 and 200.303	§92.2 CHDO Definition ¶ (6)	£

CHDO Requirements	Rule Citation	Requirement satisfied & documented
4.2. The organization has paid employees with demonstrated experience relevant to the CHDO's role in undertaking the HOME activity to be funded. (Note: this does not include volunteers, board members, donated or shared staff, or consultants – except as described in 4.1.1. below.)	§92.2 CHDO Definition ¶ (9)	£
4.1.1. During the first year of an organization's funding as a CHDO only, capacity can be demonstrated through a contract with a consultant who has housing development experience to train appropriate key staff of the organization.	§92.2 CHDO Definition ¶ (9)	£
CHDO ROLE		
5. CHDO set-aside project CHDOs can undertake either homebuyer or rental projects, as described below, with CHDO set-aside funds:		£ Applicable
5.1. Homebuyer projects in accordance with §92.254 To qualify under CHDO set-aside, must meet 5.1.1 and 5.1.2:		£ Applicable
5.1.1. Developer: The organization is or will be the owner in fee simple and the developer of new or rehabilitated units for sale to low-income buyers	§92.300(a)(6)	£
5.1.2. The organization will control the development process including, at a minimum, arranging financing for the project and being in sole charge of construction.	§92.300(a)(6)(i)	£
5.2. Rental projects in accordance with §92.252 To qualify under CHDO set-aside, must meet one of the following:		£ Applicable
5.2.1. Own: The organization is or will be owner in fee simple absolute (or will hold a long term ground lease) for at least the period of affordability. If project involves rehabilitation or construction, organization will <u>oversee</u> all aspects of development.	§92.300(a)(2)	£
5.2.2. Develop: The organization is or will be owner in fee simple absolute (or will hold a long term ground lease) for at least the period of affordability, and will <u>be in sole charge</u> of all aspects of the development process.	§92.300(a)(3)	£
5.2.3. Sponsor: Must meet one of the following:		£ Applicable
5.2.3.1. The organization will own and develop project that it will convey at a predetermined time after completion to a designated private nonprofit (that was not created by a governmental entity).	§92.300(a)(5)	£
5.2.3.2. The project will be owned and/or developed by an eligible CHDO affiliate, including: <ul style="list-style-type: none"> • A wholly owned subsidiary of the CHDO; or • A limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or • A limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member. 	§92.300(a)(4)	£

CHDO Requirements	Rule Citation	Requirement satisfied & documented
CHDO PREDEVELOPMENT		
6. CHDO pre-development loan If a project specific pre-development loan is being provided, in addition to meeting CHDO qualification listed in Items 1 – 4 above and having a set-aside eligible project under Item 5, the predevelopment loan must be designated as one of the following two loan types:		£ Applicable
6.1. TA/site control loan: The loan is for allowable costs specified in §92.301(a)(2) for planning an eligible set-aside project.	§92.301(a)	£
6.1.1. Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b).	§92.352	£
6.2. Seed money loan: The loan is for allowable preconstruction costs specified in §92.301(b)(1) for planning an eligible set-aside project.	§92.301(b)	£
6.2.1. Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b).	§92.352	£
CHDO OPERATING		
7. CHDO operating expenses If CHDO operating expenses are being provided, the organization must meet the CHDO qualification requirements listed in Items 1 – 4 above, or the organization must meet requirements in 1-3 and item 4.1 above and be receiving the operating funds specifically to hire staff to meet the requirements in 4.2 above. In addition, the CHDO must meet the following requirements	§92.208(c)	£ Applicable
7.1. The organization is funded from the set-aside for a project under development, or is reasonably expected to be funded from the CHDO set-aside within 24 months	§92.300(e)	£
7.2. The operating expense funds will be used for eligible operating costs that are reasonable and necessary	§92.208(a)	£
7.3. Operating expense funding (including from other PJs and any Pass-Through funding) in the fiscal year will not exceed the greater of \$50,000 or 50% of the organization's total operating expenses in that year	§92.300(f)	£

CHDO CERTIFICATION

8. CHDO Certification

- The organization meets **all** CHDO regulatory thresholds, **AND** one or more of the following:
- The organization has a project meets the project eligibility requirements of 92.300 for a reservation of CHDO set-aside funds.
 - The organization has a project that qualifies for a pre-development loan for eligible costs under 92.301.
 - The organization qualifies for Operating Expenses.

Signature _____ Date _____

Name _____

Title _____

Attachment- COVID Waivers

Regulatory Waivers and Statutory Suspensions

On **April 10, 2020**, CPD issued two memoranda containing statutory suspensions and regulatory waivers for the HOME Program to provide flexibility for jurisdictions to address the COVID-19 pandemic. Several of the suspensions/waivers require the Office of Affordable Housing Programs (OAHP) to make Integrated Disbursement and Information System (IDIS) changes for PJs before they can be employed. These include:

- Increased administrative and planning set-aside
- Reduction or elimination of Community Housing Development Organization (CHDO) set-asides
- Increased CHDO operating set-aside
- Reduction of match requirements

On **December 4, 2020**, HUD issued revisions and updates to these two memoranda.

On **September 27, 2021**, HUD issued additional revisions and updates to the *CPD Memo: Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID-19 Pandemic*.

HOME COVID-19 guidance and the necessary statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME funds to address immediate housing needs and to help prevent spread of the virus. This is divided into two CHAPTERS. CHAPTER I addresses PJs located in areas covered by a major disaster declaration made under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). CHAPTER II describes regulatory waivers available to all HOME PJs, not just those included in a major disaster declaration. Provisions that are not specifically suspended or waived remain in full effect.

CPD Field Offices shall inform PJs of the availability of these suspensions and waivers. A PJ that intends to implement the HOME statutory suspensions and/or regulatory waivers identified below, must send written notification via e-mail to the CPD Division in its local HUD Field Office before it

implements the waiver or suspension. This written notification must identify which suspensions and/or waivers the PJ plans to use.

Waiver and Suspension Authority

CHAPTER 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, authorizes HUD to suspend HOME statutory requirements to assist PJs in addressing the damage in an area for which the President has issued a major disaster declaration under Title IV of the Stafford Act and to assist them in disaster recovery.

Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions subject to statutory limitations. These provisions provide HUD the authority to make waiver determinations for the HOME program.

CHAPTER I: Statutory Suspensions and Regulatory Waivers Available Only to Major Disaster Areas Pursuant to the authority provided in CHAPTER 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justifications that follow, to suspend the statutory provisions and waive the related regulatory provisions described below for PJs covered by a major disaster declaration under Title IV of the Stafford Act because of the COVID-19 pandemic. These suspensions and waivers are also available to any PJ that receives a major disaster declaration related to the COVID-19 pandemic after the date of this memo. These suspensions and waivers are intended to provide maximum administrative flexibility to PJs and better assist low-and very low-income households as they deal with the effects of the COVID-19 pandemic.

10% Administration and Planning Cap

- **Requirement:** Limitation on the Use of HOME Funds for Administrative Costs
- **Citations:** CHAPTER 212(c) of NAHA and 24 CFR 92.207
- **Explanation:** These provisions limit the amount of HOME funds that a PJ may use for administrative and planning costs associated with its HOME award. A PJ may expend up to 10 percent of its annual HOME allocation, plus any program income received, for administrative and planning costs. These provisions are suspended to enable the PJ to expend up to 25 percent of its FY 2019 and FY 2020 allocations and program income received for administrative and planning costs.
- **Justification:** This suspension is required to provide the PJ adequate funds to pay for the increased cost of administering HOME-related activities to address the effects of COVID-19, including attempts to prevent the spread of the virus. The suspension is also intended to relieve the PJ of the burden of identifying other general funds to pay HOME administrative and planning costs at a time when the State and local tax revenues that provide general operating revenue are decreasing.
- **Applicability:** This suspension and waiver applies to the FY 2019 and FY 2020 HOME allocations of PJs that are covered by a major disaster declaration.

CHDO Set-aside Requirement

- **Requirement:** Set-aside for Community Housing Development Organizations (CHDOs)
- **Citations:** CHAPTER 231 of NAHA and 24 CFR 92.300(a)(1)
- **Explanation:** These provisions establish a set-aside for CHDOs. The PJ must use 15 percent of each annual allocation of HOME funds only for housing owned, developed, or sponsored by CHDOs.

- **Justification:** The suspension and waiver are required to relieve the PJ of requirements that may impede the obligation and use of funds to expeditiously assist families affected by the COVID-19 pandemic. Suspension of the CHDO set-aside will immediately make additional HOME funds available for activities such as tenant-based rental assistance for which CHDO set-aside funds cannot be used.
- **Applicability:** The CHDO set-aside requirement is reduced to zero percent for the fiscal year 2017, 2018, 2019, and 2020 allocations of State and local PJs.

Limits and Conditions on CHDO Operating Expense Assistance

- **Requirement:** Operating Assistance for Community Housing Development Organizations (CHDOs)
- **Citations:** CHAPTER 212(g) and 234(b) of NAHA; 24 CFR 92.208 and 24 CFR 92.300(e) and (f)
- **Explanation:** CHAPTER 212(g) of NAHA and 24 CFR 92.208 limit the amount of CHDO operating assistance that a PJ may provide to 5% of each annual HOME allocation. CHAPTER 234(b) of NAHA and 24 CFR 92.300(f) limit the amount of CHDO operating assistance, in combination with certain other forms of assistance, that each CHDO may receive to the greater of 50% of its annual operating budget or \$50,000. 24 CFR 92.300(e) requires a CHDO receiving operating assistance that is not currently receiving CHDO set-aside funding for a specific project must be expected to receive such funding within 24 months.

These statutory provisions are suspended, and regulatory provisions are waived to permit a PJ to provide up to 10% of its FY 2019 and FY 2020 HOME allocations as operating assistance to CHDOs and to permit a CHDO to receive funding to fill operating budget shortfalls, even if the amount exceeds the higher of \$50,000 or 50% of its annual operating budget. Furthermore, PJs will not be required to include a provision in the written agreement with the CHDO that the CHDO is expected to receive CHDO set-aside funds within 24 months of receiving the additional operating assistance, as required in 24 CFR 92.300(e).

- **Justification:** The suspension and waiver of these requirements is required to ensure that CHDOs can maintain operations and retain staff capacity to own, develop and sponsor housing with CHDO set-aside funds to serve communities impacted by the COVID-19 pandemic
- **Applicability:** PJs in areas covered by a major disaster declaration may use up to 10% of their FY 2019 and FY 2020 allocations for CHDO operating assistance. A CHDO receiving increased operating assistance must use the assistance to maintain organizational capacity during the COVID-19 pandemic. CHDOs may receive increased operating assistance under these suspensions and waivers through June 30, 2021.

Matching Contribution Requirement

- **Requirement:** Reduction of Matching Contributions
- **Citation:** 24 CFR 92.218 and 92.222(b)
- **Explanation:** The provisions of 24 CFR 92.218 and 24 CFR 92.222(b) require all HOME PJs to contribute throughout the fiscal year to housing that qualifies as affordable housing under the HOME program. The contributions must total no less than 25 percent of the HOME funds drawn from the PJ's HOME Investment Trust Fund Treasury account. The COVID-19 pandemic has drastically reduced economic activity, reducing state and local tax revenues and placing financial

strain on PJs as they deliver urgently needed public health, emergency housing, education, community and social services. Reducing the matching requirement for PJs in areas covered by a major disaster declaration by 100 percent for FY 2020 and FY 2021 will ease the economic burden on PJs and eliminate the need for them to identify other sources of match for HOME activities.

- **Justification:** Given the urgent housing and economic needs created by COVID-19, and the substantial financial impact the PJ will face in addressing those needs, waiver of these regulations will relieve the PJ from the need to identify and provide matching contributions to HOME projects.
- **Applicability:** This match reduction applies to funds expended by a PJ located in Presidentially declared-disaster area between October 1, 2019, and September 30, 2021.

CHAPTER II: Regulatory Waivers Available to All Participating Jurisdictions

The following regulatory waivers are available to all PJs, not just those PJs covered by a major disaster declaration under Title IV of the Stafford Act. Pursuant to the authority provided in 24 CFR 5.110, I hereby waive the HOME regulatory requirements specified below for all HOME PJs.

Citizen Participation Reasonable Notice and Opportunity to Comment

- **Citation:** 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), and, 24 CFR 91.235(e) (Insular areas) 24 CFR 91.401 (Consortia)
- **Explanation:** The regulations at 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia) set forth the citizen participation requirements for PJs. For substantial amendments to the consolidated plan, the regulations require the PJ to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given. This waiver will permit PJs amending their plans as a result of the COVID-19 pandemic to reduce the comment period to 5 days.
- **Justification:** Given the unprecedented economic disruptions caused by the COVID-19 pandemic, PJs may need to expeditiously reprogram HOME funds to activities that more directly meet their immediate housing needs, including reprogramming funds to cover increased administrative costs or away from other development activities. Requiring these PJs to complete the required public comment period would cause undue delays in the face of urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing need caused by the COVID-19 pandemic.
- **Applicability:** This waiver is in effect for any necessary substantial amendments to FY 2020 and earlier consolidated plans or action plans

Income Documentation

- **Requirement:** Source Documentation for Income Determinations
- **Citations:** 24 CFR 92.203(a)(1) and (2), 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** These CHAPTERs of the HOME regulation require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months. 24 CFR 92.64(a) applies these requirements to Insular Areas.
- **Justification:** This waiver permits the PJ to use self-certification of income, as provided at §92.203(a)(1)(ii), in lieu of source documentation to determine eligibility for HOME assistance

of persons requiring emergency assistance related to COVID-19. Many families affected by actions taken to reduce the spread of COVID-19, such as business closures resulting in loss of employment or lay-offs, will not have documentation that accurately reflects current income and will not be able to qualify for HOME assistance if the requirement remains effective.

- **Applicability:** The waiver applies to individuals and families that have lost employment or income either permanently or temporarily due to the COVID-19 pandemic and who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program. This waiver also applies to homeless individuals and families who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program. Timely provision of this assistance will reduce the spread of COVID-19.

If a PJ chooses to use this waiver availability, the PJ must ensure that self-certified income takes into consideration all income, including any unemployment and emergency benefits the applicant will receive. However, for purposes of an applicant's self-certification, emergency tax relief (commonly referred to as stimulus payments) is not to be included as an emergency benefit. Also, the PJ must arrange to conduct on-site rent and income reviews within 90 days after the waiver period. The PJ must include tenant income certifications in each project file. This waiver remains in effect through December 31, 2020.

On-Site Inspections of HOME-assisted Rental Housing

- **Requirement:** Ongoing Periodic Inspections of HOME-assisted Rental Housing
- **Citation:** 24 CFR 92.504(d)(1)(ii) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** These provisions require that during the period of affordability PJs perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards at §92.251 and to verify the information submitted by the owners in accordance with the income and rent requirements of §92.252. On-site inspections must occur at least once every three years during the period of affordability. 24 CFR 92.64(a) applies these requirements to Insular Areas.
- **Justification:** Waiving the requirement to perform ongoing on-site inspections will help protect PJ staff and limit the spread of COVID-19. To protect PJ staff and reduce the spread of COVID-19, this waiver extends the timeframe for PJs to perform on-site reviews to determine a HOME rental project's compliance with rent and income requirements if the project owner is unable to make the documentation available electronically.
- **Applicability:** The waiver is applicable to ongoing periodic inspections and does not waive the requirement to perform initial inspections of rental properties upon completion of construction or rehabilitation. The waiver is in effect through December 31, 2020. Within 120 days of the end of this waiver period, PJs must physically inspect units that would have been subject to NSPIRE inspections during the waiver period.

Annual Inspection of Units Occupied by Recipients of HOME Tenant-Based Rental Assistance (TBRA)

- **Requirement:** Annual Inspections of TBRA Units
- **Citation:** 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) requirement for annual re-inspections. 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** These provisions require PJs to annually inspect each unit occupied by a recipient of HOME TBRA. 24 CFR 92.64(a) applies these requirements to Insular Areas.

- **Justification:** Waiving the requirement that these annual inspections be performed according to schedule will protect the health of both inspectors and TBRA tenants by observing physical distancing recommendations to limit the spread of COVID-19.
- **Applicability:** The waiver is applicable to annual NSPIRE re-inspections required to occur from the date of this memorandum through December 31, 2020. At the end of this waiver period, PJs must inspect units that would have been subject to NSPIRE inspections during the waiver period within 90 days of the expiration of the waiver. In addition, PJs shall make reasonable efforts to address any tenant-reported health and safety issues during the waiver period.

Four-Year Project Completion Requirement

- **Requirement:** Four-Year Project Completion Deadline
- **Citation:** 24 CFR 92.205(e)(2) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** The provision requires that projects assisted with HOME funds be completed within 4 years of the date that HOME funds were committed. If the project is not complete, in accordance with the definition of “project completion” at 24 CFR 92.2, by the deadline, the project is involuntarily terminated in HUD’s Integrated Data Information System (IDIS), and the PJ must repay all funds invested in the project. The regulations permit a PJ to request an extension of the deadline for up to one-year. 24 CFR 92.64(a) applies these requirements to Insular Areas. **Justification:** This waiver is necessary to provide additional time to permit completion of HOME-assisted projects that may be delayed because of the impact of COVID-19 on project timelines. These delays may occur because of worker illnesses or efforts to reduce the spread of COVID-19, such as smaller construction crews or delays in local permitting or inspections due to government office closures.
- **Applicability:** This waiver applies to projects for which the 4-year project completion deadline will occur on or after the date of this memorandum. The completion deadlines for covered projects are extended to December 31, 2020.

Nine-Month Deadline for Sale of Homebuyer Units

- **Requirement:** Qualification as Affordable Housing: Homeownership
- **Citation:** 24 CFR 92.254(a)(3) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** This provision requires that a homebuyer housing unit developed with HOME funds have a ratified contract for sale to an eligible homebuyer within 9 months of the date of completion of construction or rehabilitation. If there is no ratified sales contract with an eligible homebuyer within 9 months of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with §92.252. 24 CFR 92.64(a) applies these requirements to Insular Areas.
- **Justification:** Many PJs will not be able to meet this deadline because of the COVID-19 pandemic will have on the ability of eligible households to qualify for mortgages due to income losses or to schedule inspections, titles searches, or closings during periods of business closures. The waiver is necessary to prevent the loss of homeownership opportunities for HOME-eligible families and temporarily suspend the required corrective actions of repayment of HOME funds or conversion of the homebuyer units to rental housing.
- **Applicability:** The waiver applies to projects for which the 9-month homebuyer sale deadline occurs on or after the date of this memorandum and extends the deadline for those projects to December 31, 2020. This waiver does not apply to the remaining requirements of the regulation,

including that a homebuyer must receive housing counseling, and that a PJ must determine eligibility of a family by including the income of all persons living in the housing.

Use of HOME Funds for Operating Reserves for Troubled HOME Projects

- **Requirement:** Troubled HOME Projects
- **Citations:** 24 CFR 92.210(a) and (b) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** 24 CFR 92.210 establishes provisions to permit HOME rental projects that are not financially viable (i.e., projects for which operating costs significantly exceed operating revenue) to be preserved through the use of HOME funds to recapitalize project reserves. 24 CFR 92.210(a) requires HUD to review market needs, available resources, and the likelihood of long-term viability of the project before approving this use of HOME funds. 24 CFR 92.210(b) requires a written memorandum of agreement between HUD and the PJ as a precondition of this funding and certain limitations on the amount of funding. 24 CFR 92.64(a) applies these requirements to Insular Areas.
- **Justification:** The waiver is necessary to enable PJs to take rapid action to preserve the financial viability of HOME-assisted affordable rental projects currently under a HOME period of affordability. Because existing tenants in HOME units may be unable to meet their rent obligations due to the economic impact of the COVID-19 pandemic, HOME rental projects may experience operating deficits due to the sudden decrease in rental revenue.
- **Applicability:** The waiver applies to HOME-assisted rental projects currently within the period of affordability established in the HOME written agreement. PJs will not be required to obtain HUD approval or execute a memorandum of agreement with HUD before providing this assistance. PJs may only exercise this waiver authority when the project owner agrees to forego:
1) any distributions of residual receipts resulting from the project throughout the waiver period and for a period of 6 months thereafter; 2) any right under the existing lease agreement or State or local law to pursue legal action against tenants of HOME-assisted units for non-payment of rent and the collection of any fees associated with late payments without prior approval of the PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ.

The PJ may provide additional HOME funds to recapitalize operating deficit reserves for HOME-assisted rental projects if the PJ determines that the project is experiencing operating deficits related to the economic effects of the COVID-19 pandemic during the waiver period. The PJ may only provide this assistance to projects experiencing operating deficits that will not be covered by insurance or other sources (e.g., other private, local, state, or federal funds).

The maximum amount of HOME assistance that may be provided is equal to the total of the project's operating expenses, previously scheduled payments to a replacement reserve, and actual debt service (excluding debt service of loans in forbearance) multiplied by the proportionate share of HOME-assisted units to the total number of units in the project for the period beginning on April 1, 2020 and ending on December 31, 2020. Project operating expenses may be demonstrated by one of the following:

- The Owner's most recent year to date financials for the project
- Certified project-level accounting records covering the most recent 3 months
- Copies of project-level bank statements covering the most recent 3 months.

Project operating expenses may also be adjusted due to COVID-19-related expenditures and foregone expenses due to social distancing measures and other COVID-19-related impacts. An owner may demonstrate these expenses with recent receipts, copies of work orders, revised budgets that have been certified by the project owner as true, accurate representations of current expenditures.

In order to take advantage of this waiver, PJs must amend the HOME written agreement with the project owner to include the amount of HOME funds that will be provided to an operating reserve (i.e., the proportion of total costs attributable to HOME units as described in the paragraph above), the costs eligible to be paid with HOME funds in the operating reserve (i.e., operating expenses, scheduled payments to a replacement reserve, and qualifying debt service), and the documentation the PJ is required to maintain to demonstrate the allowable amounts and eligibility of costs paid with the HOME funds in the operative reserve.

The written agreement must specify that the owner must forego: 1) any distributions of residual receipts during the period this waiver is in effect and for a period of 6 months thereafter; 2) any right under the existing lease agreement or State or local law to pursue legal action against tenants of HOME-assisted units for non-payment of rent and the collection of any fees associated with late payments without prior approval of the PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ.

Within 6 months following the waiver period, the PJ must review the project's records of actual revenue and operating expenses, total amount of HOME funds expended from the operating reserve, and the eligibility of expenses by examining invoices and receipts. The written agreement must require the project owner to repay any expenditures for costs determined to be ineligible and any balance of HOME funds remaining in the reserve after December 31, 2020. Any HOME funds repaid to the PJ must be deposited in the local HOME account and reported as program income in IDIS.

The waiver is effective through December 31, 2020.

Timeframe for a Participating Jurisdiction's Response to Findings of Noncompliance

- **Requirement:** Corrective and Remedial Actions
- **Citations:** 24 CFR 92.551(b)(1) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** 24 CFR 92.551(b)(1) requires that if HUD determines preliminarily that a PJ has not met a provision of the HOME regulations, the PJ must be notified and given an opportunity to respond within a time period prescribed by HUD, not to exceed 30 days. 24 CFR 92.64(a) applies this requirement to Insular Areas.
- **Justification:** The waiver is necessary to permit HUD to provide a PJ with an extended period to respond to findings of noncompliance in recognition of the unanticipated circumstances created by the COVID-19 pandemic. While HUD must continue its oversight function for the HOME Program, requiring PJs to respond to all findings of noncompliance within 30 days may interfere with a PJ's ability to address the unprecedented housing needs caused by the COVID-19 pandemic.
- **Applicability:** The waiver applies to all findings of noncompliance with the HOME regulations issued from the date of this memorandum through December 31, 2020. In the notice of findings, HUD will specify a time period for the PJ's response based on the nature of the noncompliance and required corrective action(s). HUD may also, upon request by the PJ, extend time periods imposed before the date of this memorandum.

Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID-19 Pandemic

HOME-ASSISTED TENANT-BASED RENTAL ASSISTANCE (TBRA) FOR EMERGENCY AND SHORT-TERM ASSISTANCE

HOME – TBRA – Suspensions and Regulatory Waivers

Guidance and the necessary statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME tenant-based rental assistance (TBRA) funds to facilitate urgent housing assistance to the communities and families experiencing financial hardship. It is divided into two CHAPTERs. CHAPTER I addresses PJs located in the areas covered by a major disaster declaration made under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). CHAPTER II describes regulatory waivers available to all HOME PJs not just those PJs included in a major disaster declaration. Provisions that are not specifically suspended or waived remain in full effect.

While HOME program funds are primarily a resource for the physical development of affordable housing, the Department recognizes that the COVID-19 pandemic has caused widespread economic damage and created an unprecedented need for housing assistance among individuals and families directly affected by these unanticipated economic changes. The suspensions and waivers provided will allow PJs to use HOME funds for TBRA to individuals and families experiencing financial hardship as a result of the COVID-19 pandemic, including 1) providing immediate rental assistance to individuals and families seeking housing, 2) assisting households that have housing but face reduced or lost wages, and 3) assisting existing TBRA families that need additional assistance due to reduced or lost wages.

CPD Field Offices shall inform PJs of the availability of these suspensions and waivers. A PJ that intends to implement the HOME statutory suspensions and/or regulatory waivers identified below must send written notification via e-mail to the CPD Division in its local HUD Field Office before it implements the waiver and/or suspension. This written notification must identify which suspensions and/or waivers the PJ plans to use.

Waiver and Suspension Authority

CHAPTER 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, authorizes HUD to suspend, respectively, HOME statutory requirements to assist PJs in addressing the damage in an area for which the President has issued a major disaster declaration under Title IV of the Stafford Act and to assist them in disaster recovery.

Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions subject to statutory limitations. These provisions provide HUD the authority to make waiver determinations for the HOME program.

CHAPTER I: Statutory Suspensions and Regulatory Waivers Available Only to Major Disaster Areas Pursuant to the authority provided in CHAPTER 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justifications that follow, to suspend HOME statutory requirements and waive related regulatory requirements specified below for PJs covered by a major disaster declaration under the Title IV of the Stafford Act because of the COVID-19 pandemic.

Consolidated Plan – HOME Certification, Analysis of Local Market Conditions, and Citizen Participation

- **Citations:** CHAPTER 212(a)(3)(A)(i) of NAHA and 24 CFR 92.209(b) 24 CFR 91.105(c)(2) and (k), 24 CFR 91.215(b)(1) and (e) and 24 CFR 91.225(d)(1) (Local governments), 24 CFR 91.115(c)(2) and (i), 24 CFR 91.315(b)(1) and (e) and 24 CFR 91.325(d)(1) (States), 24 CFR 91.401, 24 CFR 91.415 and 24 CFR 91.425(2)(i) (Consortia), and 24 CFR 91.235(e) and 24 CFR 92.61 (Insular Areas)
- **Explanation:** CHAPTER 212(a)(3)(A)(i) of NAHA requires that a PJ that intends to use HOME funds for TBRA certify that the provision of such assistance is an essential part of its Consolidated Plan based on an analysis of local market conditions. This requirement is codified in 24 CFR 92.209(b) and for Insular Areas 24 CFR 92.61, as well as in the Consolidated Submissions for Community Planning and Development Programs regulations at 24 CFR 91.215(b)(1) and (e) and 91.225(d)(1) (for local governments), 24 CFR 91.315(b)(1) and (e) and 91.325(d)(1) (for States), and 24 CFR 91.415 and 91.425(2)(i) (for Consortia). When amending its Consolidated Plan, a PJ must follow the citizen participation plan it developed and adopted in accordance with 24 CFR 91.105(c)(2) and (k) (for local governments), 24 CFR 91.115(c)(2) and (i) (for States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (for Consortia).

The Citizen Participation Plan must provide citizens with reasonable notice and an opportunity to comment. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given and provide a period of not less than 30 calendar days to allow citizens to submit comments.

This suspension will eliminate: 1) the requirement for PJs to amend their Consolidated Plans to include or revise an analysis of local market conditions before implementing a TBRA program; and 2) the requirement that PJs certify that the use of HOME funds for TBRA is an essential element of the Consolidated Plan and that it has conducted an analysis of local needs. PJs that choose to use HOME TBRA to 3 address the urgent housing needs resulting from the COVID-19 pandemic may do so by amending their Annual Action Plan to reflect the use of HOME funds for TBRA without meeting these requirements.

- **Justification:** Given the unprecedented economic disruptions and associated job losses caused by the COVID-19 pandemic, there is an urgent need for TBRA assistance in communities across the country. Requiring PJs to conduct an analysis of local market conditions, amend their Consolidated Plan, and complete the required public comment period would cause undue delays in commencing TBRA programs to address the urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing needs created by the COVID-19 pandemic.
- **Applicability:** This suspension and regulatory waiver is applicable to a PJ's current 5-year Consolidated Plan and any Consolidated/Action Plans being amended to reprogram funds to TBRA to address housing needs related to the COVID-19 pandemic. Tenant Selection and Targeted Assistance
- **Citation:** CHAPTER 212(a)(3)(A)(ii) of NAHA, 24 CFR 92.209(c) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** CHAPTER 212(a)(3)(A)(ii) of NAHA requires a PJ to establish written tenant selection criteria for its TBRA program. In accordance with 24 CFR 92.209(c), or 24 CFR

92.64(a) for Insular Areas, those criteria must be consistent with the local housing needs and priorities established in the PJ's Consolidated Plan. This suspension will eliminate the need for PJs to develop or revise written tenant selection criteria and will allow PJs to assist individuals requiring immediate housing assistance because of the COVID-19 pandemic.

- **Justification:** Given the sudden onset and severe effects of the COVID-19 pandemic, PJs could not anticipate the urgent, widespread housing needs created by the pandemic or reflect those needs and priorities in the Consolidated Plan. Suspending this provision will provide PJs with greater flexibility to expeditiously use TBRA as a resource to assist individuals and families affected by the COVID-19 pandemic.
- **Applicability:** Suspending CHAPTER 212(a)(3)(A)(ii) of NAHA and waiving 24 CFR 92.209(c) and 24 CFR 92.64(a) for Insular Areas eliminates the requirement for PJs to establish new or revise existing tenant selection criteria for the HOME TBRA program. The statutory suspension and regulatory waiver are in effect through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. However, a PJ must document its criteria for selecting individuals and families to be assisted by the TBRA program.

CHAPTER II: Regulatory Waivers Available to All Participating Jurisdictions

The following regulatory waivers are available to all PJs, not just those PJs covered by a major disaster declaration under Title IV of the Stafford Act. Pursuant to the authority provided in 24 CFR 5.110, I hereby waive the HOME regulatory requirements specified below for all HOME PJs.

Citizen Participation Reasonable Notice and Opportunity to Comment

- **Citation:** 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia)
- **Explanation:** The regulations at 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia) set forth the citizen participation requirements for PJs. For substantial amendments to the Consolidated Plan, the regulations require the PJ to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given. This waiver will permit PJs amending their plans because of the COVID-19 pandemic to reduce the comment period to 5 days.
- **Justification:** Given the unprecedented economic disruptions caused by the COVID-19 pandemic, the need for this type of assistance in communities across the country is clear. Requiring these PJs to complete the required public comment period would cause undue delays in commencing TBRA programs to address an urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing need caused by the COVID-19 pandemic.
- **Applicability:** This waiver applies to any approved Annual Action Plan being amended to reprogram funds to TBRA to address housing needs related to the COVID-19 pandemic. 26

Rent Reasonableness

- **Citations:** 24 CFR 92.209(f) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** In accordance with the HOME regulations at 24 CFR 92.209(f), a PJ must disapprove a lease if the rent is not reasonable, based on an assessment of rents charged for comparable unassisted rental units. The HOME regulations at 24 CFR 92.64(a) applies this

requirement to Insular Areas. This waiver will permit PJs to provide immediate rental assistance to individuals and families seeking housing and assist individuals and families that have housing but are experiencing reduced or lost wages, without requiring an assessment of rents charged for comparable unassisted rental units.

- **Justification:** Given the unprecedented need for rental assistance for individuals facing financial hardship during the pandemic, requiring PJs to conduct a rent comparison prior to providing rental assistance presents an undue administrative burden. PJs must focus on providing immediate housing for income-eligible individuals currently not in stable housing, as well as assistance to income-eligible individuals that currently have housing but are unable to pay rent and/or utilities due to lost or reduced wages. In the latter case, some households affected by sudden economic disruptions may be occupying housing with rents that would exceed a PJ's established rent reasonableness standard. Without this waiver, those households could not be assisted with HOME TBRA.
- **Applicability:** This waiver is applicable to TBRA provided to individuals and tenant households experiencing financial hardship because of a reduction or loss of income. This requirement is waived through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant.

Eligible Tenant-based Rental Assistance Costs and Maximum TBRA Subsidy

- **Citation:** 24 CFR 92.209(a) and (h) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** The HOME regulations at 24 CFR 92.209(a) state that eligible TBRA costs include rental assistance and security deposit payments made to income-eligible households. PJs can also use HOME funds to provide utility deposit assistance if such assistance is provided in conjunction with TBRA or a security deposit payment. The amount of monthly utility costs included in HOME TBRA is limited by the utility allowance established by the PJ for its TBRA program, irrespective of whether those utilities are paid by the landlord or the tenant.

In accordance with 24 CFR 92.209(h), the maximum amount of monthly assistance a PJ may pay to, or on behalf of, a tenant, may not exceed the difference between the PJ's rent standard and 30 percent of the tenant's monthly adjusted income. The PJ must establish a minimum tenant contribution to rent, and a rent standard that is based on local market conditions or the subsidy standards under the CHAPTER 8 Housing Choice Voucher Program. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas.

This waiver will allow PJs to pay the full cost of monthly utilities in addition to rental assistance and security deposit payments for new and existing TBRA families affected by the COVID-19 pandemic. PJs may provide up to 100 percent subsidy for rent, security deposit payments, and utility bills paid by tenants affected by a reduction or loss of income from the COVID-19 pandemic. The waiver also eliminates the need for the PJ to establish utility allowances for different types and sizes of units for its TBRA program, which eliminates a significant administrative burden. 27

- **Justification:** The COVID-19 pandemic has caused widespread loss or reduction of income, significantly affecting the financial stability of households, including existing TBRA families, and rendering many unable to pay rent and/or utilities. Households must be able to maintain the basic utilities required to ensure housing remains safe and sanitary. Permitting PJs to use HOME

funds to pay for utilities will enable affected households to maintain decent, safe and sanitary housing, which necessarily requires electricity, water, and/or gas service during the pandemic.

As individuals experience financial hardship, the amount of assistance required to ensure they remain housed will often exceed the PJ's payment standard. In addition, individuals may be unable to pay the PJ's minimum required tenant contribution toward rent. Requiring PJs to establish or revise payment standards and the minimum tenant contribution to rent policies in the current emergency would be burdensome and delay the provision of TBRA in response to the pandemic.

- **Applicability:** This waiver is applicable to TBRA provided to individuals or families experiencing financial hardship, including existing TBRA families that have experienced a loss or reduction in income due to the COVID-19 pandemic. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant for a term mutually agreed upon by all parties, but not to exceed the December 31, 2020, waiver period. The PJ may make utility payments directly to the tenant or utility company based on utility bills submitted for the assisted unit, either by mail or electronically.

Term of Rental Assistance Contract

- **Citation:** 24 CFR 209(e) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** The HOME regulations at 24 CFR 209(e) state that the term of the rental assistance contract must begin on the first day of the term of the lease. For a rental assistance contract between a PJ and an owner, the term of the contract must terminate upon termination of the lease. For a rental assistance contract between a PJ and a family, the term of the contract is not required to terminate upon the termination of the lease, but no payments may be made after lease termination until the family executes a new lease. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver eliminates the requirement that the rental assistance contract must begin on the first day of the term of lease.
- **Justification:** This waiver is necessary to enable PJs to assist tenants that are currently housed, including existing TBRA households, but have experienced sudden financial hardship because of the COVID-19 pandemic. Because affected households already have an executed lease, it is impossible for the TBRA contract to begin on the first day of the term of the lease.
- **Applicability:** This requirement is waived through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. The PJ's requirement to execute a rental assistance contract with the owner or tenant is not waived. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant for a term mutually agreed upon by all parties, but not to exceed the December 31, 2020, waiver period. 28

Tenant Protections – Lease

- **Citation:** 24 CFR 92.209(g) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** The HOME regulations at 24 CFR 92.209(g) require that each HOME-assisted tenant have a lease that complies with the tenant protection requirements of 24 CFR 92.253(a) and (b). In accordance with 24 CFR 92.253(a), there must be a lease between the tenant and the owner of rental housing assisted with HOME TBRA. The lease must have a term of not less than one year, unless both parties mutually agree to a shorter period. The lease cannot contain any of the prohibited lease terms defined in 24 CFR 92.253(b). The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit PJs to assist individuals currently housed but facing financial hardship, where an executed lease is already in place.
- **Justification:** During the COVID-19 pandemic, PJs may assist individuals that are already in rental units but are unable to pay rent and/or utilities due to job loss or reduced wages. These individuals already have an executed lease that may include one or more of the prohibited lease terms included in 24 CFR 92.253(b). Requiring PJs to immediately execute or amend leases creates an undue administrative burden and may disqualify some in-place tenants from receiving TBRA.
- **Applicability:** In response to the COVID-19 pandemic, the requirement that a tenant assisted by TBRA have a lease that complies with the requirements of 24 CFR 92.253(a) and (b) is waived through December 31, 2020, for rental assistance provided to tenants already housed who have an executed lease. PJs using this waiver authority are required to execute a rental assistance contract with the tenant for a term mutually agreed upon by all parties, but not to exceed the waiver period ending on December 31, 2020. PJs must still comply with all VAWA requirements contained in 24 CFR 92.359 by including, at a minimum, a lease addendum that addresses all VAWA requirements.

Housing Quality Standards

- **Citation:** 24 CFR 92.209(i) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** The HOME regulations at 24 CFR 92.209(i) require that all housing occupied by households receiving HOME TBRA must meet the housing quality standards (NSPIRE) at 24 CFR 982.401. The PJ is required to inspect the unit for compliance prior to occupancy and annually thereafter. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit the PJ to rapidly house or assist individuals affected by the COVID-19 pandemic without requiring an initial NSPIRE inspection.
- **Justification:** The COVID-19 pandemic has created an unprecedented need for rental assistance for tenant households facing financial hardship. PJs must act quickly to address these needs and requiring NSPIRE inspections of all units where HOME TBRA assistance is provided would create an administrative burden and reduce PJs' ability to respond timely to the housing needs created by the pandemic. In addition, requiring initial NSPIRE inspections would increase housing inspectors' risk of contracting or spreading the COVID-19 virus.

- **Applicability:** This waiver is applicable to TBRA provided to tenant households experiencing financial hardship. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. The lead-safe housing requirements of 24 CFR part 35, subpart M, made applicable to units leased by recipients of HOME TBRA by the HOME 29 regulation at 24 CFR 92.355, cannot be waived. Consequently, units built before 1978 must undergo visual evaluation and paint repair in accordance with 24 CFR Part 35, subpart M. PJs using this waiver authority must establish procedures to minimize the risk that tenants are in housing that does not meet NSPIRE, as well as procedures for conducting physical inspections within 120 days following the end of the December 31, 2020, waiver period.

Annual Inspection of Units Occupied by Recipients of HOME TBRA

- **Citation:** 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) and 24 CFR 92.64(a) (Insular Areas)
- **Explanation:** Provisions require PJs to annually inspect each unit occupied by a recipient of HOME TBRA.
- **Justification:** Waiving the requirement that these annual inspections be performed according to schedule will protect the health of both inspectors and tenants by observing physical distancing recommendations to limit the spread of COVID-19.
- **Applicability:** The waiver applies to annual NSPIRE re-inspections required to occur from the date of this memo through December 31, 2020. Within 120 days of the end of this waiver period, PJs must physically inspect units that would have been subject to NSPIRE inspections during the waiver period.

Income Determinations

- **Citations:** 24 CFR 92.203(a)(2) and 24 CFR 92.64(a) (Insular Areas) The HOME regulations at 24 CFR 92.203(a)(2) require the PJ to determine a TBRA tenant's annual income by examining at least 2 months of source documentation evidencing income and projecting anticipated income forward for the next 12 months. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit PJs to follow the regulations at 24 CFR 92.203(a)(1)(ii) in lieu of requiring a review of source documentation. The HOME regulations at 24 CFR 92.203(a)(1)(ii) allow the PJ to obtain a written statement of the amount of the family's anticipated annual income and household size, along with a certification that the information is complete and accurate.
- **Justification:** Given the rapid and unanticipated economic disruptions caused by the COVID-19 pandemic, source documentation from the past two months may not reflect the current financial circumstances of many households. Requiring PJs to determine an individual's annual income using source documentation would be administratively burdensome, may not reflect current or anticipated income, and may result in individuals or families being incorrectly disqualified from receiving TBRA.
- **Applicability:** This waiver is applicable to TBRA provided to individuals or families experiencing financial hardship. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. The PJ must ensure that the tenant's self-certification indicates how the tenant's financial situation has changed, (i.e., job loss or reduced wages), and includes all income, including any unemployment or emergency benefits received by the tenant as a result of the pandemic. However, for purposes of a tenant's self-certification, emergency tax relief (commonly referred to as stimulus payments) should not be

included as an emergency benefit. The PJ must include tenant income certifications in each project file.

Suspensions and Waivers to Facilitate Use of HOME-Assisted TBRA for Emergency and Short-term Assistance in Response to COVID-19 Pandemic