

2021 HOME Program Distribution Statement

Amended Draft



Planning and Housing Development Division
2624 Vermont Ave
PO Box 1535
Bismarck, ND 58502-1535

800/292-8621 or 701-328-8080
800/366-6888 (TTY)

www.ndhfa.org • hfainfo@nd.gov

2021 HOME PROGRAM DISTRIBUTION STATEMENT

The Department of Housing and Urban Development (HUD) has designated the State of North Dakota as a Participating Jurisdiction (PJ) and as such it may apply for and distribute HOME funds. The agency responsible for administration of the North Dakota HOME Program is the North Dakota Housing Finance Agency (Agency).

This is a description of how the state plans to distribute FY 2021 HOME funds and administer its program. The plan demonstrates consistency with the goals identified in the state's Consolidated Plan (CP). Accordingly, the state will use its HOME funds for the following activities to help meet the identified housing needs:

- Rehabilitation of Owner-occupied and Rental Property
- Acquisition, New Construction, Site Improvements, or Demolition Linked to a Project
- Homebuyer Assistance
- Administrative Costs

TIMELY PRODUCTION AND OCCUPANCY OF ASSISTED HOUSING

The 2013 Final Rule revised a number of commitment and completion deadlines and imposed new occupancy deadlines:

- **HOME projects must be completed within 4 (four) years of commitment.** Any project that is not completed in a timely manner will be terminated and PJs will be required to repay HOME funds drawn. [*§92.205(e)(2)*]
- **HOME-assisted rental units must be occupied by income-eligible households within 18 months of project completion.** If not, PJs must repay HOME funds for the vacant units. (Note: for units that remain vacant for six months following completion, the PJ must identify and develop an enhanced marketing plan and report this information to HUD). [*§92.252*]
- **A homebuyer unit must have a ratified sales contract within nine months of construction completion.** The PJ and Subrecipients must either convert the unit to a HOME rental property or repay the full HOME investment. [*§92.254(a)(3)*]

**ALTERNATIVE FORMATS FOR DISABLED
PERSONS ARE AVAILABLE UPON REQUEST**

- **The Consolidated Appropriations Act of 2019 (PL 116-6) temporarily suspended the Community Development Housing Organization (CHDO) 24-month commitment requirement for set-aside funds to specific projects (Section 231(b)). The suspension applies to 2018-2021 CHDO funds.**
 - **This appropriation act also continues the temporary suspension of the regular HOME funds 24-month commitment requirement to specific projects for 2016-2021 funds. The Consolidated Appropriations Act of 2020 (PL 116-94) added 2022 to the years covered by the suspension.**
 - **Both commitment requirements are suspended through December 31, 2022.**
- **CHDO Fund Set-Aside**
 - **PJs shall reserve not less than fifteen percent (15 percent) of the grant for projects to be developed, sponsored, or owned by community housing development organizations.**
 - **If after 24 months those funds are not committed, PJs may elect to use the funds for any HOME project and are no longer restricted to CHDO projects.**
 - **Uncommitted CHDO set-aside funds at the end of the 24 month period may be reprogrammed to other eligible HOME activities, subject to procedures established by HUD.**
- **The PJ can no longer “reserve” CHDO funds for future projects identified at a later date. [*§92.2 Commitment, §92.300(a)(1)*]**
- **Since FY 2015 appropriations, HOME funds have a period of 9 (nine) fiscal years until expiration. This period is based on 4 (four) fiscal years during which HUD may obligate funds to the PJ (i.e. period of availability in the appropriation act) plus the 5 (five) year expenditure deadline beginning after the last day of the month in which HUD notifies the PJ of HUD’s execution of the HOME Investment Partnership Agreement for a specific fiscal year allocation. Any funds that are not expended before this deadline will be deobligated by HUD. This nine-year period is determined annually by Congress, which generally begins when Congress appropriates the Federal funds to HUD. [*§92.500(d)(1)(A) and (C), and §92.500(d)(2)*]**

DISTRIBUTION PLAN

The state will administer its program through Subrecipients, non-and-for-profits, and CHDOs. The HOME Program funds will be allocated to Subrecipients through a non-competitive set-aside. The non-and-for-profit and CHDO category will be competitive and receives awards based on scoring criteria. If CHDO funds remain, the Agency may open the second round of CHDO applications, at its discretion, accepted from CHDOs only.

Applicants new to the HOME Program are required to partner with an experienced developer, sponsor, or consultant (i.e., someone with completed projects and operating successfully).

A CHDO must have a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization and have demonstrated capacity for carrying out housing projects assisted with HOME funds. [§92.2]

The state may reallocate funds based on high demand, a natural disaster, or other determinations where performance-based measures have not been met. Uncommitted CHDO set-aside funds at the end of the 24-month period may be reprogrammed to other eligible HOME activities, subject to procedures established by HUD.

State Program Income, Repayments, and Recaptured Funds received by the Agency will be allocated, at the Agency's sole discretion, to any Project completing an Eligible Activity, in the proceeding program year and shall be committed to Project(s) prior to any newly allocated HOME funds are drawn from the Treasury account, except for funds in the Treasury account which are required to be reserved, in accordance with the HUD Interim Final Rule for the HOME program published 12/2/2016 and 24 CFR Part 92.503.

HOME Projects and Eligible Activities

The HOME Program focuses on 3 (three) major housing needs:

1. Single-family Homeowner Rehabilitation
2. Rental Production and Rehabilitation
3. Homebuyer Down Payment Assistance

Each of these housing needs is considered a high or medium priority need for the use of HOME funds. These needs are addressed and prioritized locally by set-asides, determined by the Agency, to their recipients and Subrecipients. Each Subrecipient delivers the HOME Program in their respective geographic jurisdiction. Each year, the state will review the needs and completed goals to determine if goals will be updated based on the new developments which create changing housing needs around the state.

HOME Performance Measures

Recipients and Subrecipients are required to report performance data for all activities. Performance data reporting consists of entering one of three objectives for the program: 1) Create a Suitable Living Environment; 2) Provide Decent Affordable Housing; and 3) Create Economic Opportunities. In addition, the following appropriate outcomes are also required: Availability/Accessibility, and Affordability, or Sustainability. Based on the objectives and outcomes selected, the system will populate the specific output indicators for each activity. The Agency will then enter this information on HUD's Integrated Disbursement and Information System (IDIS).

2021 Summary of Funding ESTIMATE			
Annual HUD Allocation	\$3,000,000.00	**updated to reflect uncommitted funds from 2016-2020.	
Program Income	\$565,160.46		
Recaptured Funds			
Prior Years Project Funds Unobligated	\$4,051,802.23		
Total Allocation	\$7,616,962.69		
Total Available for Project Set-Aside	\$7,316,962.69		
Total Available for Administration Set-Aside (maximum of 10% of HUD allocation)	\$300,000.00		
Project/ Eligible Activity & Anticipated Applicants	Projects	Administration	Operating
Single-Family Homeowner Rehabilitation			
Community Action Opportunities, Inc. (Reg. II)	\$140,000.00	\$10,000.00	
Dakota Prairie Community Action Agency (Reg. III)	\$140,000.00	\$10,000.00	
Red River Valley Community Action (Reg. IV)	\$140,000.00	\$10,000.00	
Southeastern ND Community Action Agency (Reg. V)	\$140,000.00	\$10,000.00	
Community Action Program Region VII, Inc. (Reg. VII)	\$140,000.00	\$10,000.00	
Community Action Partnership (Reg. I & Reg. VIII)	\$140,000.00	\$10,000.00	
Rental Production and Rehabilitation			
CHDO Reserve	\$1,350,859	\$0.00	\$0.00
OPEN Funds	\$4,626,103		
Homebuyer Down Payment Assistance			
Grand Forks Community Land Trust	\$500,000.00	\$0.00	
State PJ Administration		\$240,000.00	
TOTAL	\$7,316,962.69	\$300,000.00	\$0.00

SECTION I

Subrecipients

All recipients are expected to locally meet the HOME Program match requirement of 25 percent unless specifically waived by the Agency. All estimated match must be reported at project application and finalized before final draw.

Only HOME assistance forms listed in Part 92.205(b) will be allowed. Applicants should use private funds, tax credits, Rural Development, Federal Home Loan Bank, Community Development Block Grant, North Dakota Housing Incentive Fund, Department of Energy, Housing Trust Fund, or other grant/loan programs to help leverage HOME activities.

Additional match sources not identified by close-out in IDIS must be reported throughout the period of affordability. **Match source data must be submitted to the Agency no later than July 15th of each year.**

Subrecipient Set-Aside

HOME funds will be set aside for community action agencies which have fully expended and closed out all HOME funding from previous 2016-2018 funding years and the Grand Forks Community Land Trust. These funds will be utilized to complete eligible activities in their jurisdiction that are consistent with the State's Consolidated Plan and identified as priorities for their areas. **A complete HOME Annual Application Plan must be submitted to the Agency. Applications may be submitted beginning August 1, 2021 and will be accepted until fully awarded.**

Subrecipient Definition

A Subrecipient is defined as a public agency or non-profit organization selected by the Agency to administer all or some of the Agency's HOME programs. A public agency or non-profit organization which receives HOME funds solely as a developer or owner of a housing project is not a Subrecipient. The Agency's selection of a Subrecipient is not subject to the procurement procedures and requirements.

Community Action Agency (CAA) Set-Aside

Financial Awards will be provided for each approved eligible activity. Funds from one award may not be used for any other activity than what was approved.

Eligible activities can include all necessary rehabilitation required to bring an existing owner-occupied home up to the HOME property standards as defined in 92.251(b) and the North Dakota State Building Code (or locally amended North Dakota State Building Code). Rehabilitation work must meet all applicable state and local code requirements. When rehabilitation is selected as a regional priority, neither the estimated value of the house prior to rehabilitation or the after-rehab value of the housing shall not exceed the annually published HOME and Housing Trust Fund Homeownership Value Limits for the county in which property is located. (Each homeowner will be required to sign a Housing Rehabilitation Program Homeowner Agreement, in which the term of this agreement is determined by the amount of

HOME funds provided to that Project. In addition, all homeowners must sign the Community Action Agency’s policy stating the Community Action Agency’s right to walk away from a project. Homeowners must also sign a restrictive land use covenant prior to work beginning or a final LURA at project completion.

Please note that no choice-limiting action may be taken and no construction activity may begin until the Site-Specific Checklist has been completed, and the Agency has issued a Release of Funds for any Project.

The period of affordability is as follows:

HOME Assistance Per Unit	Minimum Period of Affordability
Single-Family Homeowner Rehabilitation	5 yrs.

The terms of the agreement for repayment may allow for a pro-rata reduction of the recapture amount in monthly increments. Below is an example of a five-year plan:

Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture
1	100%	11	83.3%	21	66.6%	31	50.0%	41	33.3%	51	16.6%
2	98.3%	12	81.6%	22	65.0%	32	48.3%	42	31.6%	52	15.0%
3	96.6%	13	80.0%	23	63.3%	33	46.6%	43	30.0%	53	13.3%
4	95.0%	14	78.3%	24	61.6%	34	45.0%	44	28.3%	54	11.6%
5	93.3%	15	76.6%	25	60.0%	35	43.3%	45	26.6%	55	10.0%
6	91.6%	16	75.0%	26	58.3%	36	41.6%	46	25.0%	56	8.3%
7	90.0%	17	73.3%	27	56.6%	37	40.0%	47	23.3%	57	6.6%
8	88.3%	18	71.6%	28	55.0%	38	38.3%	48	21.6%	58	5.0%
9	86.6%	19	70.0%	29	53.3%	39	36.6%	49	20.0%	59	3.3%
10	85.0%	20	68.3%	30	51.6%	40	35.0%	50	18.3%	60	1.6%

When housing rehabilitation is selected, each CAA must develop Homeowner Rehabilitation Guidelines (HRG). The HRG must be submitted with the CAA’s Annual Application and contain the following:

- a. The criteria used to determine applicant eligibility based on income as defined by either Part5/Section 8 annual income or adjusted gross income as defined for reporting on IRS Form 1040, assets, ownership, occupancy, and location. Any priorities which are used to select households for assistance (e.g., households with income less than 50 percent of median annual income) along with how the income information will be verified.
- b. The types of property or properties eligible for assistance (e.g., single-family unit, condominium unit, mobile home/manufactured home [permanent foundation on private lot], and cooperative unit).
- c. Provide a description of any type of homeowner contribution required (cash, labor, or materials).
- d. A description of how you will inspect for HOME property standards as defined in 92.251(b). Assurance that all work complies with the North Dakota State Building Code (or a locally amended North Dakota State Building Code). Also include how your agency will assure that newly constructed housing meets the current edition of

- the Model Energy Code, Uniform Building Code, and Uniform Mechanical Code.
- e. Define how you will meet lead-based paint regulations of section §92.355 and 24 CFR Part 35.
 - f. Describe the minimum and maximum amount of assistance allowed along with the terms of the assistance. Indicate what will happen if a house cannot be brought up to HOME property standards with the maximum investment.
 - g. Describe how you will assure that no more than the necessary amounts of HOME Program funds are invested in any one project (Layering).
 - h. Specify the form of financial assistance in which HOME funds are provided (e.g. grant or deferred-payment loan).
 - i. Address special requirements for reconstruction or rehabilitation of manufactured housing units as set forth in section §92.251(e).
 - j. Describe the process for written construction documents and cost estimates as required by 92.251(b)(2), contractor selection to ensure cost reasonableness, and inspections and approvals of work as required by 92.251(b)(3).
 - k. Define the staff, owner, and contractor roles and responsibilities. Include a grievance procedure for applicants and disputes between an owner and a contractor.
 - l. Provide a statement that outlines your conflict of interest policy in Section II, HOME Statement of Assurances; and
 - m. Describe the homeowner counseling services that are available to each client.

Grand Forks Community Land Trust (GF CLT) Homebuyer Down Payment Assistance Set-Aside

- a. Assistance may only be provided to homebuyers whose income (Section 8 definition) does not exceed 80 percent (80%) of the median for the area.
- b. Assisted housing may be either a single-family dwelling, condominium, cooperative unit, or manufactured housing.
- c. The Subrecipient must demonstrate compliance with the Agency homebuyer guidelines and performs sound underwriting of the homebuyer's ability to afford and sustain homeownership.
- d. All homebuyers assisted under the HOME program must receive housing counseling that is performed by a certified housing counselor who has passed the HUD certification examination and is employed by a HUD-approved housing counseling agency prior to receiving homebuyer assistance as required at 24 CFR 254(a)(3).
- e. The Agency will determine which level of environmental review (CEST or CENST) and procedures that will be required for the homebuyer project according to 24 CFR Part 58 definitions and the procedures and in 24 CFR 92.352.

- Homebuyer acquisition providing only down payment assistance are Categorically Excluded but Not Subject to Other Federal Laws and Authorities (CENST) as long as the project meets one of the following criteria:
 - Activities to assist homebuyers to purchase an existing dwelling unit or dwelling units under construction, including closing costs and down payment assistance. *These units must be constructed or under construction at the time of application.
 - The ONLY activities that can be initiated prior to the Agency releasing funds are costs associated with program administration, project delivery cost necessary to determine eligibility and underwrite the household, contracting for preliminary architectural/engineering fees, and costs associated with the environmental review process.
 - For all other activities, Subrecipients cannot obligate or incur costs or draw down funds until the environmental review requirements are satisfied, and the Agency has released funds to the project.
- f. If only acquisition assistance (downpayment assistance) is provided, the property must meet the Uniform Physical Condition Standards (UPCS) and all applicable State and local housing quality standards, habitability standards, and code requirements at the time of initial occupancy as required at 92.251(c)(3).
 - g. If the project includes acquisition assistance and rehabilitation, the property must be free from health or safety hazards before occupancy and within six months of the transfer of ownership and meet all applicable State and local housing quality standards and code requirements. The housing must not contain the specific deficiencies proscribed by HUD based on the applicable inspectable items and inspected areas in HUD-prescribed physical inspection procedures (UPCS) issued pursuant to 24 CFR 5.705.
 - h. The housing must comply with HUD's Lead Safe Housing Regulations. All lead-based paint hazards must be identified and subsequently addressed (reduced) per the regulations of section §92.355 and 24 CFR Part 35.
 - i. The GF CLT must inspect the housing and document this compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the housing does not meet these standards, the housing must be rehabilitated to meet these standards, or it cannot be acquired with HOME funds. New construction must conform to all local building code requirements.
 - j. A certified appraisal is required prior to acquisition to determine the initial purchase price. Neither the purchase price nor the appraised value of a HOME assisted property may exceed the annually published HOME and Housing Trust Fund Homeownership Value Limits for the county in which property is located.
 - k. The minimum HOME assistance is \$1,000 per unit.

1. Period of Affordability (POA)

This period is based on the amount of direct HOME subsidy to the buyer, as follows:

HOME Down Payment Assistance to Homebuyer	Minimum Period of Affordability
Less than \$15,000	5 yrs.
\$15,000 - \$40,000	10 yrs.
More than \$40,000	15 yrs.

- m. Property must be occupied as a principal residence by the homebuyer and subsequent low-income buyers throughout the POA. No subleasing is allowed. The GF CLT must monitor and verify primary residency of the homebuyer on an annual basis for the affordability period. The most current utility statement, proof of paid taxes, and homeowner's insurance are acceptable documentation.
- n. During grant monitoring of the GF CLT, the Agency will review deed restrictions, covenants attached to the land, mortgages, or other similar mechanisms placed on the HOME-assisted property to ensure the provisions being used are in accordance with those stated in the written agreement with the GF CLT.

Recapture and Resale Provisions

Recapture provisions will be used for homebuyers who received down payment assistance but do not purchase a property owned by GF CLT and subject to a GF CLT ground lease.

Resale provisions will be used for transactions in which homebuyers purchase a property owned by the GF CLT and the property is subject to a GF CLT ground lease.

Recapture Requirements for Homebuyer Down Payment Assistance

In order to ensure the period of affordability (POA) the recapture provisions will be included in the written agreement with the Agency, the homebuyer agreement, and a recapture mortgage.

Direct Home Subsidy is defined as the amount of HOME Assistance, including any program income, that enabled the homebuyer to purchase the unit. This includes down payment, closing costs, interest subsidies, or other HOME assistance provided directly to the homebuyer.

Net Proceeds is defined as the sales price minus superior loan repayment and any closing costs. Under no circumstances can the Agency recapture more than is available from proceeds of sales.

Subsequent Sale of Home to an Income Eligible Homebuyer

- a. The subsequent low-income homebuyer is required to assume the remainder of the POA in effect and the principal residence requirement, as initially determined by the GF CLT based on the amount of HOME investment in the unit.
- b. The GF CLT is permitted to assist the subsequent low-income homebuyer in purchasing

the housing. The additional HOME homebuyer assistance must be treated as an amendment to the original project and will be combined with their assumption of the existing note to determine the new POA and execute a new (replacement) note for the total assistance.

Subsequent Sale of Home to a non-income qualified Homebuyer

Should the homeowner sell the home to a subsequent homebuyer that is not low-income and not approved by the GF CLT, the GF CLT must enforce recapture provisions, requiring repayment, subject to net proceeds of the sale, as calculated in the recapture formula below.

Recapture Formula

The GF CLT will follow the recapture option that requires the entire amount of direct HOME subsidy provided to the homebuyer before the homebuyer receives a return. This amount cannot exceed what is available from net proceeds.

Noncompliance of Recapture Provisions Full Repayment Required

Under recapture provisions, the homeowner is noncompliant, if during the POA, any of the following events occur:

1. The homebuyer does not occupy the home as their primary residence without a sale,
2. Vacates the home; or
3. Sublets and rents the home to another household.

The GF CLT must then enforce full repayment of the original amount of the direct home subsidy.

Repayment of Down Payment Assistance does not terminate the affordability period. Should the homeowner remain in the unit but elects to pay off the outstanding balance of the HOME loan, the owner is still subject to principal residence requirements for the remainder of the POA.

Foreclosure or Transfer in Lieu of Foreclosure. Should the homeowner default and the lender foreclose, the requirements of the GF CLT is dependent upon the POA surviving the foreclosure or not, when determining how to proceed with compliance of the recapture provisions. The GF CLT must work with the Agency if such circumstances arise.

Resale Provisions

The GF CLT intends to provide HOME assistance to eligible homebuyers using the following resale provisions:

1. The GF CLT will follow the resale option for the duration of the period of affordability.
 - a) The housing will be made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as the family's principal residence.
 - b) The resale requirement will ensure that the price at resale provides the original HOME-assisted owner a fair return on investment (including the homeowner's investment and any capital improvement) and
 - c) Ensure that the housing will remain affordable to low-income homebuyers whose

income does not exceed eighty percent (80%) of the area median income for that area.

- d) Affordable is defined as a household paying between 20-30 percent of gross monthly income towards monthly mortgage payments including principal, interest, taxes, property insurance, mortgage insurance (if applicable), and the ground lease payment.
2. **Fair Return** shall be the Purchase Option Price as defined in section 5. Fair return will take into account certain capital improvements as defined in section 7.
 3. Upon receiving a Notice of Intent to Sell from the homeowner, the GF CLT shall commission an appraisal to be performed by a licensed appraiser who is acceptable to the homeowner. The appraisal shall be conducted by analysis and comparison of comparable properties as though the title to the land and home were held in fee simple absolute by a single party, disregarding all of the restrictions of the GF CLT Ground Lease on the use, occupancy and transfer of the property.
 4. The GF CLT shall have the option to purchase the home at the Purchase Option Price calculated in section 5.
 - a) If the GF CLT elects to purchase the home, it shall exercise the purchase option by either proceeding to purchase the home directly or assigning the Purchase Option to a HOME-eligible low-income person.
 - b) If the purchase (by GF CLT or it's assignee) is not completed within 120 days as stated in the executed GF CLT Ground Lease, the homeowner may sell the home and homeowner's rights to the leased land for a price no greater than the then applicable Purchase Option Price, to any party if that party is a HOME-eligible low-income person.
 - c) If the GF CLT does not exercise its option and complete the purchase of the homeowner's property as described above, and if the homeowner (a) is not then residing in the home and (b) continues to hold the homeowner's property out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one year of the date of the Notice of Intent to Sell, the GF CLT may appoint its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the purpose of the GF CLT Ground Lease, sell the property, and pay to the homeowner the proceeds of the sale, minus the GF CLT's costs of sale and any other sums owed to the GF CLT by the homeowner.
 5. **The Purchase Option Price:** shall be the lesser of (a) the appraised value of Homeowner's Ownership Interest at resale as calculated in line "d" below or (b) the Formula Price calculated below.
 6. **Formula Price:** The Formula Price shall be equal to (A) the amount of Homeowner's Base Price (as stated below), plus (B) forty percent (40%) of any increase in the appraised value of Homeowner's Ownership Interest (as calculated below).
 - a. Homeowner's Base Price: The parties agree that the price paid by the homeowner upon the execution of the GF CLT Ground Lease (Homeowner's Base Price) is \$PRICE. (Homeowner's Base Price equals the Homeowner's Ownership Interest

at time of purchase.)

- b. Initial Appraised Value of Home and Leased Land: The parties agree that the total appraised value of home and leased land at the time of homeowner's initial purchase (the Initial Appraised Value) is \$FEE SIMPLE APPRAISAL as documented by the appraiser's report.
- c. Ratio of Homeowner's Base Price to Initial Appraised Value. The parties agree that the Ratio of Homeowner's Base Price to Initial Appraised Value, expressed as a percentage, is PERCENT%.
- d. Appraised Value of Homeowner's Ownership Interest at Resale. The appraised value of Homeowner's Ownership Interest at time of resale equals the appraised value of Home and Leased Land at resale, as determined in accordance with the GF CLT Ground Lease, multiplied by the Ratio of Homeowner's Base Price to Initial Appraised Value (PERCENT%) as calculated in line "c" above.
- e. Increase in Appraised Value of Homeowner's Ownership Interest: The increase in appraised value of Homeowner's Ownership Interest equals the appraised value of Homeowner's Ownership Interest at resale determined in accordance with paragraph "d" above minus the Homeowner's Base Price stated in line "a" above.
- f. Homeowner's share of Increase in Appraised Value of Homeowner's Ownership Interest: Homeowner's share of the increase in the appraised value of the Homeowner's Ownership Interest equals forty percent (40%) of the increase in the appraised value of Homeowner's Ownership Interest as calculated in line "e" above.
- g. Formula Price: The Formula Price equals the Homeowner's Base Price (line "a") plus Homeowner's share of Increase in the appraised value of the Homeowner's Ownership Interest (line "f").

Purchase Option Price and Formula Price Example

Summary of Values in Illustration:

Initial Appraised Value: \$200,000

Homeowner's Base Price: \$150,000

Appraised Value at Resale: \$240,000

Resale Formula as an Equation:

a. Homeowner's Base Price = \$150,000

b. Initial Appraised Value of Home and Leased Land = \$200,000

c. Ratio of Homeowner's Base Price to Initial Appraised Value = $\$150,000 / \$200,000 = 75\%$

d. Appraised Value of Homeowner's Ownership Interest at Resale = $\$240,000 @ 75\% = \$180,000$

e. Increase in Appraised Value of Homeowner's Ownership Interest = $\$180,000 - \$150,000 = \$30,000$

f. Homeowner's share of Increase in Appraised Value of Homeowner's Ownership Interest = $\$30,000 @ 40\% = \$12,000$

g. Formula Price = $\$150,000 + \$12,000 = \$162,000$

**Purchase Option Price Equals Lesser of “d” (\$180,000) or “g” (\$162,000).
Purchase Option Price for this Example = \$162,000**

- 7) **Capital Improvements:** When a homeowner completes an eligible capital improvement to their community land trust home post-purchase, they are eligible for 100 percent of the improvement value and appreciation deemed attributable to improvement.
- i. Eligible Improvements
 - 1. Increase in legal bedroom size;
 - 2. Increase in legal bathroom size;
 - 3. Addition of or substantial rehabilitation to garage;
 - 4. Other substantial modifications approved by the GF CLT, which are anticipated to increase value by a minimum \$2,500 and increase functionality of the home. Improvements made solely for cosmetic purposes or considered routine maintenance will not be considered.
 - ii. Improvements must comply with the ground lease.
 - iii. Documentation of completion must be submitted.
 - iv. Upon refinancing or resale, the homeowner must submit a request for capital improvements calculation.
 - 1. The form must be complete.
 - 2. Appraisal will reflect a monetary value of improvements.
 - 3. Formula price calculation will be modified to incorporate the capital improvements calculation.
- 8) The GF CLT shall issue a new ground lease to any person who purchases the home in accordance with the terms above. The terms of such lease shall be the same as those of new leases issued to HOME-eligible low-income homebuyers at that time for land not previously leased by the GF CLT.

Noncompliance of Resale Provisions

Under resale provisions, noncompliance that cannot be restored to compliance for properties under resale restrictions will result in full repayment by GF CLT of the HOME funds invested in the housing. This amount is based on HOME funds invested and includes both development funds and direct subsidy to the buyer minus any principal HOME loan repayments.

Administration

The Agency and Subrecipients are allowed to receive HOME funds for Administrative expenses. These costs may not exceed ten percent (10%) of the that year’s newly awarded annual HOME allocation for North Dakota.

Recaptured Funds

The recaptured funds must be returned to the Agency to be used to carry out HOME-Eligible Activities.

Open Funds

Unobligated performance funds may be reallocated to other Subrecipients that can demonstrate: 1) all prior year awards are fully committed; 2) an unmet need in their service region; 3) are ready to proceed; and 4) have the capacity to spend the funds in a timely manner.

Subrecipients which have expended and drawn down 75 percent (75%) of their current grant award(s) may be eligible to be awarded Open Funds. **Eligible awardees may request an amendment to an existing award at any date after January 2, of the calendar year preceding the current award's issuance.**

CHDO and Non-and-For-Profit Developers

All CHDO and non-and-for-profit beneficiaries are expected to locally meet the HOME Program match requirement of 25 percent (25%), unless specifically waived by the Agency.

Only the forms of HOME assistance listed in Part 92.205(b) are allowed. Applicants should also use private funds, tax credits, Rural Development, Federal Home Loan Bank, CDBG, North Dakota Housing Incentive Fund, Department of Energy, Housing Trust Fund, or other grant/loan programs to help leverage HOME activities.

Submission of HOME Rental Development and Rehabilitation Applications are due by the last business day in September, each year. The approval of applications for CHDOs and non-and-for-profit developers will be a competitive process. If after the multi-family application round, HOME funds will be made available to apply for on a first come, first served basis. **The HOME Rental Development and Rehabilitation Application can be found at:**

<http://www.communityservices.nd.gov/uploads/9/HOMERentalApplicationwithProformawithDCR.xls>

The HOME Program Underwriting Standards can be found at:

<http://www.communityservices.nd.gov/uploads/9/HomeUnderwriting.pdf>

The HOME Rental Development and Rehabilitation Application must be submitted with attachments that include the following:

- a. Compliance with Section II HOME Statement of Assurances;
- b. Supporting documentation for Section III Scoring Criteria;
- c. Address special requirements for new construction, reconstruction or rehabilitation and how you will inspect for HOME property standards as defined in 92.251(a)(b)(c)(f). Assurance that all work complies with the North Dakota State Building Code (or a locally amended North Dakota State Building Code). Also include how your agency will assure that newly constructed housing meets the current edition of the Model Energy Code, Uniform Building Code, and Uniform Mechanical Code;
- d. Describe how you will assure that no more than the necessary amounts of HOME Program funds are invested in the project (Layering) as set forth in section §92.250;
- e. Provide evidence of the amount and form of matching contribution as set forth in section

§92.220;

- f. Describe the process for written construction documents and cost estimates, contractor selection to ensure cost reasonableness, and inspections and approvals of work as required by 92.251;
- g. The criteria used to determine that the HOME-assisted units are occupied by households that are eligible as low-income families and meet the requirements of 92.252 to qualify as affordable housing; and
- h. All other requested appendices and documentation not listed herein.

Owner

Rental housing is considered “owned” if the housing organization is the owner in fee simple absolute of multifamily, or single-family housing (or has a long-term ground lease) for rental to low-income families in accordance with §92.252. If the housing is to be rehabilitated or constructed, the housing organization must prove internal capacity, or hire and oversee the developer that rehabilitates or constructs the housing. At minimum, the housing organization must hire or contract with an experienced project manager to oversee all aspects of the development, including: 1) obtaining zoning, 2) securing non-HOME financing, 3) selecting a developer or general contractor, 4) overseeing the progress of the work, and 5) determining reasonable costs. The housing organization must own the rental housing during development and for a period at least equal to the period of affordability in §92.252. If the housing organization acquires housing that meets the property standards in §92.251, the organization must own the rental housing for a period at least equal to the period of affordability in §92.252.

Developer

Rental housing is “developed” by a housing organization if: 1) the housing development organization is the owner of multifamily or single family housing in fee simple absolute (or has a long term ground lease) and 2) the housing developer of new housing that will be constructed, or existing substandard housing that will be rehabilitated for rent to low-income families in accordance with §92.252. To be the “housing developer,” the housing organization must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers, and general contractors, overseeing progress of the work, and determining reasonable costs. At a minimum, the housing development organization must own the housing during development, and for a period at least equal to the period of affordability in §92.252.

Sponsor (CHDO only)

Rental housing is “sponsored” by a CHDO if the CHDO “developed” the rental housing project and agrees to convey details of the project to an identified, private nonprofit organization at a predetermined time after completion of the development of the project. Sponsored rental housing is subject to the following requirements:

- The private non-profit organization may not be created by a governmental entity;
- The HOME funds must be provided to the entity that owns the project;

- The HOME funds must be invested in the project that is owned by the CHDO;
- Before commitment of HOME funds, the CHDO sponsor must select the private non-profit organization that will obtain ownership of the property;
- The private non-profit organization assumes the CHDO's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development; and
- If the housing is not transferred to the private non-profit organization, the CHDO organization sponsor remains responsible for the HOME assistance and the HOME project.

Community Housing Development Organization (CHDO)

Eligible applicants include community-based non-profit 501(c)(3), 501(c)(4), or 905 (subordinate organization of a 501(c) organization) organizations with the mission statement that identifies decent, affordable housing to low and moderate-income persons.

The Agency will certify non-profit organizations that meet defined criteria as CHDOs in the HOME Investment Partnerships Program Final Rule Subpart A, §92.2. The fiscal year CHDO Certification applications are due to the Agency by June 15th of each year or with submission of a HOME Rental Development Application, whichever occurs first.

In addition, these organizations must meet and satisfactorily demonstrate the prescribed requirements. The Agency will be using the HUD guidance on CHDO qualifications. CHDO's are also eligible to participate in non-CHDO housing activities. **CHDOs must demonstrate to the Agency that their certification status is maintained during each year of the period of affordability (POA) of a rental development project.**

Up to ten percent (10%) of the CHDO set-aside may be used for pre-development loans to assist specific projects at the discretion of the Agency. Per 92.301 these loans can be used for technical assistance and site control, and seed money loans. The CHDO must repay the loan to the PJ from construction loan proceeds or other project income, or the loan may be combined with the subsequent CHDO project funding. The PJ may waive repayment of the loan, in part or in whole, if there are impediments to project development that the PJ determines are reasonably beyond the control of the borrower. Pre-development loan repayments must be sent to the Agency. The repaid funds will be added to the next FY allocation.

CHDO Definition - A non-profit organization that:

- (1) Is organized under state or local laws;
- (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A CHDO may be sponsored or created by a for-profit entity, but:

- (i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm;
 - (ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;
 - (iii) The CHDO must be free to contract for goods and services from vendors of its own choosing; and
 - (iv) The officers and employees of the for-profit entity may not be officers or employees of the CHDO.
- (4) Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1), is classified as a subordinate of a central organization non-profit under section 905 of the Internal Revenue Code of 1986, or if the private non-profit organization is a wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of “CHDO;”
- (5) Is not a governmental entity (including the PJ, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a CHDO; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two-thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a CHDO;
- (6) Has standards of financial accountability that conform to 24 CFR 84.21, “Standards for Financial Management Systems;”
- (7) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;
- (8) Maintains accountability to low-income community residents by:
- (i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, “community” may be a neighborhood or neighborhoods, city, county or

metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire state); and

- (ii) Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
- (9) Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience, who will work on projects assisted with HOME funds. For its first year of funding as a CHDO, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2). A non-profit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
- (10) Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least one year of serving the community.

Non-and-For-Profit Developers

Note: Non-and-for-profits are not required to be designated CHDOs to apply for HOME Program funding, but funding for such projects will not utilize funds reserved for a CHDO.

Non-and-for-profits can participate in the HOME Program as owners or developers of multi-family housing. The non-and-for-profit must not be disqualified from any program administered by the Agency or under debarment, proposed debarment or suspension by a federal agency.

The non-and-for-profit must be able to demonstrate technical expertise of staff and other project partners in housing production and management and meet the following criteria:

- The non-and-for-profit has successfully administered (this means following all the cross-cutting requirements, such as: Davis Bacon, Section 3, and Contract Compliance) at least one (1) HOME, CDBG, or NSP funded development of similar nature and scope;

or

- Has a proven track record in affordable housing development and project management for a minimum period of five (5) years prior to the application submission date; and
- Documented capacity to carry out the long-term rental compliance responsibilities associated with the development through the period of affordability.

DRAFT

Section II

HOME Statement of Assurances

Other Federal requirements and nondiscrimination

- (a) The Federal requirements set forth in 24 CFR part 5, subpart A, are applicable to participants in the HOME program. The requirements of this subpart nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace.
- (b) The nondiscrimination requirements at section 282 of the Act are applicable. These requirements are waived in connection with the use of HOME funds on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).
- (c) The Violence Against Women Act (VAWA) requirements set forth in 24 CFR part 5, subpart L, apply to all HOME tenant-based rental assistance and rental housing assisted with HOME funds as applied by 24 CFR 92.359. The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking became applicable upon enactment of VAWA. Compliance with VAWA regulatory requirements applied by 24 CFR 92.359 and 24 CFR part 5, subpart L, are required for any tenant-based rental assistance or rental housing project. The PJ and Subrecipient further acknowledges that, despite its name, VAWA provisions apply without regard to an individual's sex, gender identity, or sexual orientation.
- (d) Consultant Activities. No person providing consultant services in an employer-employee type relationship shall receive more than a reasonable rate of compensation for personal services paid with HOME funds. In no event, however, shall such compensation exceed the limits in effect under the provisions of any applicable statute (e.g., annual HUD appropriations acts which have set the limit at the equivalent of the daily rate paid for Level IV of the Executive Schedule, see the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Pub. L. 104-204 (September 26, 1996)). Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation. Consultant services provided under an independent contractor relationship are not subject to the compensation limitation of Level IV of the Executive Schedule.

Affirmative Marketing; Minority Outreach Program

- (a) *Affirmative marketing.*
 - 1. Each PJ must adopt and follow affirmative marketing procedures and requirements for rental and homebuyer projects containing five or more HOME-assisted housing units. Affirmative marketing requirements and procedures also apply to all HOME-funded programs, including, but not limited to, TBRA and downpayment assistance programs. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. If PJ's written agreement with the project owner permits the rental housing project to limit

tenant eligibility or to have a tenant preference in accordance with §92.253(d)(3), the PJ must have affirmative marketing procedures and requirements that apply in the context of the limited/preferred tenant eligibility for the project.

2. The affirmative marketing requirements and procedures adopted must include:
 - a) Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the PJ's affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups);
 - b) Requirements and practices each Subrecipient and owner must adhere to in order to carry out the PJ's affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);
 - c) Procedures to be used by Subrecipients and owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing program or the housing without special outreach (e.g., through the use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);
 - d) Records that will be kept describing actions taken by the PJ and by Subrecipients and owners to affirmatively market the program and units and records to assess the results of these actions; and
 - e) A description of how the PJ will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.
3. A State that distributes HOME funds to units of general local government must require each unit of general local government to adopt affirmative marketing procedures and requirements that meet the requirement in paragraphs (a) and (b) of this section.
 - (b) *Minority outreach.* A PJ must prescribe procedures acceptable to HUD to establish and oversee a minority outreach program within its jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, under-writers, accountants, and providers of legal services, in all contracts entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the PJ to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction. Section 85.36(e) of this title describes actions to be taken by a PJ to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.

Affirmative Marketing Guidance

The Agency will take the following actions to provide information to attract eligible persons from all racial, ethnic, and gender groups in the housing market area that is assisted by HOME funding.

All correspondence, notices and advertisements related to the HOME Program, must contain the Equal Housing Opportunity logo or slogan.

Participants in the HOME Program will be required to use affirmative fair housing marketing practices in soliciting renters or buyers, determining their eligibility, and concluding all transactions. Any HOME-assisted housing must comply with the following procedures for the required compliance period, depending on the program used:

- (a) Owners advertising vacant units must include the equal housing opportunity logo and/or slogan. Wherever a phone number is provided, there must also be a TDD/TTY phone number, or equivalent, provided. The Relay North Dakota TDD number is 800-366-6888, Voice Users 1-800-366-6889, and Spanish Users 1-800-435-8590. This service is free of charge. Recently the number “711” has been approved by the FCC for use in contacting the relay service. This number works for both TTY and voice telephones and while it is applicable in most states, you are still required to list the “800” numbers presented above. Advertising media may include newspapers, radio, televisions, brochures, leaflets, or a sign in a window. In addition, owners will be required to have written communication to Fair Housing organizations.
- (b) The owner will be required to solicit applications for vacant units from persons in the housing market who are least likely to apply for the HOME-assisted housing without the benefit of special outreach efforts. In general, persons who are not of the race or ethnicity of the residents of the neighborhood in which the rehabilitated building is located shall be considered those least likely to apply. Special outreach efforts will include contacts with CAAs, human service centers and county social service offices.
- (c) The owner must maintain a file containing all marketing efforts (e.g., copies of newspaper ads, memos of phone calls, copies of letters, etc.) and the records to assess the results of these actions are to be available for inspection by the Agency.
- (d) The owner shall maintain a listing of all tenants residing in each unit from the time of application through the end of the compliance period.

The Agency will assess the affirmative marketing efforts of the owner by comparing predetermined occupancy goals (based upon the area from which potential tenants will come) to actual occupancy data that the owner is required to maintain. The owner's outreach efforts will also be evaluated by reviewing marketing efforts. The Agency will assess these efforts by use of a compliance certification or a personal monitoring visit to the project at least annually.

Where an owner fails to follow the affirmative marketing requirements, corrective actions shall include extensive outreach efforts to appropriate contacts to achieve the occupancy goals or other sanctions that the Agency may deem necessary. In addition, owners will be counseled as to affirmative marketing requests. In the event they continue to be in non-compliance, they may not be allowed to receive future HOME funds.

All units of local government that receive HOME funds must submit affirmative marketing procedures they have adopted to the Agency.

Environmental Review

(a) *General.* The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58. The applicability of the provisions of 24 CFR part 50 or part 58 is based on the HOME project (new construction, rehabilitation, acquisition) or activity (TBRA) as a whole, not on the type of the cost paid with HOME funds.

(b) *Responsibility for review.*

1. The jurisdiction (e.g., the PJ or State recipient) or insular area must assume responsibility for environmental review, decision making, and action for each activity that it carries out with HOME funds, in accordance with the requirements imposed on a recipient under 24 CFR part 58. No funds may be committed to a HOME activity or project before the completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR part 58.
2. A State PJ must also assume responsibility for approval of requests for release of HOME funds submitted by State recipients.
3. HUD will perform the environmental review, in accordance with 24 CFR part 50, for a competitively awarded application for HOME funds submitted to HUD by an entity that is not a jurisdiction.

1. Completion of the environmental review process is MANDATORY before taking ANY action on a specific site or making a commitment or expenditure of HUD or any other non-HUD project funds for property acquisition or transfer, rehabilitation, conversion, lease, repair, inhabiting a property or construction activities. 24 CFR Part 58.22 describes limitations on activities pending clearance as (a) neither a Subrecipient nor any participant in the development process, including public or private non-profit or for-profit entities, or any of their contractors, may commit HUD or non-HUD assistance under a program listed in 58.1(b) on an activity or project until HUD has approved the Subrecipient's Request Release of Funds (RROF) and the Agency has issued the certification to use HOME funds to the Subrecipient. This certification will come in a letter through email addressed to the Subrecipient's contact person. If a violation occurs resulting in adverse environmental impact or limiting the choice of reasonable alternatives during this vital step in the NEPA process, funds will not be able to be utilized for the site that violated NEPA.

- NOTE: A **choice-limiting action** is ANY action done prior to the certification being issued by the Agency. This is not an all-inclusive list of choice-limiting actions: acquisition, purchase, moving tenants or homebuyers into property, rehabilitation, groundwork, lease, repair, demolition, landscaping, etc. The Subrecipient is to use "due diligence" that a violation does not occur during this step of the NEPA process or the funds will be lost to the project site.

- The ONLY activities that can be initiated prior to the Agency releasing funds are costs associated with program administration, project delivery cost necessary to determine eligibility and underwrite the household, contracting for preliminary architectural/engineering fees, and costs associated with the environmental review process. Keep in mind, even these exempt costs can only occur after the effective date of the contract. No costs incurred or obligated prior to the contract effective date are allowable HOME costs and could result in the loss of the Subrecipient's HOME award. When a Subrecipient spends money on these exempt costs, they are taking a financial risk because if the environmental review concludes that a site is not eligible, the Subrecipient will not be reimbursed for those costs spent.
- **For all other activities, Subrecipients cannot obligate or incur costs or draw down funds until the environmental review requirements are satisfied, and the Agency has issued a Release of Funds to the Project.**
- Each HOME activity or project must have a written record of the environmental review process that documents the steps taken for the project that completed the NEPA process according to rules and authorities. **This is the Environmental Review Record (ERR), which must be available for public review.**

Displacement, Relocation, and Acquisition

- (a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, the PJ must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with HOME funds. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.
- (b) *Temporary relocation.* The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:
1. Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.
 2. Appropriate advisory services, including reasonable advance written notice of:
 - a) The date and approximate duration of the temporary relocation;
 - b) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
 - c) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project; and
 - d) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons—*

1. *General.* A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and 49 CFR part 24. A “displaced person” must be advised of his or her rights under the Fair Housing Act and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, the minority person also must be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

2. *Displaced Person.*

For purposes of paragraph (c) of this section, the term *displaced person* means a person (family individual, business, nonprofit organization, or farm, including any corporation, partnership or association) that moves from real property or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with HOME funds. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property that is made:

- a) After notice by the owner to move permanently from the property, if the move occurs on or after:
 - 1) The date of the submission of an application to the PJ or HUD, if the applicant has site control and the application is later approved; or
 - 2) The date the jurisdiction approves the applicable site, if the applicant does not have site control at the time of the application; or
- b) Before the date described in paragraph (c)(2)(a) of this section, if the jurisdiction or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or
- c) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:
 - 1) The tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition and the move occurs before the tenant is provided written notice offering the tenant the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions. Such reasonable terms and conditions must include a term of at least one year at a monthly rent and estimated average monthly utility costs that do not exceed the greater of:
 - (i) The tenant's monthly rent before such agreement and estimated average monthly utility costs; or

(ii) The total tenant payment, as determined under 24 CFR 5.628, if the tenant is low-income, or 30 percent of gross household income, if the tenant is not low-income;

2) The tenant is required to relocate temporarily, does not return to the building/complex, and either:

(i) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; or

(ii) Other conditions of the temporary relocation are not reasonable; or

3) The tenant is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(i) Notwithstanding paragraph (c)(2) of this section, a person does not qualify as a *displaced person* if:

- The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State or local law, or other good cause, and the PJ determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance. The effective date of any termination or refusal to renew must be preceded by at least 30 days advance written notice to the tenant specifying the grounds for the action.
- The person moved into the property after the submission of the application but, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, incur a rent increase), and the fact that the person would not qualify as a “displaced person” (or for any assistance under this section) as a result of the project;
- The person is ineligible under 49 CFR 24.2(g)(2); or
- HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(ii) The jurisdiction may, at any time, ask HUD to determine whether a displacement is or would be covered by this rule.

(d) *Initiation of negotiations.* For purposes of determining the formula for computing replacement housing assistance to be provided under paragraph (c) of this section to a tenant displaced from a dwelling as a direct result of private-owner rehabilitation, demolition or

acquisition of the real property, the term *initiation of negotiations* means the execution of the agreement covering the acquisition, rehabilitation, or demolition.

- (e) *Optional relocation assistance.* The PJ may provide relocation payments and other relocation assistance to families, individuals, businesses, nonprofit organizations, and farms displaced by a project assisted with HOME funds where the displacement is not subject to paragraph (c) of this section. The jurisdiction may also provide relocation assistance to persons covered under paragraph (c) of this section beyond that required. For any such assistance that is not required by State or local law, the jurisdiction must adopt a written policy available to the public that describes the optional relocation assistance that it has elected to furnish and provides for equal relocation assistance within each class of displaced persons.
- (f) *Residential antidisplacement and relocation assistance plan.* The PJ shall comply with the requirements of 24 CFR part 42, subpart C.
- (g) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements of 49 CFR part 24, subpart B.
- (h) *Appeals.* A person who disagrees with the PJ's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the jurisdiction. A low-income person who is dissatisfied with the jurisdiction's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

Labor

- (a) General.
 - 1. Every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701).
 - 2. The contract for construction must contain these wage provisions if HOME funds are used for any project costs in §92.206, including construction or nonconstruction costs, of housing with 12 or more HOME-assisted units. When HOME funds are only used to assist homebuyers to acquire single-family housing, and not for any other project costs, the wage provisions apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more housing units to be purchased with HOME assistance. The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units, whether one or more than one project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the

entire project, including portions other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.

3. PJs, contractors, subcontractors, and other participants must comply with regulations issued under these acts and with other Federal laws and regulations pertaining to labor standards, as applicable. PJs shall be responsible for ensuring compliance by contractors and subcontractors with labor standards described in this section. In accordance with procedures specified by HUD, PJ shall:

- 1) Ensure that bid and contract documents contain required labor standards provisions and the appropriate Department of Labor wage determinations;
- 2) Conduct on-site inspections and employee interviews;
- 3) Collect and review certified weekly payroll reports;
- 4) Correct all labor standards violations promptly;
- 5) Maintain documentation of administrative and enforcement activities; and
- 6) Require certification as to compliance with the provisions of this section before making any payment under such contracts.

- (b) *Volunteers*. The prevailing wage provisions of paragraph (a) of this section do not apply to an individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work. See 24 CFR part 70.
- (c) *Sweat equity*. The prevailing wage provisions of paragraph (a) of this section do not apply to members of an eligible family who provide labor in exchange for acquisition of a property for homeownership or provide labor in lieu of, or as a supplement to, rent payments.

Lead-Based Paint

Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, M and R of this title.

Conflict of Interest

- (a) *Applicability*. In the procurement of property and services by PJ, State recipients, and Subrecipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply.
- (b) *Conflicts prohibited*. No persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial

benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the PA, State recipient, or Subrecipient which are receiving HOME funds.

(d) *Exceptions: Threshold requirements.* Upon the written request of the PJ, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of the PJ's program or project. An exception may be considered only after the PJ has provided the following:

1. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
2. An opinion of the PJ's or State recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the PJ has satisfactorily met the requirements of paragraph (d) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
2. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
3. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
4. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
5. Whether undue hardship will result either to the PJ or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
6. Any other relevant considerations.

(f) *Owners and developers.*

1. No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor) whether private, for-profit or nonprofit (including a CHDO when acting as an owner, developer, or sponsor) may occupy a HOME-assisted affordable housing unit in a project during the required period of affordability specified in §92.252(e) or §92.254(a)(4). This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.
2. *Exceptions.* Upon written request of a housing owner or developer, the PJ (or State recipient, if authorized by the state PJ may grant an exception to the provisions of paragraph (f)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the owner's or developer's HOME-assisted project. In determining whether to grant a requested exception, the PJ shall consider the following factors:
 - (1) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (2) Whether the person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted housing in question;
 - (3) Whether the tenant protection requirements of §92.253 are being observed;
 - (4) Whether the affirmative marketing requirements of §92.351 are being observed and followed; and
 - (5) Any other factor relevant to the PJ's determination, including the timing of the requested exception.

Executive Order 12372

- (a) *General.* Executive Order 12372, as amended by Executive Order 12416 (3 CFR, 1982 Comp., p. 197 and 3 CFR, 1983 Comp., p. 186) (Intergovernmental Review of Federal Programs) and HUD's implementing regulations at 24 CFR part 52, allow each State to establish its own process for review and comment on proposed Federal financial assistance programs.
- (b) *Applicability.* Executive Order 12372 applies to applications submitted with respect to HOME funds being competitively reallocated under subpart J of this part to units of general local government.

Civil Rights

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d et seq.), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied in the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

Equal Opportunity

It will comply with:

- (a) Section 109 of the Housing and Community Development Act of 1974 (ACT), as amended, and the regulations issued pursuant thereto (24 CFR 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under the act;
- (b) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) The act provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance;
- (c) Section 504 of the Rehabilitation Act of 1973, amended (29 U.S. C. 794). The act provides that no otherwise qualified individual shall, solely, by reason of his or her handicap be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.

The grant recipient must complete or update a Self-Evaluation, in accordance with 24 CFR Part B of the Federal Register. An example of a Self-Evaluation guidebook will be provided upon request;

- (d) Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 170/u) (24 CFR Part 135). Section 3 of the Housing and Urban Development Act of 1968 requires, in connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, that opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in which the project is located, and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part, by persons residing in the project area. The grantee must assure good faith efforts toward compliance with the statutory directive of Section 3; and

- (e) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60) prohibit a HOME recipient and subcontractors, if any, from discriminating against any employee or applicant for employment because of race, color, religion, sex or national origin. The grantee and subcontractors, if any, must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action must include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and subcontractors must post in conspicuous places, available to employees and applicants for employment, notices to be provided setting for the provisions of this nondiscrimination clause. For contracts over \$10,000, the grantee or subcontractors will send to each applicable labor union a notice of the above requirements, the grantee and subcontractors will comply with relevant rules, regulations and orders of the U.S. Secretary of Labor. The grantee or subcontractors must make their books and records available to State and federal officials for purposes of investigation to ascertain compliance.
- (f) Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities.

Fair Housing

It will affirmatively further fair housing and will comply with:

- (a) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended. The law states that it is the policy of the United States to provide for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, familial status or disability. HOME grantees must also administer programs and activities relating to housing and community development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII; and
- (b) Executive Order 11063, as amended by Executive Order 12259, requires HOME recipients to take all actions necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex or national origin; in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use of occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.

Section III

Scoring Criteria

Each application meeting the threshold requirements will be reviewed and assigned points according to the following selection criteria. **Applications must achieve a minimum score of 80 points to be considered for funding.** Scoring will be on entire project/units (not just HOME units). **Applicants may request no more than 70 percent (70%) of the hard construction costs.**

Program Rule: All HOME Assisted Units to be occupied by 60 percent and below area median income (AMI) at initial occupancy.

Project Rule: If a project has five or more HOME Assisted Units, 20 percent (20%) of the HOME Assisted Units must be occupied by families who have gross annual incomes that are 50 percent or less of AMI and maximum gross monthly rents at or below the Low-HOME rents for the period of affordability.

A. Income Targeting

Scoring for additional targeted units must have another program Land Use Restrictive Agreement (LURA) or the Agency will restrict these units within the HOME LURA. **Projects are able to receive points for a unit under only one restriction category.**

1) Serves Extremely Low-Income Households *0-15 points*

Up to 15 points will be awarded to properties with units **both** income and rent restricted for households at or below 30 percent (30%) AMI at the Low-HOME unit rent rate. Elections made in this category must be incorporated into a LURA and will be binding, at a minimum, for the term of the HOME loan.

- 20% of total units income and rent restricted at or below 30% of AMI *15 points*
- 15% of total units income and rent restricted at or below 30% of AMI *10 points*
- 10% of total units income and rent restricted at or below 30% of AMI *5 points*

For purposes of applying the 30 percent (30%) rent restriction under this category, and exception for exceeding the 30 percent (30%) rent may be granted for Section 8 project-based rental assistance where it can be shown that additional rents are necessary to make the project feasible and that the rent will not exceed 30 percent (30%) of the tenant's income. This exception will not apply for Section 8 Tenant-based Rental Assistance (TBRA).

or

2) Serves Very-Low and Low-Income Households *0-15 points*

15 points will be awarded to properties with additional assisted units which are income restricted at or below the 80 percent (80%) AMI **and** LOW-HOME unit rent rate restricted for tenants at or below the 50 percent (50%) AMI level. Elections made in this category will be incorporated into the LURA and will be binding.

- 20% of total units are income restricted at or below 80% AMI and rent restricted at or below 50% AMI **15 points**
- 15% of total units are income restricted at or below 80% AMI and rent restricted at or below 50% AMI **10 points**
- 10% of total units are income restricted at or below 80% AMI and rent restricted at or below 50% AMI **5 points**

B. Addresses Housing Shortage in Developing Communities of 20,000 or Less 15 points

Points awarded when the proposed project is in a community with a population of 20,000 or less, as documented in the most recently completed decennial U.S. Census.

C. Leveraging Up to 25 points

Up to 25 points based on the amount of HOME funds requested per HOME unit:

<u>Points</u>	<u>HOME Funds per HOME Assisted Unit</u>
25	Less than \$70,000
15	\$70,000-\$99,999
5	\$100,000-\$120,000

D. Financial Support from Local Sources 0-25 points

Of the 25 percent (25%) required match, one point will be awarded for every percentage point of the match that comes from a local contribution, defined as:

Local governmental and community private contributions, including but not limited to cash, measurable in-kind services, or tax abatements, to reduce project costs or enhance feasibility.

E. Readiness to Proceed 0-25 points

Points awarded based on earliest achievable completion of the activity. Considerations for points are a reflection of how soon the project would be able to move forward if an award is received when compared to all eligible application received within the application period and includes, but are not limited to, the application, including letters of interest for both construction and permanent financing, ownership of the land, and availability of infrastructure.

F. Rehab of Existing Vacant Habitable Structures or Infill Opportunities 15 points

In accordance with the Main Street Initiative (<https://www.mainstreetnd.com>) in building healthy, vibrant communities, citizens gain both the benefits of using existing infrastructure and the opportunity to enhance our communities. Proposals involving the rehabilitation of existing structures that are at risk of becoming uninhabitable or obsolete because of age and deterioration, or proposals involving the concept of infill, in which we build mixed-use structures on empty lots between existing buildings, or build on under-utilized surface

parking lots, and further increase the efficient use of existing infrastructure, may receive up to 15 points.

G. Preservation

5 points

State- or Federally- assisted projects in danger of prepayment, such as Rural Development 515 financed projects or those with expiring (within the next 36 months) project-based rental assistance contracts for 50 percent (50%) or more of the units, which are at-risk of being lost from the state's affordable housing inventory will receive 5 points. Projects at risk of losing federal financial assistance because of default on their federal contract are also eligible for points under this category.

Project application which have secured, at least conditionally, a transfer of project-based rental assistance under Section 8(bb) of the United States Housing Act of 1937 (42 U.S.C. 1437f(bb)) will receive 5 points.

Provide a copy of all relevant documents as applicable including, but not limited to:

- (1) HAP Contract;
- (2) Regulatory Agreement;
- (3) Filing documents of intent to opt out;
- (4) Loan documents that describe the ability to pre-pay the financing including required approvals and/or penalties;
- (5) Copy of most recent REAC, MOR, or RD inspection report or other evidence of physical deterioration that would threaten the HAP contract;
- (6) At least three market comparables for each bedroom size to indicate what market rents might be achievable at the project without the federal assistance restrictions; and
- (7) Narrative describing the dissolution of current ownership/management entity capacity.
- (8) Proof of 8(bb) transfer to the proposed project.

H. Tenant Support Coordinator

5-10 points

Projects which are committed to supporting tenants with special needs affecting their long-term housing stability and which create an environment that encourages and provides service coordination may receive up to 10 points.

(1) Tenant Support Coordinator

5 points

Projects which provide, either through direct employment or by contract with an experienced third party, a dedicated Tenant Support Coordinator (TSC) for at least one hour per project unit per month will receive 5 points. The TSC would be required to develop and maintain working relationships with tenants in the project. The TSC's role is to increase the ability of all tenants to maintain stability and uphold lease obligations through the following: facilitating provision of supportive services by connecting tenants with appropriate providers, identifying needs for assistance, and educating tenants on available resources.

(2) Tenant Support Coordinator and Medicaid-Approved Service Provider **10 points**

Projects which provide the TSC provisions in the preceding paragraph (1) and which also enter into a formal letter of intent with one or more qualified service agencies with demonstrated experience providing housing stability services consistent with the needs of the project's residents will receive 10 points. The service provider(s) must also be able to process for Medicaid reimbursement. The letter of intent must be detailed regarding the suite of supports and services to be made available to tenants who need and want them.

Projects receiving points under this category must include tenant support coordination capable of the following, at a minimum:

- Support the person to understand and maintain income and benefits to retain housing;
 - Household budgeting and financial management;
 - Assistance in applying for benefits related to housing affordability;
 - Establishment of payee/guardian services as needed;
 - Assistance with the income recertification process;
 - Wealth and asset building initiatives.
- Support the building of natural housing supports and resources in the community;
 - Encouragement of community activity;
 - Facilitation of meetings with a tenant support team.
- Identify and prevent behaviors that may jeopardize continued housing;
 - Coordination with parole and probation requirements;
 - Collaboration with law enforcement (i.e. the creation of safety plans);
 - Training on lease compliance, household management and best practices of successful tenants.
- Promote health and wellbeing that enable tenants to retain housing;
 - Connecting tenants with health providers;
 - Assistance in securing and increasing employment;
 - Assistance in securing childcare;
 - Identifying educational opportunities in areas such as nutrition, education, and physical wellness;
 - Parenting supports;
 - Life coaching via peer support specialists.
 - Facilitating connections to Home and Community-Based Care services.

A tenant selection plan must be provided as part of the initial application. The tenant selection plan must describe in detail how individuals and/or families with special needs will be identified, affirmatively marketed to, and assisted in renting units at the project.

Projects which received 10 points under this scoring category will be required to submit a formal executed agreement with each provider identified in the letter(s) of intent at the time of project completion.

Compliance monitoring activities will include:

- Confirmation of hiring or contracting with a TSC;
- Confirmation of the provision of the services pledged at the time of application, if applicable; and
- Review of marketing efforts targeted at special needs populations.

For purposes of this scoring category, tenants with special needs include individuals or families who:

- Suffer from serious or persistent mental illness;
- Suffer from substance use disorders;
- Have disabilities, including intellectual, physical, or developmental;
- Are experiencing long-term homelessness, or are at significant risk of long-term homelessness;
- Are justice involved; or
- Are frail elderly, defined as those 62 years of age or older, who are unable to perform one or more “activities of daily living” without help. Activities of daily living comprise walking, eating, bathing, grooming, dressing, transferring, and home management activities. Assisted living, or projects serving a similar purpose, are not eligible under this Plan.

Walkability

Up to 15 points

In accordance with the Main Street Initiative (<https://www.mainstreetnd.com>) in building healthy, vibrant communities, a walkable city is a healthy city.

Walkable cities allow residents of any age to become more physically active and spend more time outdoors, thereby improving wellness and reducing health care costs. And across the country, the greater the walkability, the higher the real estate values. Two large demographic groups, millennials and retiring baby boomers, are seeking walkable neighborhoods where they can live, work, shop, learn and play.

Up to 15 points will be awarded based on the walk score assigned by www.walkscore.com.

- | | |
|---------------------------|------------------|
| • 80-100 point walk score | <i>15 points</i> |
| • 60-79 point walk score | <i>10 points</i> |
| • 40-59 point walk score | <i>6 points</i> |
| • 20-39 point walk score | <i>4 points</i> |
| • 10-19 point walk score | <i>2 points</i> |
| • 0-9 point walk score | <i>0 points</i> |

I. Cross-Cutting Requirements

Besides the rules and requirements specific to the HOME program, there are several additional broad Federal rules that must be adhered to in the course of administering the program. While the Agency is responsible for implementing these rules, owners, developers, CHDOs, and other non-and-for-profits must also be aware of them and actively ensure that a project or activity is in compliance.

Any applicants with substantial noncompliance, unresolved issues, or who have had substantial findings related to other Federal funds from the Agency including these Federal cross-cutting requirements within the last four years are not eligible to apply.

These other Federal cross-cutting requirements cover the following:

- 24 CFR 92.350 – Federal requirements set forth in 24 CFR part 5, subpart A: nondiscrimination and equal opportunity; disclosure requirements, debarred, suspended or ineligible contractors; drug-free work; and housing counseling
- 24 CFR 92.351 – Affirmative marketing; minority outreach program
- 24 CFR 92.352 – Environmental review
- 24 CFR 92.253 – Displacement, relocation and acquisition
- 24 CFR 92.354 – Labor
- 24 CFR 92.355 – Lead-based Paint
- 24 CFR 92.356 – Conflict of interest
- 24 CFR 92.357 – Executive order 12372
- 24 CFR 92.358 – Consultant activities
- 24 CFR 92.359 – VAWA requirements

RESOURCES

- Division of Community Services - HOME Program:
<https://www.communityservices.nd.gov/communitydevelopment/Programs/HOMEProgram/>
- HUD Exchange - HOME Investment Partnership Program:
<https://www.hudexchange.info/programs/home/>
- Electronic Code of Federal Regulations – Title 24, Subtitle A, Part 92:
<https://www.ecfr.gov/cgi-bin/text-idx?SID=38711658c0fa5ce50d3e43055d19756c&mc=true&node=pt24.1.92&rgn=div5>
- Suspension of the HOME Commitment and CHDO Reservation Deadline:
<https://www.hudexchange.info/news/suspension-of-the-home-commitment-and-chdo-reservation-deadline/>
- Notice CPD-18-10: Suspension of 24-month HOME Commitment Requirement:
<https://www.hudexchange.info/resource/5746/notice-cpd1810-suspension-of-24month-home-commitment-requirement-for-deadlines-occurring-in-2016-2017-2018-2019-and-2020/>
- Notice CPD-20-01: Four-Year Completion Requirement for HOME-Assisted Projects:
<https://files.hudexchange.info/resources/documents/Notice-CPD2001-Four-Year-Completion-Requirement-HOME-Assisted-Projects.pdf>
- Federal Registrar/Vol. 81, No. 232/December 2, 2016 - Changes to HOME Program Commitment Requirement Interim Final Rule:
<https://www.govinfo.gov/content/pkg/FR-2016-12-02/pdf/2016-28591.pdf>
- FY 2013 HOME Final Rule – Amendment of HOME Program Regulations:
<https://www.hudexchange.info/programs/home/home-final-rule/>
- Title II of the Cranston-Gonzalez National Affordable Housing Act:
<https://www.hudexchange.info/resource/2647/title-ii-of-the-cranston-gonzalez-national-affordable-housing-act/>