2023
COUNTY OF HAWAI'I
HOME INVESTMENT PARTNERSHIPS PROGRAM-AMERICAN RESCUE PLAN (HOME-ARP) PROGRAM
PROPOSAL PACKET

Office of Housing and Community Development
County of Hawai'i
1990 Kino'ole Street, Suite 102
Hilo, Hawai'i 96720
V/TT: 808-961-8379
Fax: 808-961-8685
Email: ohcdcdbg@hawaiicounty.gov

TABLE OF CONTENTS

2023
COUNTY OF HAWAI'I
HOME INVESTMENT PARTNERSHIPS - AMERICAN RESCUE PLAN
PROGRAM PROPOSAL PACKET
TABLE OF CONTENTS

INTRODUCTION 3

I. GENERAL INFORMATION FOR APPLICANTS 7

A. ELIGIBILITY OF THE APPLICANTS 7
B. FORMS OF ASSISTANCE 7
C. ELIGIBLE COSTS 8
D. PROHIBITED ACTIVITIES 9
E. ELIGIBLE ACTIVITIES 10
F. QUALIFYING POPULATIONS 10

II. RENTAL HOUSING ACTIVITIES 11

A. HOME-ARP INVESTMENT 11
B. HOUSEHOLD INCOME 11
C. TARGETING AND OCCUPANCY REQUIREMENTS 14
D. PROPERTY STANDARDS 15
E. MINIMUM COMPLIANCE PERIOD 17
F. RENT LIMITATIONS 17
G. CHANGES IN INCOME AND OVER INCOME HOUSEHOLDS 19
H. LEASE AND TENANT PROTECTIONS 19
I. OTHER PROJECT REQUIREMENTS 22

III. THE COUNTY SELECTION SYSTEM 25

A. THRESHOLD FACTORS 25

1. ELIGIBLE COST 25
2. FORMS OF ASSISTANCE 25
3. ELIGIBLE ENTITIES 25
4. ELIGIBLE ACTIVITY 26
5. PROJECT SCHEDULE 26
6. CONSISTENCY WITH THE HOME-ARP ALLOCATION PLAN 26
7. RELOCATION PLAN 27
8. ENVIRONMENTAL CONSIDERATIONS 27
9. SITE SELECTION 27
10. PROJECT FUNDING 27

B. PRIORITY FACTORS 28
1. PROJECT EVALUATION 28
2. APPLICANT EVALUATION 30
3. RATING CRITERIA 32

C. FINAL SELECTION 35

IV. PROPOSAL REQUIREMENTS 37

A. GENERAL 37
B. SUBMISSION DATES 37
C. PROPOSAL REQUIREMENTS 37
D. PROPOSAL SCHEDULE 37

V. APPENDIX

A. HOME REGULATIONS - Part 92
B. HHFDC HOME-ARP ALLOCATION PLAN
C. NOTICE CPD-21-10: REQUIREMENTS FOR THE USE OF FUNDS IN THE HOME-ARP PROGRAM
D. APPENDIX: WAIVERS AND ALTERNATIVE REQUIREMENTS FOR IMPLETMANTATION OF THE HOME-ARP PROGRAM
E. HOME-ARP PROPOSAL FORM
EXHIBIT 1 - PROJECT INFORMATION
EXHIBIT 2 - EXTENT AND SERIOUSNESS OF THE IDENTIFIED NEED
EXHIBIT 3 - HOME-ARP ALLOCATION PLAN PRIORITIES
EXHIBIT 4 - NEED FOR HOME-ARP FUNDS
EXHIBIT 5 - RESULTS TO BE ACHIEVED
EXHIBIT 6 - BUDGET AND FUNDING
EXHIBIT 7 - PROJECT SCHEDULE
EXHIBIT 8 - SITE SELECTION STANDARDS INFORMATION
EXHIBIT 9 - ENVIRONMENTAL CONSIDERATIONS
EXHIBIT 10- ADDITIONAL ACTIONS
EXHIBIT 11- COMPLIANCE WITH FED. OVERLAY STATUTES
EXHIBIT 12- PROJECT MANAGEMENT
EXHIBIT 13- PAST PERFORMANCE
EXHIBIT 14- DISPLACEMENT/RELOCATION/ACQUISITION
EXHIBIT 15- APPLICANT INFORMATION
EXHIBIT 16- CERTIFICATION OF AUTHORIZING OFFICIAL/RESOLUTION

INTRODUCTION

INTRODUCTION

The purpose of this HOME-ARP Proposal Packet is to provide information and guidance to the applicant who is considering applying for the U.S. Department of Housing and Urban Development's (HUD) HOME Investment Partnerships-American Rescue Plan (HOME-ARP) Program, through the County of Hawai'i Office of Housing and Community Development (OHCD).

The State of Hawaii, Hawaii Housing Finance Development Corporation (HHFDC) HOME-ARP Allocation Plan and the purpose of the HOME-ARP Program is outlined in Appendix B. The following is a brief outline of the HOME-ARP Program's purposes:

The HOME Program is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625. HOME-American Rescue Plan (HOME-ARP) established under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) for the HOME Program to provide homelessness assistance and supportive services.

The HHFDC's HOME-ARP Allocation Plan provides for distribution of HOME-ARP funds through State Recipients for the acquisition, rehabilitation, or construction of affordable rental housing primarily for "Qualifying Populations".

The State of Hawai'i, through the HHFDC, will receive $6,413,733 for the 2021 HOME-ARP Program allocation for the three neighbor island counties of Hawai'i, Maui and Kauai. HHFDC will retain $481,029 from the 2021 HOME-ARP Funds for its administration of the HOME-ARP program. Hawaii County's 2021 HOME-ARP allocation will be $1,977,568.

The County of Hawai'i's total allocation of $1,977,568 will be utilized as follows: .

COUNTY OF HAWAI'I CATEGORIES	2021 HOME-ARP ALLOCATION
HOME-ARP Projects	$1,817,225
OHCD Administration	$160,343
TOTAL	$1,977,568

The County of Hawai'i has designated the OHCD as the agency to administer the HOME-ARP Program. The OHCD will submit to the HHFDC a 2021 HOME-ARP Program Description for approval. The HOME-ARP Program description will include the HOME-ARP project(s) approved by the Hawai'i County Housing Agency (HCHA).

The OHCD is seeking eligible project proposals from qualified organizations to develop and support affordable rental housing,. Qualified entities are asked to submit one proposal form for each project and activity being proposed.

In order to receive federal funding all applicants will be required to have a Unique Entity Identifier-UEI number (AKA Bradstreet Data Universal Numbering System (DUNS) number) and be actively registered with current information in the Central Contractor Registration (CCR) prior to applying for HOME-ARP funding. The applicant will have to submit proof that they have a UEI number and are actively registered in the CCR system with their project proposal packet.

In order to rate and rank the project, the OHCD has developed the County Selection System. The system is intended to ensure that the projects submitted to the HHFDC are eligible for funds and can be implemented in a timely manner as well as to avoid the problems and mistakes the OHCD has experienced with past projects.

The OHCD will recommend, for HCHA approval, the projects to be included in its 2023 Action Plan of the County's Consolidated Plan. For the purpose of preparing its recommendation, all decisions as to timeliness, eligibility, adequacy of the proposal, ranking and rating will be made by the OHCD.

Please read all the enclosed program materials before you prepare the proposal. To be considered for HOME-ARP funds, all eligible applicants will be required to submit a complete proposal that satisfies the threshold factors established by HUD/HHFDC and the County before the OHCD will rank and rate the proposal. However, since the demand for grants far exceed the available funds, the County Selection System is designed to ensure that the projects are fairly and equitably reviewed and rated.

This selection system establishes a specific range of points for various elements of the project; the OHCD will rate and rank the projects accordingly. To be evaluated fairly, the applicant must provide appropriate, quantifiable information in a manner that will enable the OHCD to score the project on each rating element. This proposal packet has been prepared to assist the applicant by explaining the review system and providing information and guidance on how to prepare the proposal. The proposal packet provides the following information:

- Explanation of HOME-ARP Program requirements.

- Explanation of how, need, benefit and performance judgments and the selection system assessments will be made.

- Description of the documentation applicants must submit to substantiate the data, qualifications, and other necessary requirements.

- Description of the review and rating process that will be used.

- Additional Federal regulations applicable to applicants receiving HOME-ARP funding.

IMPORTANT NOTICE:

The time frames established in the proposal process are firm. At the close of the proposal submittal period, no further information will be accepted by the OHCD, although clarification of information will be allowed, or additional information may be requested as required to comply with the County's Consolidated Plan. It is, therefore, important that your proposal is complete, factual, and contains the required supporting data. If the proposal is incomplete, the OHCD will not review the proposal.

All original bounded (PLEASE NO SPIRAL BINDING) project proposal and two (2) copies must be received no later than 4:30 p.m., November 15, 2022, at the:

Hilo Office of Housing and Community Development
1990 Kino'ole Street, Suite 102
Hilo, Hawai'i 96720
Phone No. (808)961-8379

or

Kona Office of Housing and Community Development
West Hawai'i Civic Center
74-5044 Ane Keohokalole Highway
Kailua-Kona, Hawai'i 96740
Phone No. (808)323-4305

Proposals submitted <u>after</u> the <u>date and time stamp deadline</u> or insufficient copies of the proposal <u>will not</u> be accepted and therefore not rated for funding.

After a proposal is approved for funding, a HOME-ARP contract Agreement will be prepared. This contract is the legal document that governs the administration of the project and includes, but is not limited to:

- ❖ The amount of HOME-ARP funds to be provided;
- ❖ A detailed budget for the use of HOME-ARP funds;
- ❖ A detailed statement of work, including activity description; area of services; work schedule; work revisions; and records and reports;
- ❖ The general and special terms and conditions associated with the award; and
- ❖ A specified contract termination date.

The approved proposal becomes part of the contract. The HOME-ARP policy precludes the disbursement of any funds until the environmental assessment is completed, and the contract is fully executed.

The OHCD will monitor all expenditures and activities associated with each funded project. This includes site visits and desk monitoring. All participants are required to report on the status of their progress monthly. Through these reports, the OHCD ensures that the money is spent within the regulations. (Appendix A details the record keeping requirements for the HOME-ARP Program.)

In addition, effective July 1996, all applicants selected for funding are required to obtain a tax clearance certificate from the State Department of Taxation and the Internal Revenue Service (IRS) prior to entering into an agreement with the County of Hawai'i and prior to submitting the final payment request.

GENERAL INFORMATION FOR APPLICANTS

I. GENERAL INFORMATION FOR APPLICANTS

A. ELIGIBILITY OF THE APPLICANTS

In general, public agencies, private non-profit organizations, developers, owners, community housing development organizations (as defined by HUD, see Appendix C), or other private organizations are eligible to utilize HOME-ARP funds.

RELIGIOUS ORGANIZATION (92.257 - See Appendix A) - HOME funds may not be provided to primarily religious organizations, such as churches, for any activity including secular activities. In addition, HOME funds may not be used to rehabilitate, or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. However, HOME funds may be used by a secular entity to acquire housing from a primarily religious organization; and a primarily religious entity may transfer title to property to a wholly secular entity and the entity may participate in the HOME Program in accordance with the requirements of this part. The entity may be an existing or newly established entity, which may be an entity established, but not controlled, by the religious organization. The completed housing project must be used exclusively by the owner entity for secular purposes, available to all persons regardless of religion. In particular, there must be no religious or membership criteria for tenants of the property.

B. FORMS OF ASSISTANCE (HOME-ARP funds may be invested in eligible forms of assistance as described in 24 CFR 92.205(b) Appendix A)

The PJ may invest HOME-ARP funds in accordance with the eligible forms of assistance described in 24 CFR 92.205(b)in Appendix A. Each PJ has the right to establish the terms of assistance, subject to the HOME-ARP requirements described in Appendix C.

1. HOME-ARP funds may be used as equity investments, interest-bearing loans or advances, non interest-bearing loans or advances, interest subsidies

consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance as approved by HUD/HHFDC.

2. HOME-ARP funds may be used to guarantee loans made by lenders. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans, but under no circumstances may the amount on deposit exceed 20% of the total outstanding principal amount guaranteed, except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay guaranteed loans are not.

C. ELIGIBLE COSTS

HOME-ARP funds may pay for up to 100 percent of the following eligible costs associated with HOME-ARP rental units:

1. Development hard costs include the actual cost of constructing and rehabilitating housing to meet applicable property standards. Eligible development costs also include site improvements, utility connections and costs to construct or rehabilitate laundry and community facilities located within the same building as the HOME-ARP housing;
2. Acquisition costs of improved or unimproved real property;
3. Related soft costs including reasonable and necessary costs incurred by the PJ or project owner associated with the financing, development, acquisition, or rehabilitation of HOME-APR rental housing;
4. Relocation costs as defined in 24 CFR 92.206(f), 24 CFR 92.353, and the Notice;
5. Certain costs related to the payment of construction, bridge, or guaranteed loans, if HOME-ARP is part of original financing; and 2
6. Operating cost assistance, through a capitalized operating reserve or ongoing operating cost payments, for HOME-ARP units restricted for occupancy by qualifying households.

D. PROHIBITED ACTIVITIES

HOME-ARP may not be used for any of the prohibited activities, costs or fees in 24 CFR 92.214 Appendix A, as revised by the Appendix D.

HOME-ARP funds may not be used to:

1. Provide project reserve accounts, except as provided in Section 92.206(d)(5), or operating subsidies;
2. Provide tenant-based rental assistance for the special purposes of the existing Section 8 Program, in accordance with Section 212(d) of the Act;
3. Provide non-federal matching contributions required under any other federal program;
4. Provide assistance authorized under section 9 of the 1937 Act (annual contributions for operation of public housing);
5. Carry out activities authorized under 24 CFR Part 968 (Public Housing Modernization);
6. Provide assistance to eligible low-income housing under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages); except that assistance may be provided to priority purchasers as defined in 24 CFR 248.101;
7. Provide assistance (other than tenant-based rental assistance or assistance to homebuyers to acquire housing previously assisted with HOME funds) to a project previously assisted with HOME funds during the period of affordability established by the County. However, additional HOME funds may be committed to a project up to one year after project completion (see 92.502) but the amount of HOME funds in the project may not exceed the maximum per unit subsidy amount established under 92.250;
8. Pay for the acquisition of property owned by the State of Hawai'i/County of Hawai'i, except for property acquired by the State/County with HOME-ARP funds, or property acquired in anticipation of carrying out a HOME-ARP project;
9. Pay delinquent taxes, fees or charges on properties to be assisted with HOME-ARP funds and;
10. Pay for any cost that is not eligible under 92.206-209.

E. ELIGIBLE ACTIVITIES

Acquisition, construction, and rehabilitation of affordable rental housing, including reconstruction as defined in 24 CFR 92.2 Appendix A. Acquisition of vacant land or demolition may be undertaken only with respect to a HOME-ARP project for which construction is expected to start within 12 months of commitment (Appendix C).

F. QUALIFYING POPULATIONS

HOME-ARP funds must be used to primarily benefit individuals or families from the following qualifying populations:

- Homeless, as defined in section 103(a) of the Mckinney-Vento Homeless Assistance Act (42 U.S.C.11302(a);
- At-risk of homelessness, as defined in section 401(1) of the Mckenney-Vento Homeless Assistance Act (42 U.S.C.11360(1);
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, as defined by the Secretary;
- Other Populations, where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability (See Appendix C).
- Veterans and families that include a veteran family ember that meet one of the preceding criteria

RENTAL HOUSING ACTIVITIES

II. RENTAL HOUSING ACTIVITIES

A. HOME-ARP INVESTMENT

1. **MINIMUM** - The minimum amount of HOME-ARP funds that must be invested in a rental housing project is $1,000 times the number of HOME-ARP-assisted units in the project as established in 24 CFR 92.205(c).

B. HOUSEHOLD INCOME - The following income requirements apply to HOME-ARP households:

a. Qualifying Households: At initial occupancy and each subsequent year during the minimum 15-year compliance period, the PJ must use the definition of annual income at 24 CFR 5.609 and the process described in the Notice to determine the household's contribution to rent.

b. Low-Income Households: The PJ must use the definition of annual income at 24 CFR 5.609 and the process described in the Notice to examine the household's income at initial occupancy and each subsequent year during the minimum 15-year compliance period to determine the household's ongoing income eligibility and applicable contribution to rent.

c. The chart below indicates the income limits for very low and low income households.

FAMILY INCOME LIMITS
(As of 06/15/2022 - Amended Annually)

Household Size	Very Low Income (50%)	60% Limit	(80%) Low Income
1 Person	$33,350	$40,020	$53,350
2 Persons	38,100	45,720	60,950
3 Persons	42,850	51,420	68,550
4 Persons	47,600	57,120	76,150
5 Persons	51,450	61,740	82,250

6 Persons	55,250	66,300	88,350
7 Persons	59,050	70,860	94,450
8 Persons	62,850	75,420	100,550

2022 Hawai'i County Median Income: $91,600

1. INCOME DETERMINATION (92.203 & 92.252) - The applicant must determine that each family is income eligible by determining the family's annual income.

   The applicant must require all HOME-ARP units to be restricted for eligible households (i.e., either qualifying or low-income households) 29 throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP rental units solely by meeting the definition of one of the qualifying populations (i.e., HOME-ARP does not impose income restrictions on units restricted for qualifying populations). If there is no income requirement in the qualifying population's definition, a applicant is not required to perform an initial determination of household income except as necessary to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restrictions (e.g., LIHTC). Each subsequent year during the compliance period, starting 1 year after initial occupancy, the applicant must use the definition of annual income as defined in 24 CFR 5.609 to examine the income of qualifying households to determine the household's contribution to rent. For low-income households, the PJ must use the definition of annual income as defined in 24 CFR 5.609 to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution (Appendix C).

   a) Qualifying populations: For purposes of establishing the qualifying household's rental contribution after initial occupancy, a owner must examine a HOME-ARP qualifying

household's income using 24 CFR 92.203(a)(1)(i) or (iii), starting 1 year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the PJ. A project owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

b) Low-income Households: In accordance with 24 CFR 92.252(h), the income of each low-income household must be determined initially in accordance with 24 CFR 92.203(a)(1)(i), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the PJ. An owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

c) Households Assisted by Other Programs: Notwithstanding paragraphs (a) and (b), if a

family is applying for or living in a HOME-ARP-assisted rental unit, and the unit is assisted by a Federal or State project based rental subsidy then a PJ must accept a public housing agency, section 8 project owner, or CoC recipient or subrecipient's 30 determination of the family's annual income and adjusted income under that program's rules and does not need to obtain source documentation in accordance with 24 CFR 92.203(a)(1) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP rental unit, and the family is assisted by a Federal tenant-based rental assistance program (e.g. housing choice vouchers) then a PJ may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under 24 CFR 92.203(a)(1).

C. TARGETING AND OCCUPANCY REQUIREMENTS

ARP requires HOME-ARP activities to primarily benefit households in the qualifying populations. To improve the feasibility and maintain the long-term viability of projects with HOME-ARP rental units for qualifying households, the county may invest HOME-ARP funds in units that are not restricted for occupancy solely for qualifying populations. Specifically, owners must comply with the following requirements:

1. Targeting: HOME-ARP funds can only be invested in units restricted for qualifying households or low-income households as follows:
    a) Not less than 70 percent of the total number of rental units assisted with HOME-ARP funds by the County must be restricted for occupancy by households that are qualifying households at the time of the household's initial occupancy; and,
    b) Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the county may be restricted to low-income households. These rental

units do not have to be restricted for occupancy by qualifying households, however rental units restricted to low-income households are only permitted in projects that include HOME-ARP units for qualifying households.

2. Occupancy Requirements:

a) Qualifying Households. Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a qualifying population. As such, a unit restricted for a qualifying household remains in compliance with the HOME-ARP unit restriction as long as the unit is occupied by a qualifying household that met the definition of a qualifying population at the time of admission.

b) Low-Income Households. At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2. If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the county to take action I accordance with the rent unit mix requirements.

D. **PROPERTY STANDARDS (92.251)** HOME-ARP rental units must comply with all property standards applicable to rental projects required in 24 CFR 92.251 paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing, (e)

manufactured housing, and (f) on-going property condition standards.

1. Housing that is constructed or rehabilitated with HOME-ARP funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion, except as provided in paragraph (b) of this section. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials;

2. All other HOME-ARP assisted housing must meet all applicable state and local housing quality standards and code requirements;

3. The housing must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multi-family dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619);

4. Construction of all manufactured housing must meet the Manufactured HOME/HOME-ARP Construction and Safety Standards established in 24 CFR part 3280. These standards pre-empt State and local codes covering the same aspects of performance for such housing. The applicants HOME-ARP assistance to install manufactured housing units must comply with applicable State and local laws or codes. Manufactured housing that is rehabilitated using HOME-ARP funds must meet the requirements set forth in paragraph (D)(1) of this section.

5. An owner of rental housing assisted with HOME-ARP funds must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements.

E. MINIMUM COMPLIANCE PERIOD (Appendix C)– HOME-ARP-assisted units must comply with the requirements of Appendix C for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the activity being undertaken. A PJ may impose a longer compliance period but should plan for the project's financial feasibility for the longer period without HOME-ARP funds. The owner may not use HOME-ARP funds to provide operating cost assistance, including a capitalized operating cost assistance reserve, to cover deficits during a owners extended compliance period.

F. RENT LIMITATIONS – Appendix C establishes rent limits for HOME-ARP units restricted for qualifying populations and for units that may be restricted for low-income households.

1. Units Restricted for Occupancy by Qualifying Households: In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis. Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a qualifying household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program). The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance established pursuant to Section VI.B.13.d of Appendix C.

2. Rent limitations - low-income households: HOME-ARP rental units occupied by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives a form of Federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program). The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to Section VI.B.13.d of this Appendix C.

3. Rent limitations - Single Room Occupancy (SRO) Units: A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental, a SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's 31 designation as a SRO cannot be inconsistent with the building's zoning and building code classification.
   If the SRO units have both sanitary and food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established pursuant to Section VI.B.13.d of Appendix C.

4. Initial Rent Schedule and Utility Allowance: The owner must establish maximum allowances for utilities and services and update the allowances annually. The owner may adopt the utility allowance schedule of the PHA. The PJ must review and approve the HOME-ARP rents proposed by the

owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the owner must determine that the rent for the unit does not exceed the maximum rent minus the monthly allowance for utilities and services.

G. CHANGES IN INCOME AND OVER INCOME HOUSEHOLDS

A household that met the definition of one of the HOME-ARP qualifying populations at initial occupancy and whose annual income at the time of income re-certification is above 50 percent of median income for the area but at or below 80 percent of the median income for the area must pay the rent specified in 24 CFR 92.252(a).

HOME-ARP-assisted units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.

A qualifying or low-income household that is not low-income at the time of income re-certification (i.e., whose income is above 80 percent of the median income for the area) must pay rent that complies with the over income regulatory requirements at 24 CFR 92.252(i)(2), which includes requirements applicable to HOME units that also have LIHTC restrictions.

H. LEASE AND TENANT PROTECTIONS- Owners must verify that each household that occupies a HOME-ARP assisted unit has an executed lease that complies with the tenant protection requirements of Appendix C. The lease must be either be between the project owner and the household or between the project owner and a HOME-ARP sponsor with a sublease between the qualifying household and HOME-ARP sponsor. A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. PJs may permit a HOME-ARP sponsor to lease a HOME-ARP unit

from an owner or execute a master lease with the owner of a HOME-ARP project for HOME-ARP units restricted for occupancy by qualifying households. The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to the qualifying household. The sublease between the HOME-ARP sponsor and the qualifying household must comply with the rent limitations and tenant protection requirements of this Appendix C.

1. Lease Requirement: There must be a lease between the qualifying household or the low-income household and the owner of the HOME-ARP-assisted project in accordance with 24 CFR 92.253(a), except that a sublease is permitted if a HOME-ARP sponsor has executed a master lease or lease with the project owner for the leasing of the units restricted for occupancy by qualifying households.

2. Prohibited Lease Terms: The lease between the low-income household, qualifying household, or HOME-ARP sponsor and the HOME-ARP project owner or the sublease between the HOME-ARP sponsor and a qualifying household may not contain any of the prohibited lease terms specified in 24 CFR 92.253(b).

3. Termination of tenancy: An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a HOME-ARP unit or of a HOME-ARP sponsor with a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws; or for other good cause. Similarly, a HOME-ARP sponsor may not refuse to renew a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the sublease; for violation of applicable Federal, State, or local laws; or for other good cause. An increase in the tenant's or sublessee's income does not constitute good cause. In addition, if HOME-ARP funds were or are used to capitalize an operating cost assistance reserve or there is a current contract for the PJ to provide operating cost assistance to the project, an owner may not

terminate the tenancy or refuse to renew the lease of a qualifying household because of the household's inability to pay rent during the minimum compliance period. A qualifying household's inability to pay rent shall mean that the qualifying household cannot pay more than 30 percent of the qualifying household's income toward rent, based on an income determination made by the owner in the last 30 days. Where there is no capitalized operating reserve or other operating cost assistance to cover the operating deficit for a HOME-ARP unit occupied by a qualifying household, the owner may assist the qualifying household with HOME-ARP TBRA or supportive services in accordance with the requirements of Appendix C. The above tenant protections are necessary as HOME-ARP requires the PJ to perform underwriting that reviews the operating feasibility of units occupied by qualifying households for the 15-year compliance period to determine how HOME-ARP funds may address the potential for qualifying households to have little to no income to contribute toward rent. To terminate or refuse to renew tenancy for any household occupying a HOME-ARP unit, the owner must serve written notice upon the tenant (and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor) at least 30 days before termination of tenancy, specifying the grounds for the action. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the owner, must notify the owner in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

I. OTHER PROJECT REQUIREMENTS

1. **MASTER LEASING AND USE OF A HOME-ARP SPONSOR:** A HOME-ARP sponsor - a nonprofit organization that provides housing or supportive services to qualifying households - may execute a lease for a HOME-ARP unit or a master lease for multiple units in a project. The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to a qualifying household.

2. **COORDINATED ENTRY AND PROJECT SPECIFIC WAILISTS** On a project-by-project basis, a PJ must decide whether a project owner may use a Continuum of Care's (CoC) Coordinated Entry (CE), a CoC's CE and other referral sources, or a project-specific waitlist to select qualifying households for HOME-ARP units restricted for occupancy by qualifying households. A project owner must use a project-specific waitlist to select low-income households to occupy units restricted for occupancy by low-income households.

    a. The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that:
        i. Limits eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements; Preferences for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's preferences and the PJ's policies and procedures for applying those preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
        ii. ii. Do not exclude an applicant with a voucher under the section 8 Housing Choice Voucher Program (24 CFR 982), or an applicant participating in HOME, HOME-ARP or other Federal, state or local

tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document;

iii. Limits eligibility or gives a preference to a particular qualifying population or segment of the qualifying population if permitted in its written agreement with the participating jurisdiction (and only if the limitation or preference is described in the participating jurisdiction's HOME-ARP allocation plan). A preference for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's determined preference(s) and the PJ's policies and procedures for applying the preference(s), if any;

iv. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350. If the PJ requires the use of a project-specific waitlist to select qualifying households and/or low-income households for occupancy of HOME-ARP units, provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable;

v. Gives prompt written notification to any rejected applicant of the grounds for any rejection; and,

vi. Complies with the VAWA requirements as described in 24 CFR 92.359.

b. Project-Specific Waitlist - Low-Income Households: A project owner must use a project-specific waitlist to select households to occupy units restricted

for occupancy by low-income households in accordance with the tenant selection requirements of 24 CFR 92.253(d).

3. **UNIT DESIGNATION (Appendix C):** The PJ must determine the number of HOME-ARP units in the project restricted for qualifying households and low-income households, respectively, and whether the units are fixed or floating units at the time of project commitment. The total number of HOME-ARP rental units restricted for occupancy by qualifying households and the total number of HOME-ARP rental units restricted for low-income households must be identified as separate totals in the written agreement. In a project containing HOME-ARP and other units, the owner must designate fixed or floating HOME-ARP units in accordance with 24 CFR 92.252(j). The owner must maintain this unit mix throughout the compliance period.

4. **MAINTAINING UNIT MIX (Appendix C):** At the time of admission to a HOME-ARP rental unit, a household must meet the definition for at least one qualifying population or be determined to be a low-income household, depending on the applicable HOME-ARP restriction on the rental unit to which it is being admitted and in accordance with the written agreement.

5. **SPECIAL CONDITION PROJECT:** All construction projects in excess of $50,000, which are undertaken using HOME Program funds, shall have a project sign (minimum 4' x 4') located prominently at the project site. The sign must be installed prior to construction and shall be maintained for the duration of the construction project

6. **RECORDKEEPING (Appendix A) -** All projects are subject to the recordkeeping requirements of 92.508.

THE HOME-ARP PROJECT SELECTION

III. THE COUNTY SELECTION SYSTEM

The County Selection system is designated to help select those projects having the greatest need and which most effectively addresses that need.

In order to be considered for funding, the project must meet certain minimum requirements established by HUD, HHFDC, and the OHCD. These are identified as **"Threshold Factors."** If all the threshold factors are met, the project will be rated on the basis of **"Priority Factors,"** including the Consolidated Plan priorities, extent and seriousness of the identified need, the need for HOME funds, the results to be achieved, budget and funding, leveraging/matching, project schedule, site selection information, environmental concerns, the applicant's capabilities, past performance in grant management, project management, and ability to meet and comply with federal overlay statutes.

A. THRESHOLD FACTORS

A proposal must meet certain minimum requirements before the OHCD will begin to rate the project. **If your proposal does not address or meet these threshold factors, the OHCD will not rank and rate your project proposal.** The threshold requirements are listed below:

1. ELIGIBLE COST

The project cost must be eligible with respect to Appendix B, and Appendix C.

2. FORMS OF ASSISTANCE

The forms of assistance must be eligible with respect to 24 CFR 92.205(b).

3. ELIGIBLE ENTITIES

The entity carrying out the HOME-ARP activity must be eligible.

4. ELIGIBLE ACTIVITY

The activity must be eligible.

5. PROJECT SCHEDULE

In order to comply with and meet HOME-ARP Program requirements, all activities funded with HOME funds shall be expended and completed within an Twelve (12) month period. This period is anticipated to begin from November 1, 2023 and ends on October 31, 2024.

6. CONSISTENCY WITH THE HHFDC HOME-ARP Allocation PLAN

The HHFDC HOME-ARP Allocation Plan contains the County of Hawai'i's HOME-ARP Production of Housing Goals. As such, all projects must show that they are consistent with the HHFDC HOME-ARP Allocation Plan's priorities/goals in order to be considered by the OHCD for HOME-ARP funds.

Projects requesting HOME-ARP funding will need to address the production and preservation of affordable rental housing.

The following are the HHFDC HOME-ARP Production Housing Goals:

- Housing: Development of affordable rental housing to meet the needs of the Qualifying Population for a proposed total of 6 HOME-ARP units.

7. RELOCATION PLAN

If individuals or businesses will be relocated in order to carry out the proposed project, it is required that the applicant describe why displacement is necessary and submit a relocation plan that complies with 24 CFR 570.606, Uniform Relocation Act (URA), as contained in Appendix A, and the County of Hawai'i's Relocation Plan. If there is no approved relocation/displacement plan, the proposed project will not be rated and ranked.

8. ENVIRONMENTAL CONSIDERATIONS

All projects utilizing HOME-ARP funds are required by HOME/HOME-ARP Program rules and regulations to be reviewed for the appropriate level of environmental compliance. The type of environmental compliance is a significant milestone in the project schedule and will ultimately affect the progress of the project. Projects requiring an Environmental Impact Statement (EIS) or an Environmental Assessment expecting to have numerous environmental concerns will not be rated and ranked.

9. SITE SELECTION

In order to implement the project in a timely manner, it is vital that the project site be **identified** and **controlled** by the applicant. Projects requiring changes in zoning and/or if it involves site acquisition with HOME-ARP funds, the applicant must submit a timeline identifying the steps and their process to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

10. PROJECT FUNDING

Applicants will need to state and identify whether there are other sources of funds (i.e., County, State, private donations, etc.). Documentation to verify that these funds are secured and committed are required to be submitted.

B. PRIORITY FACTORS

Applicants should clearly describe how its proposed project will comply and ultimately accomplish the priorities/goals of the HHFDC HOME-ARP Allocation Plan. Higher points will be awarded to projects that address high priority activities. The proposal will be evaluated and selected for assistance based upon the following rating criteria:

Project Evaluation:	Maximum Points
1. Extent and Seriousness of the Identified Need	100
2. Need for HOME-ARP Funds	100
3. HHFDC HOME-ARP Allocation Plan Goals	100
4. Results to be Achieved	100
5. Budget and Funding	100
6. Site Selection Standards Information	100
7. Environmental Considerations	100
8. Additional Actions Needed	50
9. Compliance w/ Federal Overlays	50
10. Project Management	100
11. Past Performance	100
TOTAL POSSIBLE POINTS	1,000

Project Evaluation

The project evaluation element, which represents a significant portion of the total number of points each project can receive, is intended to ensure that the best projects are considered for funding. Ten components have been identified and will be considered in the rating of this element. These components are:

1. EXTENT AND SERIOUSNESS OF THE IDENTIFIED NEED:

Applicants should clearly describe the extent and the seriousness of the identified needs.

2. NEED FOR HOME-ARP FUNDS:

Applicants should clearly describe why HOME-ARP funds are needed for this project.

3. HHFDC HOME-ARP ALLOCATION PLAN GOALS/PRIORITES:

Applicants will need to address the goals as stated in the HHFDC HOME-ARP Allocation Plan in order to be considered by the OHCD for HOME-ARP funds.

4. RESULTS TO BE ACHIEVED:

Applicants should explain what will actually be accomplished as a result of undertaking this project. Applicants should describe how and to what extent the proposed project will address the needs identified. The kind of benefit which the proposal provides may make a difference in judging and comparing the adequacy of the proposal in meeting the identified needs.

5. BUDGET AND FUNDING:

The project funding and budget elements are intended to ensure that the proposed project can be completed and that the program funds are effectively used and secured. It is to the applicant's benefit that their project budget demonstrates that HOME-ARP funds will be encumbered and utilized prior to the eighteen-month expenditure deadline. The scoring system is also intended to encourage the use of resources and funds over and above the HOME funds applied for in undertaking a project.

6. SITE SELECTION STANDARDS INFORMATION:

Applicants proposing to acquire or lease land for housing or any other eligible activity should address the site selection standards and the efforts it will take to meet them. See Exhibit 9 of the proposal for the selection standards.

7. ENVIRONMENTAL CONSIDERATIONS:

A federal environmental review will be required for all projects selected for funding. Consequently, information relating to environmental concerns at the selection stage can have a significant impact on the proposal. The extent to which the applicant has considered and acted upon potential environmental

concerns may be important. Some examples are: relocation activities from a flood plain, the effect of increased traffic in a neighborhood resulting from a funded activity, historic sites, hazardous material, etc.

8. ADDITIONAL ACTIONS NEEDED:

Evidence should be provided where necessary to indicate that other resources or activities are needed to ensure a complete project will be available. If such support is not documented, or if the need is evident but not addressed, the impact of the proposal may be diminished.

9. COMPLIANCE WITH FEDERAL OVERLAY STATUTES:

Applicants are required to indicate whether their activities will necessitate compliance with the federal overlay statutes as described in Appendix A, and Appendix C and the applicant should describe its understanding and procedures for complying with these federal statutes.

Applicant Evaluation

The applicant evaluation element is intended to ensure that the applicant has the necessary qualifications and expertise to carry out the proposed project. To be awarded HOME funds, the applicant must have the capacity to undertake, complete, and administer the project in compliance with the HOME program rules in a timely and efficient manner. In addition, applicants who have received HOME funds in the past will be evaluated on the basis of their past performance.

The components to be examined include:

10. PROJECT/PROGRAM MANAGEMENT CAPABILITIES:

The project management component is designed to evaluate the applicant's capacity to implement the project. If an on-going program activity will result from this project (i.e., construction of a building for operation of rental housing project, etc.), the program management section will be evaluated to

determine if the applicant has the capacity to implement the program activity as well as the project.

11. PAST PERFORMANCE:

The performance component involves an examination of the applicant's previous record in carrying out the HOME project. Criteria to be examined include:

a. Applicant's rate of progress in completing activities.
b. Applicant's rate of expenditure and obligation of funds.
c. Applicant's compliance with applicable laws and regulations.
d. Applicant's track record for responding to the OHCD in a timely manner.

If the applicant has not received a Block Grant in the past, it will be rated solely on its Project Management Capabilities to complete the project in the eighteen-month time frame.

Points will be assigned for each component based on the following criteria:

RATING CRITERIA

1. EXTENT AND SERIOUSNESS OF THE IDENTIFIED NEEDS

100 pts. Clear need is described which is major and current and the need is more crucial than others.
75 pts. Need is clearly described and is serious.
50 pts. Need is described and is fairly serious. The need does not appear to be as crucial as others being considered in the selection process.
25 pts. Need is described but not major or pronounced.
0 pts. No clear need is described, or need is not major or pronounced.

2. NEED FOR HOME-ARP ASSISTANCE

100 pts. Clear need for HOME-ARP funds is described and the project cannot occur without the HOME-ARP award.
75 pts. Need for HOME-ARP funds is clearly described and is serious.
50 pts. Need for HOME-ARP funds is described and is fairly serious. The need does not appear to be as crucial as others being considered in the selection process.
25 pts. Need for HOME-ARP funds is described but is not major or pronounced.
0 pts. No clear need is described, or need is not major Pronounced.

3. HHFDC HOME-ARP ALLOCATION PLAN GOALS

100 pts. The project will address a high priority and goal of the Housing and Special Needs priorities within the Plan.
75 pts. The project will address a medium priority and goal of the Housing and Special Needs priorities within the Plan.
50 pts. The project will address a low priority and goal of the Housing and Special Needs priorities within the Plan.
25 pts. The project meets the high, medium and/or low priorities but will not accomplish the goal of the Housing and Special Needs priorities within the Plan.

0 pts. The project does not address a priority and goal of the Housing and Special Needs priorities within the Plan.

4. RESULTS TO BE ACHIEVED

100 pts. The project would resolve the problem completely, other actions needed to support the project have been committed and are clearly stated in the proposal.

75 pts. The project would have a major impact on the need but would not completely resolve the problem.

50 pts. The project would have some impact on the need but not as much as that of other projects.

25 pts. The project does not clearly address the need. The project appears to be of general community benefit and would only minimally serve low- and very-low income persons.

0 pts. Only a small portion of the described need would be addressed. The community has made no apparent effort to solve the problem through local and other sources.

5. BUDGET AND FUNDING

100 pts. The project costs are clearly documented and are accurate.

75 pts. The project costs appears to be accurate but not well documented.

50 pts. The accuracy of the project costs are questionable and not well documented.

25 pts. The project costs are inaccurate and are not documented.

0 pts. The project costs were not submitted and not documented.

6. SITE SELECTION STANDARDS INFORMATION

100 pts. There are no site selection problems identified.

75 pts. There may be some site selection problems; however, they appear to be fully resolvable.

50 pts. The project appears to have some problems with respect to site selection.

25 pts. The project appears to have a moderate amount of problems with respect to site selection.

0 pts. The project appears to have extensive problems with respect to site selection.

7. ENVIRONMENTAL CONCERNS

100 pts. An environmental review has been completed, and there are no environmental problems.

75 pts. Environmental problems have been identified; however, they appear to be fully resolvable.

50 pts. The project appears to have slight problems with respect to environmental concerns.

25 pts. The project appears to have moderate problems with respect to environmental concerns.

0 pts. The project appears to have extensive problems with respect to environmental concerns.

8. ADDITIONAL ACTIONS NEEDED

50 pts. No further action is needed. The project fully resolves the identified problem.

40 pts. Some additional action may be needed to fully resolve the problem.

30 pts. Moderate action is still needed to resolve the identified problem.

20 pts. Extensive action is still needed to fully resolve the identified problem.

0 pts. The project does not address the identified problem.

9. COMPLIANCE WITH FEDERAL OVERLAY STATUTES

50 pts. There are no overlay statute problems.

40 pts. There may be overlay statute problems; however, they appear reasonable and fully achievable.

30 pts. The project appears to have slight problems with respect to overlay statutes compliance.

20 pts. The project appears to have moderate problems with respect to overlay statutes compliance.

0 pts. The project appears to have extensive problems with respect to overlay statutes compliance.

10. PROJECT MANAGEMENT

100 pts. The applicant clearly documents the necessary qualifications and experience to carry out the project. Staff has extensive training and experience relative to their functions. Applicant has excellent previous experience and capacity for managing grant funds.

75 pts. The applicant appears to have the necessary qualifications and experience to carry out the project, but it is not well documented.

50 pts. The applicant appears to have most of the necessary qualifications and experience to carry out the project.

25 pts. The applicant appears to have some of the necessary qualifications and experience to carry out the project.

0 pts. The applicant does not appear to have the necessary qualifications or experience.

11. PAST PERFORMANCE

100 pts. The applicant has implemented the project(s) on a timely basis.

75 pts. The applicant had some problems in implementing the project(s), but the problems were fully resolvable.

50 pts. The applicant had problems in implementing the project(s).

25 pts. The applicant had a moderate amount of problems in implementing the project(s).

0 pts. The applicant had extensive problems in implementing the project(s).

C. FINAL SELECTION

RANKING

The points received on each of the elements will be added and the projects ranked accordingly. A project proposal must receive a minimum of 50% of the total points to be considered for ranking. An interview with each applicant may be conducted, to clarify any information presented in the project proposal, prior to the final recommendation to the Hawai'i County Housing Agency and the Hawai'i County Council. The OHCD will then recommend, for Hawai'i County Housing Agency/Council approval, the projects to be included in the County's Annual Action Plan to HUD/HHFDC, based on the ranking system.

In cases of a tie in the number of points a project receives, the following method will be used:

a) The proposal which has the higher "Extent and Seriousness of the Identified Needs" evaluation score will be selected;

b) If the projects meet the same higher "Extent and Seriousness of the Identified Needs", the proposal which has the higher "Need for HOME-ARP funds" evaluation score will be selected.

PROPOSAL REQUIREMENTS

VI. PROPOSAL REQUIREMENTS

A. GENERAL

The information required in the proposal will be used by the OHCD to make a recommendation to the Hawai'i County Council for final funding decisions. Appendix E contains a copy of the proposal form.

NOTE: Please call Beryl Manliguis at 808/961-8379 if you would like proposal form on CD (Word)

B. SUBMISSION DATES

Original project proposals and two (2) copies for the 2023 HOME-ARP Program funds should be bounded to secure all documents and must be submitted to the OHCD by November 15, 2022, no later than 4:30 p.m. Proposals received after the date and time deadline, faxed copies, and proposals not accompanied with the appropriate two copies and incomplete proposals will be rejected. Only data submitted by the deadline will be considered in the selection process. The OHCD may request additional data which will be required to be submitted as promulgated by the HOME/HOME-ARP Program rules to comply with the HHFDC HOME-ARP Allocation Plan.

Additional data submitted after the proposal due date and not requested by the OHCD will be returned.

C. PROPOSAL REQUIREMENTS

The proposal and its exhibits contain specific instructions for completing each section. Applicants should check and verify the proposal requirements as contained in the instructions and checklist form.

D. PROPOSAL SCHEDULE

The following is the tentative HOME application schedule:

TENTATIVE 2023 ACTION PLAN SCHEDULE
CDBG & HOME-ARP

DATE	TASK
August 2022	Public hearings to hear the Housing & Community Development Needs and explain the CDBG & HOME-ARP proposal procedures and Consolidated/Action Plan process.
08/16/22	Virtual Public Hearing at 10:00 a.m.
08/25/22	In-Person Public Hearing at OHCD Conference Room; 1990 Kinoole Street, Suite 104, Hilo at 1:00 p.m.
09/01/22	CDBG & HOME-ARP project proposals available.
11/15/22	**CDBG & HOME-ARP project proposals due to the OHCD.**
11/16/22 to 01/13/23	OHCD to review, rank and select CDBG & HOME-ARP projects for the County's Action Plan to HUD.
01/25 to 02/02/23	OHCD to draft the County's proposed 2023 Action Plan.
02/06/23	Public Notice appears in newspapers announcing the availability of the proposed 2023 Action Plan for public review and comment.
02/06 to 03/07/23	Comment period for the County's proposed 2023 Action Plan (30 days required).
03/13/23	Deadline to submit documents for Hawai`i County Housing Agency (HCHA) and Hawai`i County Finance Committee meetings.
04/04/23	HCHA and Finance meetings to approve the submittal of 2023 Action Plan.
04/19/23	Council meeting to authorize Mayor to sign and submit the County's 2023 Action Plan to HUD.
05/01/23	Obtain Mayor's signature.
05/04/23	Public Notice appears in newspapers summarizing the final 2023 Action Plan.
05/12/23	Submit 2023 Action Plan to HUD.
05/15/23	2023 Action Plan due.

A. INSTRUCTIONS/CHECKLIST

This checklist will aid the applicant in submitting all the appropriate forms required for a complete project proposal. Please complete the checklist by placing a check mark next to each item and attach Exhibits 1 to 16 along with required forms and documents as requested for each exhibit in a bounded format.

Exhibits must be typewritten, or computer generated. Narratives should be straightforward and limited to facts, solutions to problems, and proposed plans of actions. **Limit these responses to no more than two (2) pages.** Narratives beyond two (2) pages will not be considered in the evaluation/scoring. Please tab exhibits for ease of locating information.

All proposals should be bound to secure your document and labeled as original and copies. Incomplete proposals or those presented in a different format may be rejected.

___ 1. Letter of transmittal

___ 2. Project Summary Proposal Form

Answer all questions. If a question does not apply, mark it N/A (not applicable).

___ 3. Exhibit 1 - Project Information Sheet
- ___ Select proper activity form
- ___ Narrative
- ___ Minimum HOME Program Description Requirement

___ 4. Exhibit 2 - Extent and Seriousness of the Identified Need
- ___ Narrative

___ 5. Exhibit 3 - HHFDC HOME-ARP Allocation Plan Goals
- ___ Narrative

___ 6. Exhibit 4 - Need for HOME-ARP funds
- ___ Narrative

___ 7. Exhibit 5 - Results to be Achieved
- ___ Forms
- ___ Narrative
- ___ Proforma (Rental Housing)

___ 8. Exhibit 6 - Budget and Funding
- ___ Forms
- ___ Narrative
- ___ Proforma (Rental Housing)

___ 9. Exhibit 7 - Project Schedule
- ___ Schedule

___ 10. Exhibit 8 - Site Selection Standards Information
- ___ Form
- ___ Narrative

___ 11. Exhibit 9 - Environmental Considerations
- ___ Narrative

___ 12. Exhibit 10 - Additional Actions
- ___ Narrative

___ 13. Exhibit 11 - Compliance with Federal Overlay Statutes
- ___ Form
- ___ Narrative

___ 14. Exhibit 12 - Project Management
- ___ Narrative
- ___ Organizational Chart

___ 15. Exhibit 13 - Past Performance
- ___ Narrative

___ 16. Exhibit 14 - Displacement/Relocation/Acquisition
- ___ Narrative
- ___ Plan

___ 17. Exhibit 15 - Applicant Information
- ___ Documentation
- ___ Articles of Incorporation
- ___ By-Laws
- ___ IRS Exemption under Section 501(c)
- ___ List of Current Board of Directors
- ___ Board of Director composition
- ___ Most Current Financial and Program Audit
- ___ Procedures of Non-Discrimination

___ 18. Exhibit 16 - Certification/Resolution
___ Form
___ Resolution Authorizing Filing and Submittal

___ 19. Submit the **original proposal** and **two (2) copies** to:

Office of Housing and Community Development
1990 Kino'ole Street, Suite 102
Hilo, Hawai'i 96720

Deadline: November 15, 2022 4:30 p.m.

HOME REGULATIONS:
APPENDIX A

This content is from the eCFR and is authoritative but unofficial.

Displaying title 24, up to date as of 8/24/2022. Title 24 was last amended 6/27/2022.

Title 24 - Housing and Urban Development

Subtitle A - Office of the Secretary, Department of Housing and Urban Development

ENHANCED CONTENT - TABLE OF CONTENTS

Part 92 Home Investment Partnerships Program 92.1 – 92.618

Subpart A General 92.1 – 92.4

§ 92.1 Overview.

§ 92.2 Definitions.

§ 92.3 Applicability of 2013 regulatory changes.

§ 92.4 Waivers and suspension of requirements for disaster areas.

Subpart B Allocation Formula 92.50 – 92.66

§ 92.50 Formula allocation.

Insular Areas Program 92.60 – 92.66

§ 92.60 Allocation amounts for insular areas.

§ 92.61 Program description.

§ 92.62 Review of program description and certifications.

§ 92.63 Amendments to program description.

§ 92.64 Applicability of requirements to insular areas.

§ 92.65 Funding sanctions.

§ 92.66 Reallocation.

Subpart C Consortia; Designation and Revocation of Designation as a Participating Jurisdiction 92.100 – 92.107

§ 92.100 [Reserved]

§ 92.101 Consortia.

§ 92.102 Participation threshold amount.

§ 92.103 Notification of intent to participate.

§ 92.104 Submission of a consolidated plan.

§ 92.105 Designation as a participating jurisdiction.

§ 92.106 Continuous designation as a participating jurisdiction.

§ 92.107 Revocation of designation as a participating jurisdiction.

Subpart D Submission Requirements 92.150

§ 92.150 Submission requirements.

Subpart E Program Requirements 92.200 – 92.222

§ 92.200 Private-public partnership.

§ 92.201 Distribution of assistance.

§ 92.202 Site and neighborhood standards.

§ 92.203 Income determinations.

§ 92.204 Applicability of requirements to entities that receive a reallocation of HOME funds, other than participating jurisdictions.

Eligible and Prohibited Activities 92.205 – 92.215

§ 92.205 Eligible activities: General.

§ 92.206 Eligible project costs.

§ 92.207 Eligible administrative and planning costs.

§ 92.208 Eligible community housing development organization (CHDO) operating expense and capacity building costs.

§ 92.209 Tenant-based rental assistance: Eligible costs and requirements.

§ 92.210 Troubled HOME-assisted rental housing projects.

§ 92.212 Pre-award costs.

§ 92.213 HOME Funds and Public Housing.

§ 92.214 Prohibited activities and fees.

§ 92.215 Limitation on jurisdictions under court order.

Income Targeting 92.216 – 92.217

§ 92.216 Income targeting: Tenant-based rental assistance and rental units.

§ 92.217 Income targeting: Homeownership.

Matching Contribution Requirement 92.218 – 92.222

§ 92.218 Amount of matching contribution.

§ 92.219 Recognition of matching contribution.

§ 92.220 Form of matching contribution.

§ 92.221 Match credit.

§ 92.222 Reduction of matching contribution requirement.

Subpart F Project Requirements 92.250 – 92.258

§ 92.250 Maximum per-unit subsidy amount, underwriting, and subsidy layering.
§ 92.251 Property standards.
§ 92.252 Qualification as affordable housing: Rental housing.
§ 92.253 Tenant protections and selection.
§ 92.254 Qualification as affordable housing: Homeownership.
§ 92.255 Converting rental units to homeownership units for existing tenants.
§ 92.256 [Reserved]
§ 92.257 Equal participation of faith-based organizations.
§ 92.258 Elder cottage housing opportunity (ECHO) units.
Subpart G Community Housing Development Organizations 92.300 – 92.303
§ 92.300 Set-aside for community housing development organizations (CHDOs).
§ 92.301 Project-specific assistance to community housing development organizations.
§ 92.302 Housing education and organizational support.
§ 92.303 Tenant participation plan.
Subpart H Other Federal Requirements 92.350 – 92.359
§ 92.350 Other Federal requirements and nondiscrimination.
§ 92.351 Affirmative marketing; minority outreach program.
§ 92.352 Environmental review.
§ 92.353 Displacement, relocation, and acquisition.
§ 92.354 Labor.
§ 92.355 Lead-based paint.
§ 92.356 Conflict of interest.
§ 92.357 Executive Order 12372.
§ 92.358 Consultant activities.
§ 92.359 VAWA requirements.
Subpart I Technical Assistance 92.400
§ 92.400 Coordinated Federal support for housing strategies.
Subpart J Reallocations 92.450 – 92.454
§ 92.450 General.
§ 92.451 Reallocation of HOME funds from a jurisdiction that is not designated a participating jurisdiction or has its designation revoked.
§ 92.452 Reallocation of community housing development organization set-aside.
§ 92.453 Competitive reallocations.
§ 92.454 Reallocations by formula.
Subpart K Program Administration 92.500 – 92.509
§ 92.500 The HOME Investment Trust Fund.
§ 92.501 HOME Investment Partnership Agreement.
§ 92.502 Program disbursement and information system.
§ 92.503 Program income, repayments, and recaptured funds.
§ 92.504 Participating jurisdiction responsibilities; written agreements; on-site inspection.
§ 92.505 Applicability of uniform administrative requirements.
§ 92.506 Audit.
§ 92.507 Closeout.
§ 92.508 Recordkeeping.
§ 92.509 Performance reports.
Subpart L Performance Reviews and Sanctions 92.550 – 92.552
§ 92.550 Performance reviews.
§ 92.551 Corrective and remedial actions.
§ 92.552 Notice and opportunity for hearing; sanctions.
Subpart M American Dream Downpayment Initiative 92.600 – 92.618
§ 92.600 Purpose.
§ 92.602 Eligible activities.
§ 92.604 ADDI allocation formula.
§ 92.606 Reallocations.
§ 92.608 Consolidated plan.
§ 92.610 Program requirements.
§ 92.612 Project requirements.
§ 92.614 Other Federal requirements.
§ 92.616 Program administration.
§ 92.618 Performance reviews and sanctions.

PART 92 - HOME INVESTMENT PARTNERSHIPS PROGRAM

Authority: 42 U.S.C. 3535(d), 12 U.S.C. 1701x and 4568.

Source: 61 FR 48750, Sept. 16, 1996, unless otherwise noted.

Subpart A - General

§ 92.1 Overview.

This part implements the HOME Investment Partnerships Act (the HOME Investment Partnerships Program). In general, under the HOME Investment Partnerships Program, HUD allocates funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe,

sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families. Generally, HOME funds must be matched by nonfederal resources. State and local governments that become participating jurisdictions may use HOME funds to carry out multi-year housing strategies through acquisition, rehabilitation, and new construction of housing, and tenant-based rental assistance. Participating jurisdictions may provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies and other forms of investment that HUD approves.

§ 92.2 Definitions.

The terms *1937 Act, ALJ, Fair Housing Act, HUD, Indian Housing Authority (IHA), Public housing, Public Housing Agency (PHA),* and *Secretary* are defined in 24 CFR 5.100.

Act means the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 *et seq.*

ADDI funds means funds made available under subpart M through allocations and reallocations.

Adjusted income. See § 92.203.

Annual income. See § 92.203.

CDBG program means the Community Development Block Grant program under 24 CFR part 570.

Certification shall have the meaning provided in section 104(21) of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12704.

Commitment means:

(1) The participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) that meets the minimum requirements for a written agreement in § 92.504(c). An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating jurisdiction (*e.g.,* an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment. Funds for administrative and planning costs of the HOME program are committed based on the amount in the program disbursement and information system for administration and planning. The written agreement must be:

(i) With a State recipient or a subrecipient to use a specific amount of HOME funds to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance;

(ii) With a community housing development organization to provide operating expenses;

(iii) With a community housing development organization to provide project-specific technical assistance and site control loans or project-specific seed money loans, in accordance with § 92.301;

(iv) To develop the capacity of community housing development organizations in the jurisdiction, in accordance with § 92.300(b); or

(v) To commit to a specific local project, as defined in paragraph (2) of this definition.

(2) *Commit to a specific local project* means:

(i) If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date. If the project is owned by the participating jurisdiction or State recipient, the project has been set up in the disbursement and information system established by HUD, and construction can reasonably be expected to start within twelve months of the project set-up date.

(ii)

(A) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is acquiring the property with HOME funds, the participating jurisdiction (or State recipient or subrecipient) and the property owner have executed a legally binding contract for sale of an identifiable property and the property title will be transferred to the participating jurisdiction (or State recipient or subrecipient) within six months of the date of the contract.

(B) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is providing HOME funds to a family to acquire single family housing for homeownership or to a purchaser to acquire rental housing, the participating jurisdiction (or State recipient or subrecipient) and the family or purchaser have executed a written agreement under which HOME assistance will be provided for the purchase of the single family housing or rental housing and the property title will be transferred to the family or purchaser within six months of the agreement date.

(iii) If the project consists of tenant-based rental assistance, the participating jurisdiction (or State recipient, or subrecipient) has entered into a rental assistance contract with the owner or the tenant in accordance with the provisions of § 92.209.

Community housing development organization means a private nonprofit 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 community housing development organization 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 community housing development organization 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 community housing development organization.

(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 nonprofit organization is an 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 "community housing development organization;"

(5) Is not a governmental entity (including the participating jurisdiction, 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 community housing development organization; 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 community housing development organization;

(6) Has standards of financial accountability that conform to 2 CFR 200.302, 'Financial Management' and 2 CFR 200.303, 'Internal Controls;'

(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 community housing development organization, 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 nonprofit 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 a year of serving the community.

Consolidated plan means the plan submitted and approved in accordance with 24 CFR part 91.

Displaced homemaker means an individual who:

(1) Is an adult;

(2) Has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Family has the same meaning given that term in 24 CFR 5.403.

First-time homebuyer means an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with assistance under the American Dream Downpayment Initiative (ADDI) described in subpart M of this part. The term first-time homebuyer also includes an individual who is a displaced homemaker or single parent, as those terms are defined in this section. An individual shall not be excluded from consideration as a first-time homebuyer on the basis that the individual owns or owned, as a principal residence during the three-year period, a dwelling unit whose structure is not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or is not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with the codes for less than the cost of constructing a permanent structure.

HOME funds means funds made available under this part through allocations and reallocations, plus program income.

Homebuyer counseling has the same meaning as homeownership counseling in 24 CFR 5.100, and is a type of housing counseling.

Homeownership means ownership in fee simple title in a 1- to 4-unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.

(1) The land may be owned in fee simple or the homeowner may have a 99-year ground lease.

(i) For housing located in the insular areas, the ground lease must be 40 years or more.

(ii) For housing located on Indian trust or restricted Indian lands or a Community Land Trust, the ground lease must be 50 years or more.

(iii) For manufactured housing, the ground lease must be for a period at least equal to the applicable period of affordability in § 92.254.

(2) Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not an equivalent form of ownership.

(3) The ownership interest may be subject only to the restrictions on resale required under § 92.254(a); mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the participating jurisdiction; or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

(4) The participating jurisdiction must determine whether or not ownership or membership in a cooperative or mutual housing project constitutes homeownership under State law; however, if the cooperative or mutual housing project receives Low Income Housing Tax Credits, the ownership or membership does not constitute homeownership.

Household means one or more persons occupying a housing unit.

Housing includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free- standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings. Housing does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

Housing counseling has the meaning given the term in 24 CFR 5.100.

Insular areas means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.

Jurisdiction means a State or unit of general local government.

Low-income families means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.

Metropolitan city has the meaning given the term in 24 CFR 570.3.

Neighborhood means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

Participating jurisdiction means a jurisdiction (as defined in this section) that has been so designated by HUD in accordance with § 92.105.

Person with disabilities means a household composed of one or more persons, at least one of whom is an adult, who has a disability.

(1) A person is considered to have a disability if the person has a physical, mental, or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions.

(2) A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Is manifested before the person attains age 22;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated. Notwithstanding the preceding provisions of this definition, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this definition who were living, in a unit assisted with HOME funds, with the deceased member of the household at the time of his or her death.

Program income means gross income received by the participating jurisdiction, State recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions. When program income is generated by housing that is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

(1) Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;

(2) Gross income from the use or rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income (*Program income* does not include gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the participating jurisdiction, subrecipient or State recipient);

(3) Payments of principal and interest on loans made using HOME funds or matching contributions;

(4) Proceeds from the sale of loans made with HOME funds or matching contributions;

(5) Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;

(6) Interest earned on program income pending its disposition; and

(7) Any other interest or return on the investment permitted under § 92.205(b) of HOME funds or matching contributions.

Project means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking under this part. The project includes all the activities associated with the site and building. For tenant-based rental assistance, project means assistance to one or more families.

Project completion means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part (including the property standards under § 92.251); the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 92.502(d) of this part, project completion occurs upon completion of construction and before occupancy. For tenant-based rental assistance, project completion means the final drawdown has been disbursed for the project.

Reconstruction means the rebuilding, on the same lot, of housing standing on a site at the time of project commitment, except that housing that was destroyed may be rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction. The number of housing units on the lot may not be decreased or increased as part of a reconstruction project, but the number of rooms per unit may be increased or decreased. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing. Reconstruction is rehabilitation for purposes of this part.

Single family housing means a one-to four-family residence, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot.

Single parent means an individual who:

(1) Is unmarried or legally separated from a spouse; and

(2) Has one or more minor children of whom the individual has custody or joint custody, or is pregnant.

Single room occupancy (SRO) housing means housing (consisting of single- room dwelling units) that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both) if the project consists of new construction, conversion of nonresidential space, or reconstruction. For acquisition or rehabilitation of an existing residential structure or hotel, neither food preparation nor sanitary facilities are required to be in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. A project's designation as an SRO cannot be inconsistent with the building's zoning and building code classification.

State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the state with regard to the provisions of this part; however, for purposes of the American Dream Downpayment Initiative (ADDI) described in subpart M of this part, the term "state" does not include the Commonwealth of Puerto Rico (except for FY2003 ADDI funds).

State recipient. See § 92.201(b)(2).

Subrecipient means a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME programs to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of a housing project is not a subrecipient. The participating jurisdiction's selection of a subrecipient is not subject to the procurement procedures and requirements.

Tenant-based rental assistance is a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance under this part also includes security deposits for rental of dwelling units.

Transitional housing means housing that:

(1) Is designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children; and

(2) Has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the participating jurisdiction or project owner before occupancy.

Uniform Physical Condition Standards (UPCS) means uniform national standards established by HUD pursuant to 24 CFR 5.703 for housing that is decent, safe, sanitary, and in good repair. Standards are established for inspectable items for each of the following areas: site, building exterior, building systems, dwelling units, and common areas.

Unit of general local government means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; a consortium of such political subdivisions recognized by HUD in accordance with § 92.101; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this part. When a county is an urban county, the urban county is the unit of general local government for purposes of the HOME Investment Partnerships Program.

Urban county has the meaning given the term in 24 CFR 570.3.

Very low-income families means low- income families whose annual incomes do not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.

[61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61755, Oct. 1, 2002; 69 FR 16765, Mar. 30, 2004; 72 FR 16685, Apr. 4, 2007; 78 FR 44664, July 24, 2013; 80 FR 75934, Dec. 7, 2015; 81 FR 86952, Dec. 2, 2016; 81 FR 90657, Dec. 14, 2016]

§ 92.3 Applicability of 2013 regulatory changes.

The regulations of this part, as revised by final rule published on July 24, 2013 are applicable to projects for which HOME funds are committed on or after August 23, 2013, with the exception of the following provisions;

(a) Section 92.2, for the definition of commitment, the change which eliminates reservations of funds that are not project-specific to CHDOs as a commitment will be applicable on October 22, 2013 and will be implemented by HUD for deadlines that occur on or after January 1, 2015;

(b) Section 92.251, Property Standards, will apply to projects to which funds are committed on or after January 24, 2015;

(c) Section 92.254(f). Homebuyer program policies, for written policies related to underwriting, responsible lending, and refinancing, will be applicable on January 24, 2014;

(d) Section 92.500(d)(1)(C), establishing the separate 5-year deadline for expenditure of CHDO set-aside funds will be applicable on January 1, 2015 and will be implemented by HUD for all deadlines that occur on or after that date; and

(e) Section 92.504(a), for written policies, procedures, and systems, will be applicable on July 24, 2014.

(f) Section 92.504(d)(2), for financial oversight of projects assisted with HOME funds, will be applicable on July 24, 2014.

[78 FR 44666, Aug. 22, 2013]

§ 92.4 Waivers and suspension of requirements for disaster areas.

HUD's authority for waiver of regulations and for the suspension of requirements to address damage in a Presidentially declared disaster area is described in 24 CFR 5.110 and in section 290 of the Act, respectively.

Subpart B - Allocation Formula

§ 92.50 Formula allocation.

(a) ***Jurisdictions eligible for a formula allocation.*** HUD will provide allocations of funds in amounts determined by the formula described in this section to units of general local governments that, as of the end of the previous fiscal year, are metropolitan cities, urban counties, or consortia approved under § 92.101; and States.

(b) ***Amounts available for allocation; State and local share.*** The amount of funds that are available for allocation by the formula under this section is equal to the balance of funds remaining after reserving amounts for insular areas, housing education and organizational support, other support for State and local housing strategies, and other purposes authorized by Congress, in accordance with the Act and appropriations.

(c) ***Formula factors.*** The formula for determining allocations uses the following factors. The first and sixth factors are weighted 0.1; the other four factors are weighted 0.2.

(1) Vacancy-adjusted rental units where the household head is at or below the poverty level. These rental units are multiplied by the ratio of the national rental vacancy rate over a jurisdiction's rental vacancy rate.

(2) Occupied rental units with at least one of four problems (overcrowding, incomplete kitchen facilities, incomplete plumbing, or high rent costs). *Overcrowding* is a condition that exists if there is more than one person per room occupying the unit. *Incomplete kitchen facilities* means the unit lacks a sink with running water, a range, or a refrigerator. *Incomplete plumbing* means the unit lacks hot and cold piped water, a flush toilet, or a bathtub or shower inside the unit for the exclusive use of the occupants of the unit. *High rent costs* occur when more than 30 percent of household income is used for rent.

(3) Rental units built before 1950 occupied by poor households.

(4) Rental units described in paragraph (c)(2) of this section multiplied by the ratio of the cost of producing housing for a jurisdiction divided by the national cost.

(5) Number of families at or below the poverty level.

(6) Population of a jurisdiction multiplied by a net per capita income (pci). To compute net pci for a jurisdiction or for the nation, the pci of a three person family at the poverty threshold is subtracted from the pci of the jurisdiction or of the nation. The index is constructed by dividing the national net pci by the net pci of a jurisdiction.

(d) ***Calculating formula allocations for units of general local government.***

(1) Initial allocation amounts for units of general local government described in paragraph (a) of this section are determined by multiplying the sum of the shares of the six factors in paragraph (c) of this section by 60 percent of the amount available under paragraph (b) of this section for formula allocation. The shares are the ratio of the weighted factor for each jurisdiction over the corresponding factor for the total for all of these units of general local government.

(2) If any of the initial amounts for such units of general local government in Puerto Rico exceeds twice the national average, on a per rental unit basis, that amount is capped at twice the national average.

(3) To determine the maximum number of units of general local government that receive a formula allocation, only one jurisdiction (the unit of general local government with the smallest allocation of HOME funds) is dropped from the pool of eligible jurisdictions on each successive recalculation, except that jurisdictions that are participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) are not dropped. Then the amount of funds available for units of general local government is redistributed to all others. This recalculation/redistribution continues until all remaining units of general local government receive an allocation of $500,000 or more or are participating jurisdictions. Only units of general local government which receive an allocation of $500,000 or more under the formula or which are participating jurisdictions will be awarded an allocation. In fiscal years in which Congress appropriates less than $1.5 billion of HOME funds, $335,000 is substituted for $500,000.

(4) The allocation amounts determined under paragraph (d)(3) of this section are reduced by any amounts that are necessary to provide increased allocations to States that have no unit of general local government receiving a formula allocation (see paragraph (e)(4) of this section). These reductions are made on a *pro rata* basis, except that no unit of general local government allocation is reduced below $500,000 (or $335,000 in fiscal years in which Congress appropriates less than $1.5 billion of HOME funds) and no participating jurisdiction allocation which is below this amount is reduced.

(e) ***Calculating formula allocations for States.***

(1) Forty percent of the funds available for allocation under paragraph (b) of this section are allocated to States. The allocation amounts for States are calculated by determining initial amounts for each State, based on the sum of the shares of the six factors. For 20 percent of the funds to be allocated to States, the shares are the ratio of the weighted factor for the entire State over the corresponding factor for the total for all States. For 80 percent of the funds to be allocated to States, the shares are the ratio of the weighted factor for all units of general local government within the State that do not receive a formula allocation over the corresponding factor for the total for all States.

(2) If the initial amounts for Puerto Rico (based on either or both the 80 percent of funds or 20 percent of funds calculation) exceed twice the national average, on a per rental unit basis, each amount that exceeds the national average is capped at twice the national average, and the resultant funds are reallocated to other States on a prorata basis.

(3) If the initial amounts when combined for any State are less than the $3,000,000, the allocation to that State is increased to the $3,000,000 and all other State allocations are reduced by an equal amount on a prorata basis, except that no State allocation is reduced below $3,000,000.

(4) The allocation amount for each State that has no unit of general local government within the State receiving an allocation under paragraph (d) of this section is increased by $500,000. Funds for this increase are derived from the funds available for units of general local government, in accordance with paragraph (d)(4) of this section.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 67 FR 61755, Oct. 1, 2002]

INSULAR AREAS PROGRAM

§ 92.60 Allocation amounts for insular areas.

(a) ***Initial allocation amount for each insular area.*** The initial allocation amount for each insular area is determined based upon the insular area's population and occupied rental units compared to all insular areas.

(b) ***Threshold requirements.*** The HUD Field Office shall review each insular area's progress on outstanding allocations made under this section, based on the insular area's performance report, the timeliness of close-outs, and compliance with fund management requirements and regulations, taking into consideration the size of the allocation and the degree and complexity of the program. If HUD determines from this review that the insular area does not have the capacity to administer effectively a new allocation, or a portion of a new allocation, in addition to allocations currently under administration, HUD may reduce the insular area's initial allocation amount.

(c) ***Previous audit findings and outstanding monetary obligations.*** HUD shall not make an allocation to an insular area that has either an outstanding audit finding for any HUD program, or an outstanding monetary obligation to HUD that is in arrears, or for which a repayment schedule has not been established. This restriction does not apply if the HUD Field Office finds that the insular area has made a good faith effort to clear the audit and, when there is an outstanding monetary obligation to HUD, the insular area has made a satisfactory arrangement for repayment of the funds due HUD and payments are current.

(d) ***Increases to the initial allocation amount.*** If funds reserved for the insular areas are available because HUD has decreased the amount for one or more insular areas in accordance with paragraphs (b) or (c) of this section, or for any other reason, HUD may increase the allocation amount for one or more of the remaining insular areas based upon the insular area's performance in committing HOME funds within the 24 month deadline, producing housing units described in its program description, and meeting HOME program requirements. Funds that become available but which are not used to increase the allocation amount for one or more of the remaining insular areas will be reallocated in accordance with § 92.66.

(e) ***Notice of allocation amounts.*** HUD will notify each insular area, in writing, as to the amount of its HOME allocation.

§ 92.61 Program description.

(a) ***Submission requirement.*** Not later than 90 days after HUD notifies the insular area of the amount of its allocation, the insular area must submit a program description and certifications to HUD.

(b) ***Content of program description.*** The program description must contain the following:

(1) An executed Standard Form 424;

(2) The estimated use of HOME funds and a description of projects and eligible activities, including number of units to be assisted, estimated costs, and tenure type (rental or owner occupied) and, for tenant assistance, number of households to be assisted;

(3) A timetable for the implementation of the projects or eligible activities;

(4) If the insular area intends to use HOME funds for homebuyers, the guidelines for resale or recapture as required in § 92.254(a)(5);

(5) If the insular area intends to use HOME funds for tenant-based rental assistance, a description of how the program will be administered consistent with the minimum guidelines described in § 92.209;

(6) If an insular area intends to use other forms of investment not described in § 92.205(b), a description of the other forms of investment;

(7) A statement of the policy and procedures to be followed by the insular area to meet the requirements for affirmative marketing, and establishing and overseeing a minority and women business outreach program under § 92.351;

(8) If the insular intends to use HOME funds for refinancing along with rehabilitation, the insular area's guidelines described in § 92.206(b).

(c) ***Certifications.*** The following certifications must accompany the program description:

(1) A certification that, before committing funds to a project, the insular area will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other governmental assistance than is necessary to provide affordable housing;

(2) If the insular area intends to provide tenant-based rental assistance, the certification required by § 92.209;

(3) A certification that the submission of the program description is authorized under applicable law and the insular area possesses the legal authority to carry out the HOME Investment Partnerships Program, in accordance with the HOME regulations;

(4) A certification that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of § 92.353;

(5) A certification that the insular area will use HOME funds in compliance with all requirements of this part;

(6) The certification required with regard to lobbying required by 24 CFR part 87, together with disclosure forms, if required by 24 CFR part 87.

[61 FR 48750, Sept. 16, 1996, as amended at 72 FR 73493, Dec. 27, 2007]

§ 92.62 Review of program description and certifications.

(a) ***Review of program description.*** The responsible HUD Field Office will review an insular area's program description and will approve the description unless the insular area has failed to submit information sufficient to allow HUD to make the necessary determinations required for § 92.61 (b)(4), (b)(6), and (b)(7), or the guidelines under (b)(8) are not satisfactory to HUD, if applicable; or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs. If the insular area has not submitted information on § 92.61 (b)(4), (b)(6), and (b)(7), or the guidelines under (b)(8) are not satisfactory to HUD, if applicable; or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, the insular area may be required to furnish such further information or assurances as HUD may consider necessary to find the program description and certifications satisfactory. The HUD Field Office shall work with the insular area to achieve a complete and satisfactory program description.

(b) ***Review period.*** Within thirty days of receipt of the program description, the HUD Field Office will notify the insular area if determinations cannot be made under § 92.61 (b)(4), (b)(6), (b)(7), or (b)(8) with the supporting information submitted, or if the proposed projects or activities are beyond currently demonstrated capability. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information or to revise the proposed projects or activities in its program description.

(c) ***HOME Investment Partnership Agreement.*** After HUD Field Office approval under this section, a HOME funds allocation is made by HUD execution of the agreement, subject to execution by the insular area. The funds are obligated on the date HUD notifies the insular area of HUD's execution of the agreement.

§ 92.63 Amendments to program description.

An insular area must submit to HUD for approval any substantial change in its HUD-approved program description that it makes and must document any other changes in its file. A substantial change involves a change in the guidelines for resale or recapture (§ 92.61(b)(4)), other forms of investment (§ 92.61(b)(6)), minority and women business outreach program (§ 92.61(b)(7)) or refinancing (§ 92.61(b)(8)); or a change in the tenure type of the project or activities; or a funding increase to a project or activity of $100,000 or 50% (whichever is greater). The HUD Field Office will notify the insular area if its program description, as amended, does not permit determinations to be made under § 92.61 (b)(4), (b)(6), (b)(7), or (b)(8), or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information to revise the proposed projects or activities in its program description.

§ 92.64 Applicability of requirements to insular areas.

(a) Insular areas are subject to the same requirements in subpart E (Program Requirements), subpart F (Project Requirements), subpart K (Program Administration), and subpart L (Performance Reviews and Sanctions) of this part as participating jurisdictions, except for the following:

(1) Subpart E (Program Requirements): Administrative costs, as described in § 92.207, are eligible costs for insular areas in an amount not to exceed 15 percent of the HOME funds provided to the insular area. The matching contribution requirements in this part do not apply.

(2) Subpart K (Program Administration):

(i) Section 92.500 (The HOME Investment Trust Fund) does not apply. HUD will establish a HOME account in the United States Treasury for each insular area and the HOME funds must be used for approved activities. A local account must be established for program income. Each insular area may use either a separate local HOME account or a subsidiary account within its general fund (or other appropriate fund) as the local HOME account. HUD will recapture HOME funds in the HOME Treasury account by the amount of:

(A) Any funds that are not committed within 24 months after the last day of the month in which HUD notifies the insular area of HUD's execution of the HOME Investment Partnership Agreement;

(B) Any funds that are not expended within five years after the last day of the month in which HUD notifies the insular area of HUD's execution of the HOME Investment Partnership Agreement; and

(C) Any penalties assessed by HUD under § 92.552.

(ii) Section 92.502 (Program disbursement and information system) applies, except that references to the HOME Investment Trust Fund mean HOME account. In addition, § 92.502(c) does not apply, and instead compliance with Treasury Circular No. 1075 (31 CFR part 205) and 2 CFR 200.305 is required.

(iii) Section 92.503 (Program income, repayments, and recaptured funds) applies, except that the funds may be retained provided the funds are used for eligible activities in accordance with the requirements of this section.

(3) Section 92.504 (Participating jurisdiction responsibilities; written agreements; on-site inspections) applies, except that the written agreement must ensure compliance with the requirements in this section.

(4) Section 92.508 (Recordkeeping) applies with respect to the records that relate to the requirements of this section.

(5) Section 92.509 (Performance reports) applies, except that a performance report is required for the fiscal year allocation only after completion of the approved projects funded by the allocation.

(6) Subpart L (Performance Reviews and Sanctions): Section 92.552 does not apply. Instead, § 92.65 applies.

(b) The requirements of subpart H (Other Federal Requirements) of this part apply as follows: § 92.357 Executive Order 12372 applies as written, and the requirements of the remaining sections which apply to participating jurisdictions are applicable to the insular areas.

(c) Subpart B (Allocation Formula), subpart C (Consortia; Designation and Revocation as a Participating Jurisdiction), subpart D (Submission Requirements), and subpart G (Community Housing Development Organizations) of this part do not apply.

(d) Subpart A (General) applies, except that for the definitions of *commitment*, *program income*, and *subrecipient*, "participating jurisdiction" means "insular area."

[69 FR 15673, Mar. 26, 2004, as amended at 80 FR 75935, Dec. 7, 2015]

§ 92.65 Funding sanctions.

Following notice and opportunity for informal consultation, HUD may withhold, reduce or terminate the assistance where any corrective or remedial actions taken under § 92.551 fail to remedy an insular area's performance deficiencies, and the deficiencies are sufficiently substantial, in the judgment of HUD, to warrant sanctions.

§ 92.66 Reallocation.

Any HOME funds which are reduced or recaptured from an insular area's allocation and which are not used to increase the allocation amount for one or more of the remaining insular areas as provided in § 92.60 of this part, will be reallocated by HUD to the States in accordance with the requirements in subpart J for reallocating funds initially allocated to a State.

Subpart C - Consortia; Designation and Revocation of Designation as a Participating Jurisdiction

§ 92.100 [Reserved]

§ 92.101 Consortia.

(a) A consortium of geographically contiguous units of general local government is a unit of general local government for purposes of this part if the requirements of this section are met.

(1) One or more members of a proposed consortium or an existing consortium whose consortium qualification terminates at the end of the fiscal year, must provide written notification to the HUD Field Office of its intent to participate as a consortium in the HOME Program for the following fiscal year. HUD shall establish the deadline for this submission.

(2) The proposed consortium must provide, at such time and in a manner and form prescribed by HUD, the qualification documents, which will include submission of:

(i) A written certification by the State that the consortium will direct its activities to alleviation of housing problems within the State; and

(ii) Documentation which demonstrates that the consortium has executed one legally binding cooperation agreement among its members authorizing one member unit of general local government to act in a representative capacity for all member units of general local government for the purposes of this part and providing that the representative member assumes overall responsibility for ensuring that the consortium's HOME Program is carried out in compliance with the requirements of this part.

(3) Before the end of the fiscal year in which the notice of intent and documentation are submitted, HUD must determine that a proposed consortium has sufficient authority and administrative capability to carry out the purposes of this part on behalf of its member jurisdictions. HUD will endeavor to make its determination as quickly as practicable after receiving the consortium's documentation in order to provide the consortium an opportunity to correct its submission, if necessary. If the submission is deficient, HUD will work with the consortium to resolve the issue, but will not delay the formula allocations. HUD, at its discretion, may review the performance of an existing consortium that wishes to requalify to determine whether it continues to have sufficient authority and administrative capacity to successfully administer the program.

(b) A metropolitan city or an urban county may be a member of a consortium. A unit of general local government that is included in an urban county may be part of a consortium, only if the urban county joins the consortium. The included local government cannot join the consortium except through participation in the urban county.

(c) A non-urban county may be a member of a consortium. However, the county cannot on its own include the whole county in the consortium. A unit of local government located within the non-urban county that wishes to participate as a member of the consortium must sign the HOME consortium agreement.

(d) If the representative unit of general local government distributes HOME funds to member units of general local government, the representative unit is responsible for applying to the member units of general local government the same requirements as are applicable to subrecipients.

(e) The consortium's qualification as a unit of general local government continues for a period of three successive Federal fiscal years, or until HUD revokes its designation as a participating jurisdiction, or until an urban county member fails to requalify under the CDBG program as an urban county for a fiscal year included in the consortium's qualification period, or the consortium fails to receive a HOME allocation for the first Federal fiscal year of the consortium's qualification period and does not request to be considered to receive a HOME allocation in each of the subsequent two years. However, if a member urban county's three year CDBG qualification cycle is not the same as the consortium, the consortium may elect a shorter qualification period than three years to synchronize with the urban county's qualification period. During the period of qualification, additional units of general local government may join the consortium, but no included unit of general local government may withdraw from the consortium. See 24 CFR part 91, subpart E, for consolidated plan requirements for consortia, including the requirement that all members of the consortia must be on the same program year.

(f) The consortium agreement may, at the option of its member units of general local government, contain a provision that authorizes automatic renewals for the successive qualification period of three Federal fiscal years. The provision authorizing automatic renewal must require the lead consortium member to give the consortium members written notice of their right to elect not to continue participation for the new qualification period.

[61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61756, Oct. 1, 2002]

§ 92.102 Participation threshold amount.

(a) To be eligible to become a participating jurisdiction, a unit of general local government must have a formula allocation under § 92.50 that is equal to or greater than $750,000; or

(b) If a unit of general local government's formula allocation is less than $750,000, HUD must find:

(1) The unit of general local government has a local PHA and has demonstrated a capacity to carry out the provisions of this part, as evidenced by satisfactory performance under one or more HUD-administered programs that provide assistance for activities comparable to the eligible activities under this part; and

(2) The State has authorized HUD to transfer to the unit of general local government a portion of the State's allocation or the State, the unit of general local government, or both, has made available its own resources such that the sum of the amounts transferred or made available are equal to or greater than the difference between the unit of general local government's formula allocation and $750,000.

(c) In fiscal years in which Congress appropriates less than $1.5 billion for this part, $500,000 is substituted for $750,000 each time it appears in this section.

§ 92.103 Notification of intent to participate.

(a) Not later than 30 days after receiving notice of its formula allocation amount, a jurisdiction must notify HUD in writing of its intention to become a participating jurisdiction.

(b) A unit of general local government that has a formula allocation of less than $750,000, or less than $500,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part, must submit, with its notice, one or more of the following, as appropriate, as evidence that it has met the threshold allocation requirements in § 92.102(b):

(1) Authorization from the State to transfer a portion of its allocation to the unit of general local government;

(2) A letter from the governor or designee indicating that the required funds have been approved and budgeted for the unit of general local government;

(3) A letter from the chief executive officer of the unit of general local government indicating that the required funds have been approved and budgeted.

§ 92.104 Submission of a consolidated plan.

A jurisdiction that has not submitted a consolidated plan to HUD must submit to HUD, not later than 90 calendar days after providing notification under § 92.103, a consolidated plan in accordance with 24 CFR part 91.

[85 FR 47910, Aug. 7, 2020]

§ 92.105 Designation as a participating jurisdiction.

When a jurisdiction has complied with the requirements of §§ 92.102 through 92.104 and HUD has approved the jurisdiction's consolidated plan in accordance with 24 CFR part 91, HUD will designate the jurisdiction as a participating jurisdiction.

§ 92.106 Continuous designation as a participating jurisdiction.

Once a State or unit of general local government is designated a participating jurisdiction, it remains a participating jurisdiction for subsequent fiscal years and the requirements of §§ 92.102 through 92.105 do not apply, unless HUD revokes the designation in accordance with § 92.107.

§ 92.107 Revocation of designation as a participating jurisdiction.

HUD may revoke a jurisdiction's designation as a participating jurisdiction if:

(a) HUD finds, after reasonable notice and opportunity for hearing as provided in § 92.552(b) that the jurisdiction is unwilling or unable to carry out the provisions of this part, including failure to meet matching contribution requirements; or

(b) The jurisdiction's formula allocation falls below $750,000 (or below $500,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part) for three consecutive years, below $625,000 (or below $410,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part) for two consecutive years, or the jurisdiction does not receive a formula allocation in any one year.

(c) When HUD revokes a participating jurisdiction's designation as a participating jurisdiction, HUD will reallocate any remaining funds in the jurisdiction's HOME Investment Trust Fund established under § 92.500 in accordance with § 92.451.

Subpart D - Submission Requirements

§ 92.150 Submission requirements.

In order to receive its HOME allocation, a participating jurisdiction must submit a consolidated plan in accordance with 24 CFR part 91. That part includes requirements for the content of the consolidated plan, the process of developing the consolidated plan, including citizen participation, the submission date, HUD approval, and amendments.

Subpart E - Program Requirements

§ 92.200 Private-public partnership.

Each participating jurisdiction must make all reasonable efforts to maximize participation by the private sector in accordance with section 221 of the Act.

§ 92.201 Distribution of assistance.

(a) *Local.*

(1) Each local participating jurisdiction must, insofar as is feasible, distribute HOME funds geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in its approved consolidated plan.

(2) The participating jurisdiction may only invest its HOME funds in eligible projects within its boundaries, or in jointly funded projects within the boundaries of contiguous local jurisdictions which serve residents from both jurisdictions. For a project to be jointly funded, both jurisdictions must make a financial contribution to the project. A jurisdiction's financial contribution may take the form of a grant or loan (including a loan of funds that comes from other federal sources and that are in the jurisdiction's control, such as CDBG program funds) or relief of a significant tax or fee (such as waiver of impact fees, property taxes, or other taxes or fees customarily imposed on projects within the jurisdiction).

(b) *State.*

(1) Each State participating jurisdiction is responsible for distributing HOME funds throughout the State according to the State's assessment of the geographical distribution of the housing needs within the State, as identified in the State's approved consolidated plan. The State must distribute HOME funds to rural areas in amounts that take into account the non-metropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's approved consolidated plan. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

(2) A State may carry out its own HOME program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME programs in which both the State and all or some of the units of general local government perform specified program functions. A unit of general local government designated by a State to receive HOME funds from a State is a State recipient.

(3)

(i) A State that uses State recipients to perform program functions shall ensure that the State recipients use HOME funds in accordance with the requirements of this part and other applicable laws. The State may require the State recipient to comply with requirements established by the State or may permit the State recipient to establish its own requirements to comply with this part.

(ii) The State shall conduct such reviews and audit of its State recipients as may be necessary or appropriate to determine whether the State recipient has committed and expended the HOME funds in the United States Treasury account as required by § 92.500, and has met the requirements of this part, particularly eligible activities, income targeting, affordability, and matching contribution requirements.

(4) A State and local participating jurisdiction may jointly fund a project within the boundaries of the local participating jurisdiction. The State may provide the HOME funds to the project or it may provide the HOME funds to the local participating jurisdiction to fund the project.

(5) A State may fund projects on Indian reservations located within the State provided that the State includes Indian reservations in its consolidated plan.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44666, July 24, 2013]

§ 92.202 Site and neighborhood standards.

(a) *General.* A participating jurisdiction must administer its HOME program in a manner that provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d - 2000d-4), the Fair Housing Act (42 U.S.C. 3601 *et seq.*, E.O. 11063 (3 CFR, 1959-1963 Comp., p. 652), and HUD regulations issued pursuant thereto; and promotes greater choice of housing opportunities.

(b) *New rental housing.* In carrying out the site and neighborhood requirements with respect to new construction of rental housing, a participating jurisdiction is responsible for making the determination that proposed sites for new construction meet the requirements in 24 CFR 983.57(e)(2) and (3).

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 78 FR 44666, July 24, 2013]

§ 92.203 Income determinations.

(a) The HOME program has income targeting requirements for the HOME program and for HOME projects. Therefore, the participating jurisdiction must determine each family is income eligible by determining the family's annual income.

(1) For families who are tenants in HOME-assisted housing and not receiving HOME tenant-based rental assistance, the participating jurisdiction must initially determine annual income using the method in paragraph (a)(1)(i) of this section. For subsequent income determinations during the period of affordability, the participating jurisdiction may use any one of the following methods in accordance with § 92.252(h):

(i) Examine at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.

(ii) Obtain from the family a written statement of the amount of the family's annual income and family size, along with a certification that the information is complete and accurate. The certification must state that the family will provide source documents upon request.

(iii) Obtain a written statement from the administrator of a government program under which the family receives benefits and which examines each year the annual income of the family. The statement must indicate the tenant's family size and state the amount of the family's annual income; or alternatively, the statement must indicate the current dollar limit for very low- or low-income families for the family size of the tenant and state that the tenant's annual income does not exceed this limit.

(2) For all other families (i.e., homeowners receiving rehabilitation assistance, homebuyers, and recipients of HOME tenant-based rental assistance), the participating jurisdiction must determine annual income by examining at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.

(b) When determining whether a family is income eligible, the participating jurisdiction must use one of the following two definitions of "annual income":

(1) Annual income as defined at 24 CFR 5.609 (except when determining the income of a homeowner for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net Family Assets, as defined in 24 CFR 5.603); or

(2) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 series for individual Federal annual income tax purposes.

(c) Although the participating jurisdiction may use either of the definitions of "annual income" permitted in paragraph (b) of this section to calculate adjusted income, it must apply exclusions from income established at 24 CFR 5.611. The HOME rents for very low-income families established under § 92.252(b)(2) are based on adjusted income. In addition, the participating jurisdiction may base the amount of tenant-based rental assistance on the adjusted income of the family. The participating jurisdiction may use only one definition for each HOME-assisted program (e.g., downpayment assistance program) that it administers and for each rental housing project.

(d)

(1) The participating jurisdiction must calculate the annual income of the family by projecting the prevailing rate of income of the family at the time the participating jurisdiction determines that the family is income eligible. Annual income shall include income from all persons in the household. Income or asset enhancement derived from the HOME-assisted project shall not be considered in calculating annual income.

(2) The participating jurisdiction is not required to re-examine the family's income at the time the HOME assistance is provided, unless more than six months has elapsed since the participating jurisdiction determined that the family qualified as income eligible.

(3) The participating jurisdiction must follow the requirements in § 5.617 when making subsequent income determinations of persons with disabilities who are tenants in HOME-assisted rental housing or who receive tenant-based rental assistance.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 66 FR 6224, Jan. 19, 2001; 78 FR 44666, July 24, 2013]

§ 92.204 Applicability of requirements to entities that receive a reallocation of HOME funds, other than participating jurisdictions.

(a) Jurisdictions other than participating jurisdictions and community housing development organizations receiving competitive reallocations from HUD are subject to the same requirements in subpart E (Program Requirements), subpart F (Project Requirements), subpart K (Program Administration), and subpart L (Performance Reviews and Sanctions) of this part as participating jurisdictions, except for the following:

(1) Subpart E (Program Requirements): the matching contribution requirements in § 92.218 through § 92.221 do not apply.

(2) Subpart K (Program Administration):

(i) Section 92.500 (The HOME Investment Trust Fund) does not apply. HUD will establish a HOME account in the United States Treasury and the HOME funds must be used for approved activities. A local account must be established for program income. HUD will recapture HOME funds in the HOME Treasury account by the amount of:

(A) Any funds that are not committed within 24 months after the last day of the month in which HUD notifies the entity of HUD's execution of the HOME Investment Partnership Agreement;

(B) Any funds that are not expended within five years after the last day of the month in which HUD notifies the entity of HUD's execution of the HOME Investment Partnership Agreement; and

(C) Any penalties assessed by HUD under § 92.552.

(ii) Section 92.502 (Program disbursement and information system) applies, except that references to the HOME Investment Trust Fund mean HOME account and the reference to 24 CFR part 58 does not apply. In addition, § 92.502(c) does not apply, and instead, compliance with Treasury Circular No. 1075 (31 CFR part 205) and 2 CFR 200.305 is required.

(iii) Section 92.503 (Program income, repayments, and recaptured funds) applies, except that program income may be retained provided the funds are used for eligible activities in accordance with the requirements of this section.

(3) Section 92.504 (Participating jurisdiction responsibilities; written agreements; on-site inspections) applies, except that the written agreement must ensure compliance with the requirements in this section.

(4) Section 92.508 (Recordkeeping) applies with respect to the records that relate to the requirements of this section.

(5) Section 92.509 (Performance reports) applies, except that a performance report is required only after completion of the approved projects.

(b) The requirements in subpart H (Other Federal Requirements) of this part apply as written, except that jurisdictions and community housing development organizations receiving reallocations from HUD must comply with affirmative marketing requirements, labor requirements, and lead-based paint requirements, applicable to participating jurisdictions.

(c) Subpart B (Allocation Formula), subpart C (Consortia; Designation and Revocation of Designation as a Participating Jurisdiction), and subpart G (Community Housing Development Organizations) of this part do not apply.

(d) Subpart A (General) applies, except that for the definitions of *commitment*, *program income*, and *subrecipient*, "participating jurisdiction" means jurisdiction or community housing development organization receiving the competitive reallocation.

[69 FR 15673, Mar. 26, 2004, as amended at 80 FR 75935, Dec. 7, 2015]

Eligible and Prohibited Activities

§ 92.205 Eligible activities: General.

(a) *Eligible activities.*

(1) HOME funds may be used by a participating jurisdiction to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations. The housing must be permanent or transitional housing. The specific eligible costs for these activities are set forth in §§ 92.206 through 92.209. The activities and costs are eligible only if the housing meets the property standards in § 92.251 upon project completion.

(2) Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing within the time frames established in paragraph (2) of the definition of "commitment" in § 92.2.

(3) Conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding one or more units beyond the existing walls, in which case, the project is new construction for purposes of this part.

(4) *Manufactured housing.* HOME funds may be used to purchase and/or rehabilitate a manufactured housing unit, or purchase the land upon which a manufactured housing unit is located. Except for existing, owner-occupied manufactured housing that is rehabilitated with HOME funds, the manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

(b) *Forms of assistance.*

(1) A participating jurisdiction may invest HOME funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with the purposes of this part and specifically approves in writing. Each participating jurisdiction has the right to establish the terms of assistance, subject to the requirements of this part.

(2) A participating jurisdiction may invest HOME funds to guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The HOME funds may be used to guarantee the timely payment of principal and interest or payment of the outstanding principal and interest upon foreclosure of the loan. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans, but under no circumstances may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed; except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not.

(c) *Minimum amount of assistance.* The minimum amount of HOME funds that must be invested in a project involving rental housing or homeownership is $1,000 times the number of HOME-assisted units in the project.

(d) *Multi-unit projects.* HOME funds may be used to assist one or more housing units in a multi-unit project.

(1) Only the actual HOME eligible development costs of the assisted units may be charged to the HOME program. If the assisted and nonassisted units are not comparable, the actual costs may be determined based on a method of cost allocation. If the assisted and non- assisted units are comparable in terms of size, features, and number of bedrooms, the actual cost of the HOME-assisted units can be determined by prorating the total HOME eligible development costs of the project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME-assisted units in the project.

(2) After project completion, the number of units designated as HOME- assisted may be reduced only in accordance with § 92.210, except that in a project consisting of all HOME- assisted units, one unit may be subsequently converted to an on-site manager's unit if the participating jurisdiction determines that the conversion will contribute to the stability or effectiveness of the housing and that, notwithstanding the loss of one HOME-assisted unit, the costs charged to the HOME program do not exceed the actual costs of the HOME- assisted units and do not exceed the subsidy limit in § 92.250(b).

(e) *Terminated projects.* A HOME assisted project that is terminated before completion, either voluntarily or involuntarily, constitutes an ineligible activity, and the participating jurisdiction must repay any HOME funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with § 92.503(b) (except for project- specific assistance to community housing development organizations as provided in § 92.301(a)(3) and (b)(3)).

(1) A project that does not meet the requirements for affordable housing must be terminated and the participating jurisdiction must repay all HOME funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with § 92.503(b).

(2) If a participating jurisdiction does not complete a project within 4 years of the date of commitment of funds, the project is considered to be terminated and the participating jurisdiction must repay all funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with § 92.503(b). The participating jurisdiction may request a one-year extension of this deadline in writing, by submitting information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project for HUD's review and approval.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 78 FR 44667, July 24, 2013]

§ 92.206 Eligible project costs.

HOME funds may be used to pay the following eligible costs:

(a) *Development hard costs.* The actual cost of constructing or rehabilitating housing. These costs include the following:

(1) For new construction projects, costs to meet the new construction standards in § 92.251;

(2) For rehabilitation, costs to meet the property standards for rehabilitation projects in § 92.251;

(3) For both new construction and rehabilitation projects, costs:

(i) To demolish existing structures;

(ii) To make utility connections including off-site connections from the property line to the adjacent street; and

(iii) To make improvements to the project site that are in keeping with improvements of surrounding, standard projects. Site improvements may include on-site roads and sewer and water lines necessary to the development of the project. The project site is the property, owned by the project owner, upon which the project is located.

(4) For both new construction and rehabilitation of multifamily rental housing projects, costs to construct or rehabilitate laundry and community facilities that are located within the same building as the housing and which are for the use of the project residents and their guests.

(5) Costs to make utility connections or to make improvements to the project site, in accordance with the provisions of § 92.206(a)(3) (ii) and (iii) are also eligible in connection with acquisition of standard housing.

(b) ***Refinancing costs.*** The cost to refinance existing debt secured by a housing project that is being rehabilitated with HOME funds. These costs include the following:

(1) For single-family (one- to four- family) owner-occupied housing, when loaning HOME funds to rehabilitate the housing, if the refinancing is necessary to reduce the overall housing costs to the borrower and make the housing more affordable and if the rehabilitation cost is greater than the amount of debt that is refinanced.

(2) For single family or multifamily projects, when loaning HOME funds to rehabilitate the units if refinancing is necessary to permit or continue affordability under § 92.252. The participating jurisdiction must establish refinancing guidelines and state them in its consolidated plan described in 24 CFR part 91. Regardless of the amount of HOME funds invested, the minimum affordability period shall be 15 years. The guidelines shall describe the conditions under which the participating jurisdictions will refinance existing debt. At minimum, the guidelines must:

(i) Demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing;

(ii) Require a review of management practices to demonstrate that disinvestment in the property has not occurred, that the long term needs of the project can be met and that the feasibility of serving the targeted population over an extended affordability period can be demonstrated;

(iii) State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both;

(iv) Specify the required period of affordability, whether it is the minimum 15 years or longer;

(v) Specify whether the investment of HOME funds may be jurisdiction-wide or limited to a specific geographic area, such as a neighborhood identified in a neighborhood revitalization strategy under 24 CFR 91.215(e)(2) or a Federally designated Empowerment Zone or Enterprise Community; and

(vi) State that HOME funds cannot be used to refinance single family or multifamily housing loans made or insured by any Federal program, including CDBG.

(c) ***Acquisition costs.*** Costs of acquiring improved or unimproved real property, including acquisition by homebuyers.

(d) ***Related soft costs.*** Other reasonable and necessary costs incurred by the owner or participating jurisdiction and associated with the financing, or development (or both) of new construction, rehabilitation or acquisition of housing assisted with HOME funds. These costs include, but are not limited to:

(1) Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups. The costs may be paid if they were incurred not more than 24 months before the date that HOME funds are committed to the project and the participating jurisdiction expressly permits HOME funds to be used to pay the costs in the written agreement committing the funds.

(2) Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees.

(3) Costs of a project audit, including certification of costs performed by a certified public accountant, that the participating jurisdiction may require with respect to the development of the project.

(4) Costs to provide information services such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by § 92.351.

(5) For new construction or rehabilitation, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months) and which may only be used to pay project operating expenses, scheduled payments to a replacement reserve, and debt service. Any HOME funds placed in an operating deficit reserve that remain unexpended after the period of project rent-up may be retained for project reserves if permitted by the participating jurisdiction.

(6) Staff and overhead costs of the participating jurisdiction directly related to carrying out the project, such as work specifications preparation, loan processing inspections, and other services related to assisting potential owners, tenants, and homebuyers, e.g., housing counseling, may be charged to project costs only if the project is funded and the individual becomes the owner or tenant of the HOME-assisted project. For multi-unit projects, such costs must be allocated among HOME- assisted units in a reasonable manner and documented. Although these costs may be charged as project costs, these costs (except housing counseling) cannot be charged to or paid by low-income families.

(7) For both new construction and rehabilitation, costs for the payment of impact fees that are charged for all projects within a jurisdiction.

(8) Costs of environmental review and release of funds in accordance with 24 CFR part 58 which are directly related to the project.

(e) ***Community housing development organization costs.*** Eligible costs of project-specific assistance are set forth in § 92.301.

(f) ***Relocation costs.*** The cost of relocation payments and other relocation assistance to persons displaced by the project are eligible costs.

(1) Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons.

(2) Other relocation assistance means staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship.

(g) ***Costs relating to payment of loans.*** If the HOME funds are not used to directly pay a cost specified in this section, but are used to pay off a construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if:

(1) The loan was used for eligible costs specified in this section, and

(2) The HOME assistance is part of the original financing for the project and the project meets the requirements of this part.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 64 FR 50224, Sept. 15, 1999; 78 FR 44667, July 24, 2013]

§ 92.207 Eligible administrative and planning costs.

A participating jurisdiction may expend, for payment of reasonable administrative and planning costs of the HOME program and ADDI, an amount of HOME funds that is not more than ten percent of the sum of the Fiscal Year HOME basic formula allocation plus any funds received in accordance with § 92.102(b) to meet or exceed participation threshold requirements that Fiscal Year. A state that transfers any HOME funds in accordance with § 92.102(b) must exclude these funds in calculating the amount it may expend for administrative and planning costs. A participating jurisdiction may also expend, for payment of reasonable administrative and planning costs of the HOME program and the ADDI described in subpart M of this part, a sum up to ten percent of the program income deposited into its local account or received and reported by its state recipients or subrecipients during the program year. A participating jurisdiction may expend such funds directly or may authorize its state recipients or subrecipients, if any, to expend all or a portion of such funds, provided total expenditures for planning and administrative costs do not exceed the maximum allowable amount. Reasonable administrative and planning costs include:

(a) ***General management, oversight and coordination.*** Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not limited to, necessary expenditures for the following:

(1) Salaries, wages, and related costs of the participating jurisdiction's staff. In charging costs to this category the participating jurisdiction may either include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The participating jurisdiction may use only one of these methods. Program administration includes the following types of assignments:

(i) Developing systems and schedules for ensuring compliance with program requirements;

(ii) Developing interagency agreements and agreements with entities receiving HOME funds;

(iii) Monitoring HOME-assisted housing for progress and compliance with program requirements;

(iv) Developing agreements and monitoring housing not assisted with HOME funds that the participating jurisdiction designates as a matching contribution in accordance with § 92.219(b) for compliance with applicable program requirements;

(v) Preparing reports and other documents related to the program for submission to HUD;

(vi) Coordinating the resolution of audit and monitoring findings;

(vii) Evaluating program results against stated objectives; and

(viii) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraphs (a)(1)(i) through (vii) of this section;

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services;

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space; and

(5) Costs of administering tenant-based rental assistance programs.

(b) ***Staff and overhead.*** Staff and overhead costs of the participating jurisdiction directly related to carrying out the project, such as work specifications preparation, loan processing, inspections, lead-based paint evaluations (visual assessments, inspections, and risk assessments) and other services related to assisting potential owners, tenants, and homebuyers (e.g., housing counseling); and staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship. These costs may be charged as administrative costs or as project costs under § 92.206(d)(6) and (f)(2), at the discretion of the participating jurisdiction; however, these costs (except housing counseling) cannot be charged to or paid by the low-income families.

(c) ***Public information.*** The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME funds.

(d) ***Fair housing.*** Activities to affirmatively further fair housing in accordance with the participating jurisdiction's certification under 24 CFR part 91.

(e) ***Indirect Costs.*** Indirect costs may be charged to the HOME program under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E.

(f) ***Preparation of the consolidated plan.*** Preparation of the consolidated plan required under 24 CFR part 91. Preparation includes the costs of public hearings, consultations, and publication.

(g) ***Other Federal requirements.*** Costs of complying with the Federal requirements in subpart H of this part. Project-specific environmental review costs may be charged as administrative costs or as project costs in accordance with § 92.206(d)(8), at the discretion of the participating jurisdiction.

(h) ***Preserving affordable housing already assisted with HOME funds.*** Costs specified under § 92.254(a)(9) may be charged as an administrative cost or may be charged to the project as provided in § 92.254(a)(9). In addition, the foreclosure cost of a HOME-assisted rental housing project with a HOME loan in default is an eligible administrative cost.

[61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61756, Oct. 1, 2002; 69 FR 16766, Mar. 30, 2004; 72 FR 16685, Apr. 4, 2007; 78 FR 44668, July 24, 2013; 80 FR 75935, Dec. 7, 2015]

§ 92.208 Eligible community housing development organization (CHDO) operating expense and capacity building costs.

(a) Up to 5 percent of a participating jurisdiction's fiscal year HOME allocation may be used for the operating expenses of community housing development organizations (CHDOs). This amount is in addition to amounts set aside for housing projects that are owned, developed, or sponsored by CHDOs as described in § 92.300(a). These funds may not be used to pay operating expenses incurred by a CHDO acting as a subrecipient or contractor under the HOME Program. Operating expenses means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials; and supplies. The requirements and limitations on the receipt of these funds by CHDOs are set forth in § 92.300(e) and (f).

(b) HOME funds may be used for capacity building costs under § 92.300(b).

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44668, July 24, 2013]

§ 92.209 Tenant-based rental assistance: Eligible costs and requirements.

(a) ***Eligible costs.*** Eligible costs are the rental assistance and security deposit payments made to provide tenant-based rental assistance for a family pursuant to this section. Eligible costs also include utility deposit assistance, but only if this assistance is provided with tenant-based rental assistance or security deposit payment. Administration of tenant-based rental assistance is eligible only under general management oversight and coordination at § 92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible as costs of the tenant-based rental assistance.

(b) ***General requirement.*** A participating jurisdiction may use HOME funds for tenant-based rental assistance only if the participating jurisdiction makes the certification about inclusion of this type of assistance in its consolidated plan in accordance with 24 CFR 91.225(d)(1), 91.325(d)(1), or 91.425(a)(2)(i), and specifies local market conditions that lead to the choice of this option.

(c) ***Tenant selection.*** The participating jurisdiction must select low-income families in accordance with written tenant selection policies and criteria that are based on local housing needs and priorities established in the participating jurisdiction's consolidated plan.

(1) ***Low-income families.*** Tenant-based rental assistance may only be provided to very low- and low-income families. The participating jurisdiction must determine that the family is very low- or low-income before the assistance is provided. During the period of assistance, the participating jurisdiction must annually determine that the family continues to be low-income.

(2) ***Targeted assistance.***

(i) The participating jurisdiction may establish a preference for individuals with special needs (e.g., homeless persons or elderly persons) or persons with disabilities. The participating jurisdiction may offer, in conjunction with a tenant-based rental assistance program, particular types of nonmandatory services that may be most appropriate for persons with a special need or a particular disability. Generally, tenant-based rental assistance and the related services should be made available to all persons with special needs or disabilities who can benefit from such services. Participation may be limited to persons with a specific disability if necessary to provide as effective housing, aid, benefit, or services as those provided to others in accordance with 24 CFR 8.4(b)(1)(iv).

(ii) The participating jurisdiction may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) if the specific category is identified in the participating jurisdiction's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

(iii) ***Self-sufficiency program.*** The participating jurisdiction may require the family to participate in a self- sufficiency program as a condition of selection for assistance. The family's failure to continue participation in the self-sufficiency program is not a basis for terminating the assistance; however, renewal of the assistance may be conditioned on participation in the program. Tenants living in a HOME- assisted rental project who receive tenant-based rental assistance as relocation assistance must not be required to participate in a self-sufficiency program as a condition of receiving assistance.

(iv) ***Homebuyer program.*** HOME tenant-based rental assistance may assist a tenant who has been identified as a potential low-income homebuyer through a lease-purchase agreement, with monthly rental payments for a period up to 36 months (i.e., 24 months, with a 12-month renewal in accordance with paragraph (e) of this section). The HOME tenant-based rental assistance payment may not be used to accumulate a downpayment or closing costs for the purchase; however, all or a portion of the homebuyer-tenant's monthly contribution toward rent may be set aside for this purpose. If a participating jurisdiction determines that the tenant has met the lease-purchase criteria and is ready to assume ownership, HOME funds may be provided for downpayment assistance in accordance with the requirements of this part.

(v) Preferences cannot be administered in a manner that limits the opportunities of persons on any basis prohibited by the laws listed under 24 CFR 5.105(a). For example, a participating jurisdiction may not determine that persons given a preference under the program are therefore prohibited from applying for or participating in other programs or forms of assistance. Persons who are eligible for a preference must have the opportunity to participate in all programs of the participating jurisdiction, including programs that are not separate or different.

(3) ***Existing tenants in the HOME-assisted projects.*** A participating jurisdiction may select low-income families currently residing in housing units that are designated for rehabilitation or acquisition under the participating jurisdiction's HOME program. Participating jurisdictions using HOME funds for tenant-based rental assistance programs may establish local preferences for the provision of this assistance. Families so selected may use the tenant-based assistance in the rehabilitated or acquired housing unit or in other qualified housing.

(d) ***Portability of assistance.*** A participating jurisdiction may require the family to use the tenant-based assistance within the participating jurisdiction's boundaries or may permit the family to use the assistance outside its boundaries.

(e) ***Term of rental assistance contract.*** The term of the rental assistance contract providing assistance with HOME funds may not exceed 24 months, but may be renewed, subject to the availability of HOME funds. The term of the rental assistance contract must begin on the first day of the term of the lease. For a rental assistance contract between a participating jurisdiction and an owner, the term of the contract must terminate on termination of the lease. For a rental assistance contract between a participating jurisdiction and a family, the term of the contract need not end on termination of the lease, but no payments may be made after termination of the lease until a family enters into a new lease.

(f) ***Rent reasonableness.*** The participating jurisdiction must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.

(g) ***Tenant protections.*** The tenant must have a lease that complies with the requirements in § 92.253 (a) and (b).

(h) ***Maximum subsidy.***

(1) The amount of the monthly assistance that a participating jurisdiction may pay to, or on behalf of, a family may not exceed the difference between a rent standard for the unit size established by the participating jurisdiction and 30 percent of the family's monthly adjusted income.

(2) The participating jurisdiction must establish a minimum tenant contribution to rent.

(3) The participating jurisdiction's rent standard for a unit size must be based on:

(i) Local market conditions; or

(ii) The Section 8 Housing Choice Voucher Program (24 CFR part 982).

(i) ***Housing quality standards.*** Housing occupied by a family receiving tenant-based assistance under this section must meet the requirements set forth in 24 CFR 982.401. The participating jurisdiction must inspect the housing initially and re-inspect it annually.

(j) ***Security deposits.***

(1) A participating jurisdiction may use HOME funds provided for tenant-based rental assistance to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units whether or not the participating jurisdiction provides any other tenant-based rental assistance under this section.

(2) The relevant State or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purposes of this part, except that the amount of HOME funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit.

(3) Only the prospective tenant may apply for HOME security deposit assistance, although the participating jurisdiction may pay the funds directly to the tenant or to the landlord.

(4) HOME funds for security deposits may be provided as a grant or as a loan. If they are provided as a loan, the loan repayments are program income to be used in accordance with § 92.503.

(5) Paragraphs (b), (c), (d), (f), (g), and (i) of this section are applicable to HOME security deposit assistance, except that income determinations pursuant to paragraph (c)(1) of this section and Housing Quality Standard inspections pursuant to paragraph (i) of this section are required only at the time the security deposit assistance is provided.

(k) *Program operation.* A tenant-based rental assistance program must be operated consistent with the requirements of this section. The participating jurisdiction may operate the program itself, or may contract with a PHA or other entity with the capacity to operate a rental assistance program. The tenant-based rental assistance may be provided through an assistance contract to an owner that leases a unit to an assisted family or directly to the family. In either case, the participating jurisdiction (or entity operating the program) must approve the lease.

(l) *Use of Section 8 assistance.* In any case where assistance under section 8 of the 1937 Act becomes available, recipients of tenant-based rental assistance under this part will qualify for tenant selection preferences to the same extent as when they received the HOME tenant-based rental assistance under this part.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 67 FR 61756, Oct. 1, 2002; 78 FR 44668, July 24, 2013]

§ 92.210 Troubled HOME-assisted rental housing projects.

(a) The provisions of this section apply only to an existing HOME- assisted rental project that, within the HOME period of affordability, is no longer financially viable. For purposes of this section, a HOME assisted rental project is no longer financially viable if its operating costs significantly exceed its operating revenue. HUD may approve one or both of the actions described in paragraphs (b) and (c) of this section to strategically preserve a rental project after consideration of market needs, available resources, and the likelihood of long-term viability of the project.

(b) Notwithstanding § 92.214, a participating jurisdiction may request and HUD may permit, pursuant to a written memorandum of agreement, a participating jurisdiction to invest additional HOME funds in the existing HOME-assisted rental project. The total HOME funding for the project (original investment plus additional investment) must not exceed the per-unit subsidy limit in § 92.250(a). The use of HOME funds may include, but is not limited to, rehabilitation of the HOME units and recapitalization of project reserves for the HOME units (to fund capital costs). If additional HOME funds are invested, HUD may require the period of affordability to be extended, based on such considerations as the amount of additional HOME funds or additional units.

(c) HUD Headquarters may, through written approval, permit the participating jurisdiction to reduce the number of HOME-assisted units, if the project contains more than the minimum number of units required to be designated as HOME-assisted under § 92.205(d). In determining whether to permit a reduction in the number of HOME-assisted units, HUD will take into account the required period of affordability and the amount of HOME assistance provided to the project.

[78 FR 44669, July 24, 2013]

§ 92.212 Pre-award costs.

(a) *General.* Before the effective date of the HOME Investment Partnership Agreement, the participating jurisdiction may incur costs which may be charged to the HOME allocation after the award of the HOME allocation, provided the costs are in compliance with the requirements of this part (including environmental review requirements) and with the statutory and regulatory requirements in effect at the time the costs are charged to the HOME allocation.

(b) *Administrative and planning costs.* Eligible administrative and planning costs may be incurred as of the beginning of the participating jurisdiction's consolidated program year (see 24 CFR 91.10) or the date the consolidated plan describing the HOME allocation to which the costs will be charged is received by HUD, whichever is later.

(c) *Project costs.* Eligible project costs may be incurred during the current program year in an amount not to exceed 25% of the current HOME allocation amount, to be charged to the following year's HOME allocation. Before incurring the pre-award costs, the participating jurisdiction must comply with its citizen participation plan requirements addressing 24 CFR 91.105(b)(2), (4), (5) and (g) (local governments) or 24 CFR 91.115(b)(2), (4), (5) and (f) (States). In lieu of a full action plan, the participating jurisdiction may develop a mini-action plan which describes the proposed pre-award projects and costs in accordance with 24 CFR 91.220(c) and includes, if applicable, 24 CFR 91.220(g)(2) (local governments) or 24 CFR 91.320(c) and, if applicable, 24 CFR 91.320(g)(2) (States). The mini-action plan must state that HOME funding for the project(s) is subject to the future availability of HOME funds. The subsequent action plan (i.e., action plan for the HOME allocation to which the costs will be charged) must also include the use of HOME funds contained in the mini-action plan.

(d) *Subrecipient or State recipient costs.* The participating jurisdiction may authorize its subrecipient or State recipient to incur pre-award costs in accordance with the requirements of this section. The authorization must be in writing.

(e) *Other pre-agreement costs.* Pre-agreement costs in excess of the amount set forth in paragraph (c) of this section must be approved, in writing, by the HUD Field Office before the costs are incurred.

§ 92.213 HOME Funds and Public Housing.

(a) *General rule.* HOME funds may not be used for public housing units. HOME-assisted housing units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME period of affordability.

(b) *Exception.* HOME funds may be used for the development of public housing units, if the units are developed under section 24 of the 1937 Act (HOPE VI) and no Capital Fund assistance under section 9(d) of the Act is used for the development of the unit. Units developed with both HOME and HOPE VI may receive operating assistance under section 9 of the 1937 Act. Units developed with HOME and HOPE VI funds under this paragraph may subsequently receive Capital Funds for rehabilitation or modernization.

(c) ***Using HOME funds in public housing projects.*** Consistent with § 92.205(d), HOME funds may be used for affordable housing units in a project that also contains public housing units, provided that the HOME funds are not used for the public housing units (except as provided in paragraph (b) of this section) and HOME funds are used only for eligible costs in accordance with this part.

(d) The HOME funds must be used in accordance with the requirements of this part and the project must meet the requirements of this part, including rent requirements in § 92.252.

[78 FR 44669, July 24, 2013]

§ 92.214 Prohibited activities and fees.

(a) HOME funds may not be used to:

(1) Provide project reserve accounts, except as provided in § 92.206(d)(5), or operating subsidies;

(2) Provide tenant-based rental assistance for the special purposes of the existing section 8 program, in accordance with section 212(d) of the Act;

(3) Provide non-federal matching contributions required under any other Federal program;

(4) Provide assistance for uses authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds);

(5) Provide assistance to eligible low-income housing under 24 CFR part 248 (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in 24 CFR 248.101;

(6) Provide assistance (other than tenant-based rental assistance, assistance to a homebuyer to acquire housing previously assisted with HOME funds, or assistance to preserve affordability of homeownership housing in accordance with § 92.254(a)(9)) to a project previously assisted with HOME funds during the period of affordability established by the particular jurisdiction in the written agreement under § 92.504. However, additional HOME funds may be committed to a project for up to one year after project completion (see § 92.502), but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under § 92.250.

(7) Pay for the acquisition of property owned by the participating jurisdiction, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project; or

(8) Pay delinquent taxes, fees or charges on properties to be assisted with HOME funds.

(9) Pay for any cost that is not eligible under §§ 92.206 through 92.209.

(b)

(1) Participating jurisdictions may not charge (and must prohibit State recipients, subrecipients, and community housing development organizations from charging) servicing, origination, or other fees for the purpose of covering costs of administering the HOME program (e.g., fees on low-income families for construction management or for inspections for compliance with property standards) (see § 92.206(d)(6) and § 92.207), except that:

(i) Participating jurisdictions and State recipients may charge owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability. The fees must be based upon the average actual cost of performing the monitoring of HOME-assisted rental projects. The basis for determining the amount of for the fee amount must be documented and the fee must be included in the costs of the project as part of the project underwriting;

(ii) Participating jurisdictions, subrecipients and State recipients may charge nominal application fees (although these fees are not an eligible HOME cost) to project owners to discourage frivolous applications. The amount of application fees must be appropriate to the type of application and may not create an undue impediment to a low-income family's, subrecipient's, State recipient's, or other entity's participation in the participating jurisdiction's program; and

(iii) Participating jurisdictions, subrecipients and State recipients may charge homebuyers a fee for housing counseling.

(2) All fees charged under paragraph (b)(1) of this section are applicable credits under 2 CFR 200.406.

(3) The participating jurisdiction must prohibit project owners from charging fees that are not customarily charged in rental housing (e.g., laundry room access fees), except that rental project owners may charge:

(i) Reasonable application fees to prospective tenants;

(ii) Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and

(iii) Fees for services such as bus transportation or meals, as long as the services are voluntary and fees are charged for services provided.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997; 67 FR 61756, Oct. 1, 2002; 72 FR 16685, Apr. 4, 2007; 78 FR 44669, July 24, 2013; 80 FR 75935, Dec. 7, 2015]

§ 92.215 Limitation on jurisdictions under court order.

Limitations on the use of HOME funds in connection with litigation involving discrimination or fair housing are set forth in section 224 of the Act.

Income Targeting

§ 92.216 Income targeting: Tenant-based rental assistance and rental units.

Each participating jurisdiction must invest HOME funds made available during a fiscal year so that, with respect to tenant-based rental assistance and rental units:

(a) Not less than 90 percent of:

(1) The families receiving such rental assistance are families whose annual incomes do not exceed 60 percent of the median family income for the area, as determined and made available by HUD with adjustments for smaller and larger families (except that HUD may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later; or

(2) The dwelling units assisted with such funds are occupied by families having such incomes; and

(b) The remainder of:

(1) The families receiving such rental assistance are households that qualify as low-income families (other than families described in paragraph (a)(1) of this section) at the time of occupancy or at the time funds are invested, whichever is later; or

(2) The dwelling units assisted with such funds are occupied by such households.

§ 92.217 Income targeting: Homeownership.

Each participating jurisdiction must invest HOME funds made available during a fiscal year so that with respect to homeownership assistance, 100 percent of these funds are invested in dwelling units that are occupied by households that qualify as low-income families.

[67 FR 61756, Oct. 1, 2002]

Matching Contribution Requirement

§ 92.218 Amount of matching contribution.

(a) ***General.*** Each participating jurisdiction must make contributions to housing that qualifies as affordable housing under the HOME program, throughout a fiscal year. The contributions must total not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund Treasury account in that fiscal year, excluding funds drawn for purposes identified in paragraph (c) of this section.

(b) ***Shortfall amount from State or local resources.*** Amounts made available under § 92.102(b)(2) from the resources of a State (other than a transfer of the State's formula allocation), the local participating jurisdiction, or both, to enable the local participating jurisdiction to meet the participation threshold amount are not required to be matched and do not constitute matching contributions.

(c) ***HOME funds not required to be matched.*** HOME funds used for administrative and planning costs (pursuant to § 92.207); community housing development organization operating expenses (pursuant to § 92.208); capacity building (pursuant to § 92.300(b)) of community housing development organizations; and project specific assistance to community housing development organizations (pursuant to § 92.301) when the participating jurisdiction waives repayment under the provisions of § 92.301(a)(3) or § 92.301(b)(3) are not required to be matched.

(d) ***Match contribution for other programs.*** Contributions that have been or will be counted as satisfying a matching requirement of another Federal grant or award may not count as satisfying the matching contribution requirement for the HOME program.

§ 92.219 Recognition of matching contribution.

(a) ***Match contribution to HOME-assisted housing.*** A contribution is recognized as a matching contribution if it is made with respect to:

(1) A tenant who is assisted with HOME funds;

(2) A HOME-assisted unit;

(3) The portion of a project that is not HOME-assisted provided that at least 50 percent of the housing units in the project are HOME-assisted. If the match contribution to the portion of the project that is not HOME-assisted meets the affordable housing requirements of § 92.219(b)(2), the percentage requirement for HOME-assisted units does not apply; or

(4) The commercial space in a mixed-use project in which at least 51 percent of the floor space is residential provided that at least 50 percent of the dwelling units are HOME-assisted.

(b) ***Match contribution to affordable housing that is not HOME-assisted.*** The following requirements apply for recognition of matching contributions made to affordable housing that is not HOME-assisted:

(1) For tenant-based rental assistance that is not HOME-assisted:

(i) The contribution must be made with respect to a tenant who is assisted with tenant-based rental assistance that meets the requirements of § 92.203 (Income determinations) and paragraphs (a), (c), (f), and (i) of § 92.209 (Tenant-based rental assistance); and

(ii) The participating jurisdiction must demonstrate in writing that such assistance meets the provisions of §§ 92.203 and 92.209 (except § 92.209(e)).

(2) For affordable housing that is not HOME-assisted:

(i) The contribution must be made with respect to housing that qualifies as affordable housing under § 92.252 or § 92.254.

(ii) The participating jurisdiction or its instrumentality must execute, with the owner of the housing (or, if the participating jurisdiction is the owner, with the manager or developer), a written agreement that imposes and enumerates all of the affordability requirements from § 92.252 and § 92.253(a) and (b) (Tenant protections), or § 92.254, whichever are applicable; the property standards requirements of § 92.251; and income determinations made in accordance with § 92.203. This written agreement must be executed before any match contributions may be made.

(iii) A participating jurisdiction must establish a procedure to monitor HOME match-eligible housing to ensure continued compliance with the requirements of §§ 92.203 (Income determinations), 92.252 (Qualification as affordable housing: Rental housing), 92.253(a) and (b) (Tenant protections) and 92.254 (Qualification as affordable housing: Homeownership). No other HOME requirements apply.

(iv) The match may be in any eligible form of match except those in § 92.220(a)(2) (forbearance of fees), (a)(4) (on-site and off-site infrastructure), (a)(10) (direct cost of supportive services) and (a)(11) (direct costs of homebuyer counseling services).

(v) Match contributions to mixed-use or mixed-income projects that contain affordable housing units will be recognized only if the contribution is made to the project's affordable housing units.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997]

§ 92.220 Form of matching contribution.

(a) ***Eligible forms.*** Matching contributions must be made from nonfederal resources and may be in the form of one or more of the following:

(1) ***Cash contributions from nonfederal sources.*** To be recognized as a cash contribution, funds must be contributed permanently to the HOME program (or to affordable housing not assisted with HOME funds), regardless of the form of investment provided to the project. Therefore, to receive match credit for the full amount of a loan to a HOME project, all repayment, interest, or other return on investment of the contribution must be deposited in the local account of the participating jurisdiction's HOME Investment Trust Fund to be used for eligible HOME activities in accordance with the requirements of this part. A cash contribution to affordable housing that is not assisted with HOME funds must be contributed permanently to the project. Repayments of matching contributions in affordable housing projects, as defined in § 92.219(b), that are not HOME-assisted, must be made to the local account of the participating jurisdiction's HOME Investment Trust Fund to get match credit for the full loan amount.

(i) A cash contribution may be made by the participating jurisdiction, non-Federal public entities, private entities, or individuals, except as prohibited under paragraph (b)(4) of this section. A cash contribution made to a nonprofit organization for use in a HOME project may be counted as a matching contribution.

(ii) A cash contribution may be made from program income (as defined by 2 CFR 200.80) from a Federal grant earned after the end of the award period if no Federal requirements govern the disposition of the program income. Included in this category are repayments from closed out grants under the Urban Development Action Grant Program (24 CFR part 570, subpart G) and the Housing Development Grant Program (24 CFR part 850), and from the Rental Rehabilitation Grant Program (24 CFR part 511) after all fiscal year Rental Rehabilitation grants have been closed out.

(iii) The grant equivalent of a below-market interest rate loan to the project that is not repayable to the participating jurisdiction's HOME Investment Trust Fund may be counted as a cash contribution, as follows:

(A) If the loan is made from funds borrowed by a jurisdiction or public agency or corporation the contribution is the present discounted cash value of the difference between the payments to be made on the borrowed funds and payments to be received from the loan to the project based on a discount rate equal to the interest rate on the borrowed funds.

(B) If the loan is made from funds other than funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the yield foregone. In determining the yield foregone, the participating jurisdiction must use as a measure of a market rate yield one of the following, as appropriate:

(*1*) With respect to one- to four-unit housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points;

(*2*) With respect to one- to four-unit housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points;

(*3*) With respect to a multifamily project, a rate equal to the 10-year Treasury note rate plus 300 basis points; or

(4) With respect to housing receiving financing for rehabilitation, a rate equal to the 10-year Treasury note rate plus 400 basis points.

(iv) Proceeds of bonds that are not repaid with revenue from an affordable housing project (e.g., general obligation bonds) and that are loaned to a HOME-assisted or other qualified affordable housing project constitute a cash contribution under this paragraph.

(v) A cash contribution may be counted as a matching contribution only if it is used for costs eligible under §§ 92.206 or 92.209, or for the following (which are not HOME eligible costs): the cost of removing and relocating an ECHO housing unit during the period of affordability in accordance with § 92.258(d)(3)(ii), payments to a project reserve account beyond payments permitted by § 92.206(d)(5), operating subsidies, or costs relating to the portion of a mixed-income or mixed-use HOME-assisted project not related to the affordable housing units.

(2) ***Forbearance of fees*** -

(i) ***State and local taxes, charges or fees.*** The value (based on customary and reasonable means for establishing value) of State or local taxes, fees, or other charges that are normally and customarily imposed or charged by a State or local government on all transactions or projects in the conduct of its operations, which are waived, foregone, or deferred (including State low-income housing tax credits) in a manner that achieves affordability of HOME-assisted projects, may be counted as match. The amount of any real estate taxes may be based on post-improvement property value. For taxes, fees, or charges that are forgiven for future years, the value is the present discounted cash value, based on a rate equal to the rate for the Treasury security with a maturity closest to the number of years for which the taxes, fees, or charges are waived, foregone, or deferred.

(ii) ***Other charges or fees.*** The value of fees or charges associated with the transfer or development of real estate that are normally and customarily imposed or charged by public or private entities, which are waived or foregone, in whole or in part, in a manner that achieves affordability of HOME-assisted projects, may be counted as match. Fees and charges under this paragraph do not include fees or charges for legal or other professional services; professional services which are donated, in whole or in part, are an eligible matching contribution in accordance with paragraph (a)(7) of this section.

(iii) Fees or charges that are associated with the HOME Program only (rather than normally and customarily imposed or charged on all transactions or projects) are not eligible forms of matching contributions.

(3) ***Donated Real Property.*** The value, before the HOME assistance is provided and minus any debt burden, lien, or other encumbrance, of donated land or other real property may be counted as match. The donation may be made by the participating jurisdiction, non-Federal public entities, private entities, or individuals, except as prohibited under paragraph (b)(4) of this section.

(i) Donated property not acquired with Federal resources is a contribution in the amount of 100% of the value.

(ii) Donated property acquired with Federal assistance may provide a partial contribution as follows. The property must be acquired with Federal assistance specifically for a HOME project (or for affordable housing that will be counted as match pursuant to § 92.219(b)(2)). The property must be acquired with the Federal assistance at demonstrably below the appraised value and must be acknowledged by the seller as a donation to affordable housing at the time of the acquisition with the Federal assistance. The amount of the contribution is the difference between the acquisition price and the appraised value at the time of acquisition with the Federal assistance. If the property is acquired with the Federal assistance by someone other than the HOME project (or affordable housing) owner, to continue to qualify as a contribution, the property must be given to the HOME project (or affordable housing) owner at a price that does not exceed the amount of the Federal assistance used to acquire the property.

(iii) Property must be appraised in conformance with established and generally recognized appraisal practice and procedures in common use by professional appraisers. Opinions of value must be based on the best available data properly analyzed and interpreted. The appraisal of land and structures must be performed by an independent, certified appraiser.

(4) The cost, not paid with Federal resources, of on-site and off-site infrastructure that the participating jurisdiction documents are directly required for HOME-assisted projects. The infrastructure must have been completed no earlier than 12 months before HOME funds are committed to the project.

(5) Proceeds from multifamily and single family affordable housing project bond financing validly issued by a State or local government, or an agency or instrumentality of a State or local government or a political subdivision of a State and repayable with revenues from the affordable housing project financed as follows:

(i) Fifty percent of the loan amount made from bond proceeds to a multifamily affordable housing project owner may qualify as match.

(ii) Twenty-five percent of the loan amount from bond proceeds made to a single-family affordable housing project owner may qualify as match.

(iii) Loans made from bond proceeds may not constitute more than 25 percent of a participating jurisdiction's total annual match contribution.

(6) The reasonable value of donated site-preparation and construction materials, not acquired with Federal resources. The value of site-preparation and construction materials is to be determined in accordance with the participating jurisdiction's cost estimate procedures.

(7) The reasonable rental value of the donated use of site preparation or construction equipment.

(8) The value of donated or voluntary labor or professional services (see § 92.354(b)) in connection with the provision of affordable housing. A single rate established by HUD shall be applicable for determining the value of unskilled labor. The value of skilled labor or professional services shall be determined by the rate that the individual or entity performing the labor or service normally charges.

(9) The value of sweat equity (see § 92.354(c)) provided to a homeownership project, under an established component of a participating jurisdiction's program, up until the time of project completion (i.e., submission of a project completion form). Such labor shall be valued at the rate established for unskilled labor at paragraph (a)(8) of this section.

(10) The direct cost of supportive services provided to families residing in HOME-assisted units during the period of affordability or receiving HOME tenant-based rental assistance during the term of the tenant-based rental assistance contract. The supportive services must be necessary to facilitate independent living or be required as part of a self-sufficiency program. Examples of supportive services include: case management, mental health services, assistance with the tasks of daily living, substance abuse treatment and counseling, day care, and job training and counseling.

(11) The direct cost of homebuyer counseling services provided to families that acquire properties with HOME funds under the provisions of § 92.254(a), including ongoing counseling services provided during the period of affordability. These services may be provided as part of a homebuyer counseling program that is not specific to the HOME Program, but only the cost of services to families that complete purchases with HOME assistance may be counted as match.

(b) *Ineligible forms.* The following are examples that do not meet the requirements of paragraph (a) of this section and do not count toward meeting a participating jurisdiction's matching contribution requirement:

(1) Contributions made with or derived from Federal resources or funds, regardless of when the Federal resources or funds were received or expended. CDBG funds (defined in 24 CFR 570.3) are Federal funds for this purpose;

(2) The interest rate subsidy attributable to the Federal tax-exemption on financing or the value attributable to Federal tax credits;

(3) Owner equity or investment in a project; and

(4) Cash or other forms of contributions from applicants for or recipients of HOME assistance or contracts, or investors who own, are working on, or are proposing to apply for assistance for a HOME-assisted project. The prohibition in this paragraph (b)(4) does not apply to contractors (who do not own any HOME project) contributing professional services in accordance with paragraph (a)(8) of this section or to persons contributing sweat equity in accordance with paragraph (a)(9) of this section.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997; 62 FR 44840, Aug. 22, 1997; 80 FR 75935, Dec. 7, 2015]

§ 92.221 Match credit.

(a) *When credit is given.* Contributions are credited on a fiscal year basis at the time the contribution is made, as follows:

(1) A cash contribution is credited when the funds are expended.

(2) The grant equivalent of a below-market interest rate loan is credited at the time of the loan closing.

(3) The value of state or local taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred is credited at the time the state or local government or other public or private entity officially waives, forgoes, or defers the taxes, fees, or other charges and notifies the project owner.

(4) The value of donated land or other real property is credited at the time ownership of the property is transferred to the HOME project (or affordable housing) owner.

(5) The cost of investment in infrastructure directly required for HOME-assisted projects is credited at the time funds are expended for the infrastructure or at the time the HOME funds are committed to the project if the infrastructure was completed before the commitment of HOME funds.

(6) The value of donated material is credited as match at the time it is used for affordable housing.

(7) The value of the donate use of site preparation or construction equipment is credited as match at the time the equipment is used for affordable housing.

(8) The value of donated or voluntary labor or professional services is credited at the time the work is performed.

(9) A loan made from bond proceeds under § 92.220(a)(5) is credited at the time of the loan closing.

(10) The direct cost of social services provided to residents of HOME-assisted units is credited at the time that the social services are provided during the period of affordability.

(11) The direct cost of homebuyer counseling services provided to families that purchase HOME-assisted units is credited at the time that the homebuyer purchases the unit or for post-purchase counseling services, at the time the counseling services are provided.

(b) *Excess match.* Contributions made in a fiscal year that exceed the participating jurisdiction's match liability for the fiscal year in which they were made may be carried over and applied to future fiscal years' match liability. Loans made from bond proceeds in excess of 25 percent of a participating

jurisdiction's total annual match contribution may be carried over to subsequent fiscal years as excess match, subject to the annual 25 percent limitation.

(c) Credit for match contributions shall be assigned as follows:

(1) For HOME-assisted projects involving more than one participating jurisdiction, the participating jurisdiction that makes the match contribution may decide to retain the match credit or permit the other participating jurisdiction to claim the credit.

(2) For HOME match contributions to affordable housing that is not HOME-assisted (match pursuant to § 92.219(b)) involving more than one participating jurisdiction, the participating jurisdiction that makes the match contribution receives the match credit.

(3) A State that provides non-Federal funds to a local participating jurisdiction to be used for a contribution to affordable housing, whether or not HOME-assisted, may take the match credit for itself or may permit the local participating jurisdiction to receive the match credit.

(d) Match credit for the development of affordable homeownership housing for sale to homebuyers. Contributions to the development of homeownership housing may be credited as a match only to the extent that the sales price of the housing is reduced by the amount of the contribution or, if the development costs exceed the fair market value of the housing, the contribution may be credited to the extent that the contributions enable the housing to be sold for less than the cost of development.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44670, July 24, 2013]

§ 92.222 Reduction of matching contribution requirement.

(a) ***Reduction for fiscal distress.*** HUD will determine match reductions annually.

(1) ***Distress criteria for local government participating jurisdictions.*** If a local government participating jurisdiction satisfies both of the distress factors in paragraphs (a)(1)(i) and (ii) of this section, it is in severe fiscal distress and its match requirement will be reduced by 100% for the period specified in paragraph (a)(3) of this section. If a local government participating jurisdiction satisfies either distress factor in paragraphs (a)(1)(i) or (ii) of this section, it is in fiscal distress and its match requirement will be reduced by 50 percent, for the period specified in paragraph (a)(4) of this section.

(i) ***Poverty rate.*** The average poverty rate in the participating jurisdiction was equal to or greater than 125 percent of the average national poverty rate during the calendar year for which the most recent data are available, as determined according to information of the Bureau of the Census.

(ii) ***Per capita income.*** The average per capita income in the participating jurisdiction was less than 75 percent of the average national per capita income, during the calendar year for which the most recent data are available, as determined according to information from the Bureau of the Census.

(2) ***Distress criteria for participating jurisdictions that are States.*** If a State satisfies at least 2 of the 3 distress factors in paragraphs (a)(2)(i) through (iii) of this section, it is in severe fiscal distress and its match requirement will be reduced by 100% for the period specified in paragraph (a)(3) of this section. If a State satisfies any 1 of the 3 distress factors in paragraphs (a)(2)(i) through (iii) of this section, it is in fiscal distress and its match requirement will be reduced by 50 percent, for the period specified in paragraph (a)(4) of this section.

(i) ***Poverty rate.*** The average poverty rate in the State was equal to or greater than 125 percent of the average national poverty rate during the calendar year for which the most recent data are available, as determined according to information from the Bureau of the Census.

(ii) ***Per capita income.*** The average per capita income in the State was less than 75 percent of the average national per capita income, during the calendar year for which the most recent data are available, as determined according to information from the Bureau of the Census.

(iii) ***Personal income growth.*** The average personal income growth rate in the State over the most recent four quarters for which the data are available was less than 75 percent of the average national personal income growth rate during that period, as determined according to information from the Bureau of Economic Analysis.

(3) ***Period of match reduction for severe fiscal distress.*** A 100% match reduction is effective for the fiscal year in which the severe fiscal distress determination is made and for the following fiscal year.

(4) ***Period of match reduction for fiscal distress.*** A 50% match reduction is effective for the fiscal year in which the fiscal distress determination is made and for the following fiscal year, except that if a severe fiscal distress determination is published in that following fiscal year, the participating jurisdiction starts a new two-year match reduction period in accordance with the provisions of paragraph (a)(3) of this section.

(b) Reduction of match for participating jurisdictions in disaster areas. If a participating jurisdiction is located in an area in which a declaration of major disaster is made pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5206), the participating jurisdiction may request a reduction of its matching requirement.

(1) In determining whether to grant the request and the amount and duration of the reduction, if any, HUD must consider the fiscal impact of the disaster on the participating jurisdiction.

(i) For a local participating jurisdiction, the HUD Field office may reduce the matching requirement specified in § 92.218 by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year.

(ii) For a State participating jurisdiction, the HUD Field office may reduce the matching requirement specified in § 92.218, by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year with respect to any HOME funds expended in an area to which the declaration of a major disaster applies.

(2) At its discretion and upon request of the participating jurisdiction, the HUD Field Office may extend the reduction for an additional year.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44670, July 24, 2013]

Subpart F - Project Requirements

§ 92.250 Maximum per-unit subsidy amount, underwriting, and subsidy layering.

(a) ***Maximum per-unit subsidy amount.*** The total amount of HOME funds and ADDI funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limitations established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C.17151(d)(3)(ii)) for elevator- type projects that apply to the area in which the housing is located. HUD will allow the per-unit subsidy amount to be increased on a program-wide basis to an amount, up to 240 percent of the original per unit limits, to the extent that the costs of multifamily housing construction exceed the section 221(d)(3)(ii) limit.

(b) ***Underwriting and subsidy layering.*** Before committing funds to a project, the participating jurisdiction must evaluate the project in accordance with guidelines that it has adopted for determining a reasonable level of profit or return on owner's or developer's investment in a project and must not invest any more HOME funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability in § 92.252 or § 92.254) and that will not provide a profit or return on the owner's or developer's investment that exceeds the participating jurisdiction's established standards for the size, type, and complexity of the project. The participating jurisdiction's guidelines must require the participating jurisdiction to undertake:

(1) An examination of the sources and uses of funds for the project and a determination that the costs are reasonable; and

(2) An assessment, at minimum, of the current market demand in the neighborhood in which the project will be located, the experience of the developer, the financial capacity of the developer, and firm written financial commitments for the project.

(3) For projects involving rehabilitation of owner-occupied housing pursuant to § 92.254(b):

(i) An underwriting analysis is required only if the HOME-funded rehabilitation loan is an amortizing loan; and

(ii) A market analysis or evaluation of developer capacity is not required.

(4) For projects involving HOME-funded downpayment assistance pursuant to § 92.254(a) and which do not include HOME-funded development activity, a market analysis or evaluation of developer capacity is not required.

[78 FR 44670, July 24, 2013]

§ 92.251 Property standards.

(a) ***New construction projects.***

(1) ***State and local codes, ordinances, and zoning requirements.*** Housing that is newly constructed with HOME funds must meet all applicable State and local codes, ordinances, and zoning requirements. HOME-assisted new construction projects must meet State or local residential and building codes, as applicable or, in the absence of a State or local building code, the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council. The housing must meet the applicable requirements upon project completion.

(2) ***HUD requirements.*** All new construction projects must also meet the requirements described in this paragraph:

(i) ***Accessibility.*** The housing must meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. Covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619).

(ii) [Reserved]

(iii) ***Disaster mitigation.*** Where relevant, the housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.

(iv) ***Written cost estimates, construction contracts and construction documents.*** The participating jurisdiction must ensure the construction contract(s) and construction documents describe the work to be undertaken in adequate detail so that inspections can be conducted. The participating jurisdiction must review and approve written cost estimates for construction and determining that costs are reasonable.

(v) ***Construction progress inspections.*** The participating jurisdiction must conduct progress and final inspections of construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents.

(vi) ***Broadband infrastructure.*** For new commitments made after January 19, 2017 for a new construction housing project of a building with more than 4 rental units, the construction must include installation of broadband infrastructure, as this term is defined in 24 CFR 5.100, except where the participating jurisdiction determines and, in accordance with § 92.508(a)(3)(iv), documents the determination that:

(A) The location of the new construction makes installation of broadband infrastructure infeasible; or

(B) The cost of installing the infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden.

(b) ***Rehabilitation projects.*** All rehabilitation that is performed using HOME funds must meet the requirements of this paragraph (b).

(1) ***Rehabilitation standards.*** The participating jurisdiction must establish rehabilitation standards for all HOME- assisted housing rehabilitation activities that set forth the requirements that the housing must meet upon project completion. The participating jurisdiction's description of its standards must be in sufficient detail to determine the required rehabilitation work including methods and materials. The standards may refer to applicable codes or they may establish requirements that exceed the minimum requirements of the codes. The rehabilitation standards must address each of the following:

(i) ***Health and safety.*** The participating jurisdiction's standards must identify life-threatening deficiencies that must be addressed immediately if the housing is occupied.

(ii) ***Major systems.*** Major systems are: structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning. For rental housing, the participating jurisdiction's standards must require the participating jurisdiction to estimate (based on age and condition) the remaining useful life of these systems, upon project completion of each major systems. For multifamily housing projects of 26 units or more, the participating jurisdiction's standards must require the participating jurisdiction to determine the useful life of major systems through a capital needs assessment of the project. For rental housing, if the remaining useful life of one or more major system is less than the applicable period of affordability, the participating jurisdiction's standards must require the participating jurisdiction to ensure that a replacement reserve is established and monthly payments are made to the reserve that are adequate to repair or replace the systems as needed. For homeownership housing, the participating jurisdiction's standards must require, upon project completion, each of the major systems to have a remaining useful life for a minimum of 5 years or for such longer period specified by the participating jurisdiction, or the major systems must be rehabilitated or replaced as part of the rehabilitation work.

(iii) ***Lead-based paint.*** The participating jurisdiction's standards must require the housing to meet the lead-based paint requirements at 24 CFR part 35.

(iv) ***Accessibility.*** The participating jurisdiction's standards must require the housing to meet the accessibility requirements in 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. Covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619). Rehabilitation may include improvements that are not required by regulation or statute that permit use by a person with disabilities.

(v) [Reserved]

(vi) ***Disaster mitigation.*** Where relevant, the participating jurisdiction's standards must require the housing to be improved to mitigate the impact of potential disasters (e.g., earthquake, hurricanes, flooding, and wildfires) in accordance with State and local codes, ordinances, and requirements.

(vii) ***State and local codes, ordinances, and zoning requirements.*** The participating jurisdiction's standards must require the housing to meet all applicable State and local codes, ordinances, and requirements or, in the absence of a State or local building code, the International Existing Building Code of the International Code Council.

(viii) ***Uniform Physical Condition Standards.*** The standards of the participating jurisdiction must be such that, upon completion, the HOME-assisted project and units will be decent, safe, sanitary, and in good repair as described in 24 CFR 5.703. HUD will establish the minimum deficiencies that must be corrected under the participating jurisdiction's rehabilitation standards based on inspectable items and inspected areas from HUD-prescribed physical inspection procedures (Uniform Physical Conditions Standards) pursuant to 24 CFR 5.705.

(ix) ***Capital Needs Assessments.*** For multifamily rental housing projects of 26 or more total units, the participating jurisdiction must determine all work that will be performed in the rehabilitation of the housing and the long-term physical needs of the project through a capital needs assessment of the project.

(x) ***Broadband infrastructure.*** For new commitments made after January 19, 2017 for a substantial rehabilitation project of a building with more than 4 rental units, any substantial rehabilitation, as defined in 24 CFR 5.100, must provide for installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the participating jurisdiction determines and, in accordance with § 92.508(a)(3)(iv), documents the determination that:

(A) The location of the substantial rehabilitation makes installation of broadband infrastructure infeasible;

(B) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or

(C) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

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

(3) ***Frequency of inspections.*** The participating jurisdiction must conduct an initial property inspection to identify the deficiencies that must be addressed. The participating jurisdiction must conduct progress and final inspections to determine that work was done in accordance with work write-ups.

(c) ***Acquisition of standard housing.***

(1) Existing housing that is acquired with HOME assistance for rental housing, and that was newly constructed or rehabilitated less than 12 months before the date of commitment of HOME funds, must meet the property standards of paragraph (a) or paragraph (b) of this section, as applicable, of this section for new construction and rehabilitation projects. The participating jurisdiction must document this compliance based upon a review of approved building plans and Certificates of Occupancy, and an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance.

(2) All other existing housing that is acquired with HOME assistance for rental housing must meet the rehabilitation property standards requirements of paragraph (b) of this section. The participating jurisdiction must document this compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the property does not meet these standards, HOME funds cannot be used to acquire the property unless it is rehabilitated to meet the standards of paragraph (b) of this section.

(3) Existing housing that is acquired for homeownership (e.g., downpayment assistance) must be decent, safe, sanitary, and in good repair. The participating jurisdiction must establish standards to determine that the housing is decent, safe, sanitary, and in good repair. At minimum, the standards must provide that the housing meets all applicable State and local housing quality standards and code requirements and the housing does not contain the specific deficiencies proscribed by HUD based on the applicable inspectable items and inspected areas in HUD-prescribed physical inspection procedures (Uniform Physical Condition Standards) issued pursuant to 24 CFR 5.705. The participating jurisdiction 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 the standards of this paragraph (c)(3) or it cannot be acquired with HOME funds.

(d) ***Occupied housing by tenants receiving HOME tenant-based rental assistance.*** All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the standards in 24 CFR 982.401, or the successor requirements as established by HUD.

(e) ***Manufactured housing.*** Construction of all manufactured housing including manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must meet the Manufactured Home Construction and Safety Standards codified at 24 CFR part 3280. These standards preempt State and local codes which are not identical to the federal standards for the new construction of manufactured housing. Participating jurisdictions providing HOME funds to assist manufactured housing units must comply with applicable State and local laws or codes. In the absence of such laws or codes, the installation must comply with the manufacturer's written instructions for installation of manufactured housing units. All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must be on a permanent foundation that meets the requirements for foundation systems as set forth in 24 CFR 203.43f(c)(i). All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability. In HOME-funded rehabilitation of existing manufactured housing the foundation and anchoring must meet all applicable State and local codes, ordinances, and requirements or in the absence of local or state codes, the Model Manufactured Home Installation Standards at 24 CFR part 3285. Manufactured housing that is rehabilitated using HOME funds must meet the property standards requirements in paragraph (b) of this section, as applicable. The participating jurisdiction must document this compliance in accordance with inspection procedures that the participating jurisdiction has established pursuant to § 92.251, as applicable.

(f) ***Ongoing property condition standards: Rental housing.***

(1) Ongoing property standards. The participating jurisdiction must establish property standards for rental housing (including manufactured housing) that apply throughout the affordability period. The standards must ensure that owners maintain the housing as decent, safe, and sanitary housing in good repair. The participating jurisdiction's description of its property standards must be in sufficient detail to establish the basis for a uniform inspection of HOME rental projects. The participating jurisdiction's ongoing property standards must address each of the following:

(i) ***Compliance with State and local codes, ordinances, and requirements.*** The participating jurisdiction's standards must require the housing to meet all applicable State and local code requirements and ordinances. In the absence of existing applicable State or local code requirements and ordinances, at a minimum, the participating jurisdiction's ongoing property standards must include all inspectable items and inspectable areas specified by HUD based on the HUD physical inspection procedures (Uniform Physical Condition

Standards (UPCS)) prescribed by HUD pursuant to 24 CFR 5.705. The participating jurisdiction's property standards are not required to use any scoring, item weight, or level of criticality used in UPCS.

(ii) ***Health and safety.*** The participating jurisdiction's standards must require the housing to be free of all health and safety defects. The standards must identify life-threatening deficiencies that the owner must immediately correct and the time frames for addressing these deficiencies.

(iii) ***Lead-based paint.*** The participating jurisdiction's standards must require the housing to meet the lead-based paint requirements in 24 CFR part 35.

(2) Projects to which HOME funds were committed before January 24, 2015 must meet all applicable State or local housing quality standards or code requirements, and if there are no such standard or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

(3) ***Inspections.*** The participating jurisdiction must undertake ongoing property inspections, in accordance with § 92.504(d).

(4) ***Corrective and remedial actions.*** The participating jurisdiction must have procedures for ensuring that timely corrective and remedial actions are taken by the project owner to address identified deficiencies.

(5) ***Inspection procedures.*** The participating jurisdiction must establish written inspection procedures inspections. The procedures must include detailed inspection checklists, description of how and by whom inspections will be carried out, and procedures for training and certifying qualified inspectors. The procedures must also describe how frequently the property will be inspected, consistent with this section, § 92.209, and § 92.504(d).

[78 FR 44670, July 24, 2013, as amended at 81 FR 92635, Dec. 20, 2016]

§ 92.252 Qualification as affordable housing: Rental housing.

The HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of this section to qualify as affordable housing. If the housing is not occupied by eligible tenants within six months following the date of project completion, HUD will require the participating jurisdiction to submit marketing information and, if appropriate, submit a marketing plan. HUD will require the participating jurisdiction to repay HOME funds invested in any housing unit that has not been rented to eligible tenants 18 months after the date of project completion. The affordability requirements also apply to the HOME- assisted non-owner-occupied units in single-family housing purchased with HOME funds in accordance with § 92.254. The tenant must have a written lease that complies with § 92.253.

(a) ***Rent limitation.*** HUD provides the following maximum HOME rent limits. The rent limits apply to the rent plus the utilities or the utility allowance. The maximum HOME rents (High HOME Rents) are the lesser of:

(1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or

(2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

(b) ***Additional rent limitations (Low HOME Rents).*** The participating jurisdiction may designate (in its written agreement with the project owner) more than the minimum HOME units in a rental housing project, regardless of project size, to have Low HOME Rents that meet the requirements of this paragraph (b). In rental projects with five or more HOME-assisted rental units, at least 20 percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements:

(1) The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under paragraph (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a) of this section.

(2) The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

(c) ***Additional rent limitations for SRO projects.***

(1) For SRO units that have both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent. The project must meet the requirements of paragraphs (a) and (b) of this section.

(2) For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent of the zero-bedroom fair market rent. The project is not required to have low HOME rents in accordance with paragraph (b)(1) or (2) of this section, but must meet the occupancy requirements of paragraph (b) of this section.

(d) ***Initial rent schedule and utility allowances.***

(1) The participating jurisdiction must establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. The participating jurisdiction must use the HUD Utility Schedule Model or otherwise determine the utility

allowance for the project based on the type of utilities used at the project.

(2) The participating jurisdiction must review and approve rents proposed by the owner for units, subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction must ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.

(e) ***Periods of affordability.*** The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion.

(1) The affordability requirements:

(i) Apply without regard to the term of any loan or mortgage, repayment of the HOME investment, or the transfer of ownership;

(ii) Must be imposed by a deed restriction, a covenant running with the land, an agreement restricting the use of the property, or other mechanisms approved by HUD and must give the participating jurisdiction the right to require specific performance (except that the participating jurisdiction may provide that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure); and

(iii) Must be recorded in accordance with State recordation laws.

(2) The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure in order to preserve affordability.

(3) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

(4) The termination of the restrictions on the project does not terminate the participating jurisdiction's repayment obligation under § 92.503(b).

Rental housing activity	Minimum period of affordability in years
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under $15,000	5
$15,000 to $40,000	10
Over $40,000 or rehabilitation involving refinancing	15
New construction or acquisition of newly constructed housing	20

(f) ***Subsequent rents during the affordability period.***

(1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

(2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (f)(1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with this section. The participating jurisdiction must review rents for compliance and approve or disapprove them every year.

(3) Any increase in rents for HOME-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

(g) ***Adjustment of HOME rent limits for an existing project.***

(1) Changes in fair market rents and in median income over time should be sufficient to maintain the financial viability of a project within the HOME rent limits in this section.

(2) HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the continued financial viability of the project and only by an amount that HUD determines is necessary to maintain continued financial viability of the project. HUD expects that this authority will be used sparingly.

(h) ***Tenant income.*** The income of each tenant must be determined initially in accordance with § 92.203(a)(1)(i). In addition, each year during the period of affordability the project owner must re-examine each tenant's annual income in accordance with one of the options in § 92.203 selected by the participating jurisdiction. An owner of a multifamily project with an affordability period of 10 years or more who re-examines tenant's annual income through a statement and certification in accordance with § 92.203(a)(1)(ii), must examine the income of each tenant, in accordance with § 92.203(a)(1)(i), every sixth year of the affordability period. Otherwise, an owner who accepts the tenant's statement and certification in accordance with § 92.203(a)(1)(ii) is not required to examine

the income of tenants in multifamily or single-family projects unless there is evidence that the tenant's written statement failed to completely and accurately state information about the family's size or income.

(i) ***Over-income tenants.***

(1) HOME-assisted units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.

(2) Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42. In addition, in projects in which the Home units are designated as floating pursuant to paragraph (j) of this section, tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

(j) ***Fixed and floating HOME units.*** In a project containing HOME-assisted and other units, the participating jurisdiction may designate fixed or floating HOME units. This designation must be made at the time of project commitment in the written agreement between the participating jurisdiction and the owner, and the HOME units must be identified not later than the time of initial unit occupancy. Fixed units remain the same throughout the period of affordability. Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

(k) ***Tenant selection.*** The tenants must be selected in accordance with § 92.253(d).

(l) ***Ongoing responsibilities.*** The participating jurisdiction's responsibilities for on-site inspections and financial oversight of rental projects are set forth in § 92.504(d).

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997; 62 FR 44840, Aug. 22, 1997; 78 FR 44672, July 24, 2013]

§ 92.253 Tenant protections and selection.

(a) ***Lease.*** There must be a written lease between the tenant and the owner of rental housing assisted with HOME funds that is for a period of not less than 1 year, unless by mutual agreement between the tenant and the owner a shorter period is specified. The lease must incorporate the VAWA lease term/addendum required under § 92.359(e), except as otherwise provided by § 92.359(b).

(b) ***Prohibited lease terms.*** The lease may not contain any of the following provisions:

(1) ***Agreement to be sued.*** Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;

(2) ***Treatment of property.*** Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;

(3) ***Excusing owner from responsibility.*** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

(4) ***Waiver of notice.*** Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;

(5) ***Waiver of legal proceedings.*** Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

(6) ***Waiver of a jury trial.*** Agreement by the tenant to waive any right to a trial by jury;

(7) ***Waiver of right to appeal court decision.*** Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;

(8) ***Tenant chargeable with cost of legal actions regardless of outcome.*** Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and

(9) ***Mandatory supportive services.*** Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

(c) ***Termination of tenancy.*** An owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds, except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

(d) *Tenant selection.* An owner of rental housing assisted with HOME funds must comply with the affirmative marketing requirements established by the participating jurisdiction pursuant to § 92.351(a). The owner must adopt and follow written tenant selection policies and criteria that:

(1) Limit the housing to very low- income and low-income families;

(2) Are reasonably related to the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing; not to interfere with the rights and quiet enjoyment of other tenants);

(3) Limit eligibility or give a preference to a particular segment of the population if permitted in its written agreement with the participating jurisdiction (and only if the limitation or preference is described in the participating jurisdiction's consolidated plan).

(i) Any limitation or preference must not violate nondiscrimination requirements in § 92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR part 574, the Shelter Plus Care program under 24 CFR part 582, the Supportive Housing program under 24 CFR part 583, supportive housing for the elderly or persons with disabilities under 24 CFR part 891), and the limit or preference is tailored to serve that segment of the population.

(ii) If a project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the project may have a limitation or preference for persons with disabilities who need services offered at a project only if:

(A) The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;

(B) Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and

(C) Such services cannot be provided in a nonsegregated setting. The families must not be required to accept the services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

(4) Do not exclude an applicant with a certificate or voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR part 982) or an applicant participating in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

(5) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;

(6) Give prompt written notification to any rejected applicant of the grounds for any rejection; and

(7) Comply with the VAWA requirements prescribed in § 92.359.

[61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61756, Oct. 1, 2002; 78 FR 44674, July 24, 2013; 81 FR 80803, Nov. 16, 2016]

§ 92.254 Qualification as affordable housing: Homeownership.

(a) *Acquisition with or without rehabilitation.* Housing that is for acquisition by a family must meet the affordability requirements of this paragraph (a).

(1) The housing must be single family housing.

(2) The housing must be modest housing as follows:

(i) In the case of acquisition of newly constructed housing or standard housing, the housing has a purchase price for the type of single family housing that does not exceed 95 percent of the median purchase price for the area, as described in paragraph (a)(2)(iii) of this section.

(ii) In the case of acquisition with rehabilitation, the housing has an estimated value after rehabilitation that does not exceed 95 percent of the median purchase price for the area, described in paragraph (a)(2)(iii) of this section.

(iii) If a participating jurisdiction intends to use HOME funds for homebuyer assistance or for the rehabilitation of owner-occupied single- family properties, the participating jurisdiction must use the HOME affordable homeownership limits provided by HUD for newly constructed housing and for existing housing. HUD will provide limits for affordable newly constructed housing based on 95 percent of the median purchase price for the area using Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing, with a minimum limit based on 95 percent of the U.S. median purchase price for new construction for nonmetropolitan areas. HUD will provide limits for affordable existing housing based on 95 percent of the median purchase price for the area using Federal FHA single family mortgage program data for existing housing data and other appropriate data that are available nation-wide for sales of existing housing, with a minimum limit based on 95 percent of the state-wide nonmetropolitan area median purchase price using this data. In lieu of the limits provided by HUD, the participating jurisdiction may determine 95 percent of the median area purchase price for single family housing in the jurisdiction annually, as follows. The participating jurisdiction must set forth the price for different types of single family housing for the jurisdiction. The participating jurisdiction may determine separate limits for existing housing and newly constructed

housing. For housing located outside of metropolitan areas, a State may aggregate sales data from more than one county, if the counties are contiguous and similarly situated. The following information must be included in the annual action plan of the Consolidated Plan submitted to HUD for review and updated in each action plan.

(A) The 95 percent of median area purchase price must be established in accordance with a market analysis that ensured that a sufficient number of recent housing sales are included in the survey.

(B) Sales must cover the requisite number of months based on volume: For 500 or more sales per month, a one- month reporting period; for 250 through 499 sales per month, a 2-month reporting period; for less than 250 sales per month, at least a 3-month reporting period. The data must be listed in ascending order of sales price.

(C) The address of the listed properties must include the location within the participating jurisdiction. Lot, square, and subdivision data may be substituted for the street address.

(D) The housing sales data must reflect all, or nearly all, of the one- family house sales in the entire participating jurisdiction.

(E) To determine the median, take the middle sale on the list if an odd number of sales, and if an even number, take the higher of the middle numbers and consider it the median. After identifying the median sales price, the amount should be multiplied by 0.95 to determine the 95 percent of the median area purchase price.

(3) The housing must be acquired by a homebuyer whose family qualifies as a low-income family, and the housing must be the principal residence of the family throughout the period described in paragraph (a)(4) of this section. If there is no ratified sales contract with an eligible homebuyer for the housing within 9 months of the date of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with § 92.252. In determining the income eligibility of the family, the participating jurisdiction must include the income of all persons living in the housing. The homebuyer must receive housing counseling.

(4) ***Periods of affordability.*** The HOME-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The per unit amount of HOME funds and the affordability period that they trigger are described more fully in paragraphs (a)(5)(i) (resale) and (ii) (recapture) of this section.

Homeownership assistance HOME amount per-unit	Minimum period of affordability in years
Under $15,000	5
$15,000 to $40,000	10
Over $40,000	15

(5) ***Resale and recapture.*** The participating jurisdiction must establish the resale or recapture requirements that comply with the standards of this section and set forth the requirements in its consolidated plan. HUD must determine that they are appropriate and must specifically approve them in writing.

(i) ***Resale.*** Resale requirements must ensure, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability that the housing is 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. The resale requirement must also 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 ensure that the housing will remain affordable to a reasonable range of low- income homebuyers. The participating jurisdiction must specifically define "fair return on investment" and "affordability to a reasonable range of low-income homebuyers," and specifically address how it will make the housing affordable to a low-income homebuyer in the event that the resale price necessary to provide fair return is not affordable to the subsequent buyer. The period of affordability is based on the total amount of HOME funds invested in the housing.

(A) Except as provided in paragraph (a)(5)(i)(B) of this section, deed restrictions, covenants running with the land, or other similar mechanisms must be used as the mechanism to impose the resale requirements. The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, obtains an ownership interest in the housing.

(B) Certain housing may be presumed to meet the resale restrictions (i.e., the housing will be available and affordable to a reasonable range of low-income homebuyers; a low-income homebuyer will occupy the housing as the family's principal residence; and the original owner will be afforded a fair return on investment) during the period of affordability without the imposition of enforcement mechanisms by the participating jurisdiction. The presumption must be based upon a market analysis of the neighborhood in which the housing is located. The market analysis must include an evaluation of the location and characteristics of the housing and residents in the neighborhood (e.g., sale prices, age and amenities of the housing stock, incomes of residents, percentage of owner-occupants) in relation to housing and incomes in the

housing market area. An analysis of the current and projected incomes of neighborhood residents for an average period of affordability for homebuyers in the neighborhood must support the conclusion that a reasonable range of low-income families will continue to qualify for mortgage financing. For example, an analysis shows that the housing is modestly priced within the housing market area and that families with incomes of 65% to 80% of area median can afford monthly payments under average FHA terms without other government assistance and housing will remain affordable at least during the next five to seven years compared to other housing in the market area; the size and amenities of the housing are modest and substantial rehabilitation will not significantly increase the market value; the neighborhood has housing that is not currently owned by the occupants, but the participating jurisdiction is encouraging homeownership in the neighborhood by providing homeownership assistance and by making improvements to the streets, sidewalks, and other public facilities and services. If a participating jurisdiction in preparing a neighborhood revitalization strategy under § 91.215(e)(2) of its consolidated plan or Empowerment Zone or Enterprise Community application under 24 CFR part 597 has incorporated the type of market data described above, that submission may serve as the required analysis under this section. If the participating jurisdiction continues to provide homeownership assistance for housing in the neighborhood, it must periodically update the market analysis to verify the original presumption of continued affordability.

(ii) ***Recapture.*** Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the HOME assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability. The participating jurisdiction may structure its recapture provisions based on its program design and market conditions. The period of affordability is based upon the total amount of HOME funds subject to recapture described in paragraph (a)(5)(ii)(A)(5) of this section. Recapture provisions may permit the subsequent homebuyer to assume the HOME assistance (subject to the HOME requirements for the remainder of the period of affordability) if the subsequent homebuyer is low-income, and no additional HOME assistance is provided.

(A) The following options for recapture requirements are acceptable to HUD. The participating jurisdiction may adopt, modify or develop its own recapture requirements for HUD approval. In establishing its recapture requirements, the participating jurisdiction is subject to the limitation that when the recapture requirement is triggered by a sale (voluntary or involuntary) of the housing unit, the amount recaptured cannot exceed the net proceeds, if any. The net proceeds are the sales price minus superior loan repayment (other than HOME funds) and any closing costs.

(*1*) ***Recapture entire amount.*** The participating jurisdiction may recapture the entire amount of the HOME investment from the homeowner.

(*2*) ***Reduction during affordability period.*** The participating jurisdiction may reduce the HOME investment amount to be recaptured on a prorata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period.

(*3*) ***Shared net proceeds.*** If the net proceeds are not sufficient to recapture the full HOME investment (or a reduced amount as provided for in paragraph (a)(5)(ii)(A)(2) of this section) plus enable the homeowner to recover the amount of the homeowner's downpayment and any capital improvement investment made by the owner since purchase, the participating jurisdiction may share the net proceeds. The net proceeds are the sales price minus loan repayment (other than HOME funds) and closing costs. The net proceeds may be divided proportionally as set forth in the following mathematical formulas:

$$\frac{\text{HOME investment}}{\text{HOME investment} + \text{homeowner investment}} \times \text{Net proceeds} = \text{HOME amount to be recaptured}$$

$$\frac{\text{homeowner investment}}{\text{HOME investment} + \text{homeowner investment}} \times \text{Net proceeds} = \text{amount to homeowner}$$

(*4*) ***Owner investment returned first.*** The participating jurisdiction may permit the homebuyer to recover the homebuyer's entire investment (downpayment and capital improvements made by the owner since purchase) before recapturing the HOME investment.

(*5*) ***Amount subject to recapture.*** The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy). The recaptured funds must be used to carry out HOME-eligible activities in accordance with the requirements of this part. If the HOME assistance is only used for the development subsidy and therefore not subject to recapture, the resale option must be used.

(6) ***Special considerations for single-family properties with more than one unit.*** If the HOME funds are only used to assist a low-income homebuyer to acquire one unit in single-family housing containing more than one unit and the assisted unit will be the principal residence of the homebuyer, the affordability requirements of this section apply only to the assisted unit. If HOME funds are also used to assist the low-income homebuyer to acquire one or more of the rental units in the single-family housing, the affordability requirements of § 92.252 apply to assisted rental units, except that the participating jurisdiction may impose resale or recapture restrictions on all assisted units (owner-occupied and rental units) in the single family housing. If resale restrictions are used, the affordability requirements on all assisted units continue for

the period of affordability. If recapture restrictions are used, the affordability requirements on the assisted rental units may be terminated, at the discretion of the participating jurisdiction, upon recapture of the HOME investment. (If HOME funds are used to assist only the rental units in such a property then the requirements of § 92.252 would apply and the owner-occupied unit would not be subject to the income targeting or affordability provisions of § 92.254.)

(7) ***Lease-purchase.*** HOME funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease'purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the HOME affordability requirements for rental housing in § 92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion.

(8) ***Contract to purchase.*** If HOME funds are used to assist a homebuyer who has entered into a contract to purchase housing to be constructed, the homebuyer must qualify as a low-income family at the time the contract is signed.

(9) ***Preserving affordability of housing that was previously assisted with HOME funds.***

(i) To preserve the affordability of HOME-assisted housing a participating jurisdiction may use additional HOME funds for the following costs:

(A) The cost to acquire the housing through a purchase option, right of first refusal, or other preemptive right before foreclosure, or at the foreclosure sale. (The foreclosure costs to acquire housing with a HOME loan in default are eligible. However, HOME funds may not be used to repay a loan made with HOME funds.)

(B) The cost to undertake any necessary rehabilitation for the housing acquired.

(C) The cost of owning/holding the housing pending resale to another homebuyer.

(D) The cost to assist another homebuyer in purchasing the housing.

(ii) When a participating jurisdiction uses HOME funds to preserve the affordability of such housing, the additional investment must be treated as an amendment to the original project. The housing must be sold to a new eligible homebuyer in accordance with the requirements of § 92.254(a) within a reasonable period of time.

(iii) The total amount of the original and additional HOME assistance may not exceed the maximum per unit subsidy amount established under § 92.250. Alternatively to charging the cost to the HOME program under § 92.206, the participating jurisdiction may charge the cost to the HOME program under § 92.207 as a reasonable administrative cost of its HOME program, so that the additional HOME funds for the housing are not subject to the maximum per-unit subsidy amount. To the extent administrative funds are used, they may be reimbursed, in whole or in part, when the housing is sold to a new eligible homebuyer.

(b) ***Rehabilitation not involving acquisition.*** Housing that is currently owned by a family qualifies as affordable housing only if:

(1) The estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area, described in paragraph (a)(2)(iii) of this section; and

(2) The housing is the principal residence of an owner whose family qualifies as a low-income family at the time HOME funds are committed to the housing. In determining the income eligibility of the family, the participating jurisdiction must include the income of all persons living in the housing.

(c) ***Ownership interest.*** The ownership in the housing assisted under this section must meet the definition of "homeownership" in § 92.2, except that housing that is rehabilitated pursuant to paragraph (b) of this section may also include inherited property with multiple owners, life estates, living trusts and beneficiary deeds under the following conditions. The participating jurisdiction has the right to establish the terms of assistance.

(1) ***Inherited property.*** Inherited property with multiple owners: Housing for which title has been passed to several individuals by inheritance, but not all heirs reside in the housing, sharing ownership with other nonresident heirs. (The occupant of the housing has a divided ownership interest.) The participating jurisdiction may assist the owner-occupant if the occupant is low-income, occupies the housing as his or her principal residence, and pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).

(2) ***Life estate.*** The person who has the life estate has the right to live in the housing for the remainder of his or her life and does not pay rent. The participating jurisdiction may assist the person holding the life estate if the person is low-income and occupies the housing as his or her principal residence.

(3) ***Inter vivos trust, also known as a living trust.*** A living trust is created during the lifetime of a person. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust holds legal title and the beneficiary holds equitable title. The person may name him or herself as the beneficiary. The trustee is under a fiduciary responsibility to hold and manage the trust assets for the beneficiary. The participating jurisdiction may assist if all beneficiaries of the trust qualify as a low-income family and occupy the property as their principal residence (except that contingent beneficiaries, who receive no benefit from the trust nor have any control over the trust assets until the beneficiary is deceased, need not be low-income). The trust must be valid and enforceable and ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life.

(4) ***Beneficiary deed.*** A beneficiary deed conveys an interest in real property, including any debt secured by a lien on real property, to a grantee beneficiary designated by the owner and that expressly states that the deed is effective on the death of the owner. Upon the death of the owner, the grantee beneficiary receives ownership in the property, subject to all conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, and other encumbrances made by the owner or to which the owner was subject during the owner's lifetime. The participating jurisdiction may assist if the owner qualifies as low-income and the owner occupies the property as his or her principal residence.

(d) ***New construction without acquisition.*** Newly constructed housing that is built on property currently owned by a family which will occupy the housing upon completion, qualifies as affordable housing if it meets the requirements under paragraph (a) of this section.

(e) ***Providing homeownership assistance through lenders.*** Subject to the requirements of this paragraph (e), the participating jurisdiction may provide homeownership assistance through for-profit or nonprofit lending institutions that provide the first mortgage loan to a low-income family.

(1) The homeownership assistance may be provided only as specified in a written agreement between the participating jurisdiction and the lender. The written agreement must specify the forms and amounts of homeownership assistance that the participating jurisdiction authorizes the lender to provide to families and any conditions that apply to the provision of such homeownership assistance.

(2) Before the lender provides any homeownership assistance to a family, the participating jurisdiction must verify that the family is low-income and must inspect the housing for compliance with the property standards in § 92.251.

(3) No fees (e.g., origination fees or points) may be charged to a family for the HOME homeownership assistance provided pursuant to this paragraph (e), and the participating jurisdiction must determine that the fees and other amounts charged to the family by the lender for the first mortgage financing are reasonable. Reasonable administrative costs may be charged to the HOME program as a project cost. If the participating jurisdiction requires lenders to pay a fee to participate in the HOME program, the fee is program income to the HOME program.

(4) If the nonprofit lender is a subrecipient or contractor that is receiving HOME assistance to determine that the family is eligible for homeownership assistance, but the participating jurisdiction or another entity is making the assistance to the homebuyer (e.g., signing the documents for the loan or the grant), the requirements of paragraphs (e)(2) and (3) of this section are applicable.

(f) ***Homebuyer program policies.*** The participating jurisdiction must have and follow written policies for:

(1) Underwriting standards for homeownership assistance that evaluate housing debt and overall debt of the family, the appropriateness of the amount of assistance, monthly expenses of the family, assets available to acquire the housing, and financial resources to sustain homeownership;

(2) Responsible lending, and

(3) Refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable.

[61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61756, Oct. 1, 2002; 68 FR 10161, Mar. 4, 2003; 69 FR 16766, Mar. 30, 2004; 69 FR 68052, Nov. 22, 2004; 72 FR 16685, Apr. 4, 2007; 78 FR 44674, July 24, 2013]

§ 92.255 Converting rental units to homeownership units for existing tenants.

(a) The participating jurisdiction may permit the owner of HOME-assisted rental units to convert the rental units to homeownership units by selling, donating, or otherwise conveying the units to the existing tenants to enable the tenants to become homeowners in accordance with the requirements of § 92.254. However, refusal by the tenant to purchase the housing does not constitute grounds for eviction or for failure to renew the lease.

(b) If no additional HOME funds are used to enable the tenants to become homeowners, the homeownership units are subject to a minimum period of affordability equal to the remaining affordable period if the units continued as rental units. If additional HOME funds are used to directly assist the tenants to become homeowners, the minimum period of affordability is the affordability period under § 92.254(a)(4), based on the amount of direct homeownership assistance provided.

[78 FR 44676, July 24, 2013]

§ 92.256 [Reserved]

§ 92.257 Equal participation of faith-based organizations.

The HUD program requirements in § 5.109 apply to the HOME program, including the requirements regarding disposition and change in use of real property by a faith-based organization.

[81 FR 19418, Apr. 4, 2016]

§ 92.258 Elder cottage housing opportunity (ECHO) units.

(a) ***General.*** HOME funds may be used for the initial purchase and initial placement costs of elder cottage housing opportunity (ECHO) units that meet the requirements of this section, and that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

(b) ***Eligible owners.*** The owner of a HOME-assisted ECHO unit may be:

(1) The owner-occupant of the single-family host property on which the ECHO unit will be located;

(2) A participating jurisdiction; or

(3) A non-profit organization.

(c) ***Eligible tenants.*** During the affordability period, the tenant of a HOME-assisted ECHO unit must be an elderly or disabled family as defined in 24 CFR 5.403 and must also be a low-income family.

(d) ***Applicable requirements.*** The requirements of § 92.252 apply to HOME-assisted ECHO units, with the following modifications:

(1) Only one ECHO unit may be provided per host property.

(2) The ECHO unit owner may choose whether or not to charge the tenant of the ECHO unit rent, but if a rent is charged, it must meet the requirements of § 92.252.

(3) The ECHO housing must remain affordable for the period specified in § 92.252(e). If within the affordability period the original occupant no longer occupies the unit, the ECHO unit owner must:

(i) Rent the unit to another eligible occupant on site;

(ii) Move the ECHO unit to another site for occupancy by an eligible occupant; or

(iii) If the owner of the ECHO unit is the host property owner-occupant, the owner may repay the HOME funds in accordance with the recapture provisions imposed by the participating jurisdiction consistent with § 92.254(a)(5)(ii). The participating jurisdiction must use the recaptured HOME funds for additional HOME activities.

(4) The participating jurisdiction has the responsibility to enforce the project requirements applicable to ECHO units.

Subpart G - Community Housing Development Organizations

§ 92.300 Set-aside for community housing development organizations (CHDOs).

(a) Within 24 months after the date that HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnerships Agreement, the participating jurisdiction must reserve not less than 15 percent of the HOME allocation for investment only in housing to be owned, developed or sponsored by community housing development organizations. For a State, the HOME allocation includes funds reallocated under § 92.451(c)(2)(i) and, for a unit of general local government, includes funds transferred from a State under § 92.102(b). The participating jurisdiction must certify the organization as meeting the definition of "community housing development organization" and must document that the organization has capacity to own, develop, or sponsor housing each time it commits funds to the organization. For purposes of this paragraph:

(1) Funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization (or project owner as described in paragraph (a)(4) of this section) committing the funds to a specific local project in accordance with paragraph (2) of the definition of "commitment" in § 92.2.

(2) Rental housing is "owned" by the community housing development organization if the community housing development 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 community housing development organization hires and oversees the developer that rehabilitates or constructs the housing. At minimum, the community housing development organization must hire or contract with an experienced project manager to oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of costs. The community housing development 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 CHDO acquires housing that meets the property standards in § 92.251, the CHDO must own the rental housing for a period at least equal to the period of affordability in § 92.252.

(3) Rental housing is "developed" by the community development housing organization if the community housing development organization is the owner of multifamily or single family housing in fee simple absolute (or has a long term ground lease) and the 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 "developer," the community development 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 the progress of the work and determining the reasonableness of costs. At a minimum, the community housing development organization must own the housing during development and for a period at least equal to the period of affordability in § 92.252.

(4) Rental housing is "sponsored" by the community development housing organization if it is rental housing "owned" or "developed" by a subsidiary of a community housing development organization, a limited partnership of which the community housing development organization or its subsidiary is the sole general partner, or a limited liability company of which the community housing development organization or its subsidiary is the sole managing member.

(i) The subsidiary of the community housing development organization may be a for-profit or nonprofit organization and must be wholly owned by the community housing development organization. If the limited partnership or limited liability company agreement permits the community housing development organization to be removed as general partner or sole

managing member, the agreement must provide that the removal must be for cause and that the community housing development organization must be replaced with another community housing development organization.

(ii) The HOME funds must be provided to the entity that owns the project.

(5) HOME-assisted rental housing is also "sponsored" by a community housing development organization if the community housing development organization "developed" the rental housing project that it agrees to convey to an identified private nonprofit organization at a predetermined time after completion of the development of the project. Sponsored rental housing, as provided in this paragraph (a)(5), is subject to the following requirements:

(i) The private nonprofit organization may not be created by a governmental entity.

(ii) The HOME funds must be invested in the project that is owned by the community housing development organization.

(iii) Before commitment of HOME funds, the community housing development organization sponsor must select the nonprofit organization that will obtain ownership of the property.

(A) The nonprofit organization assumes the community housing development organization's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.

(B) If the housing is not transferred to the nonprofit organization, the community housing development organization sponsor remains responsible for the HOME assistance and the HOME project.

(6) Housing for homeownership is "developed" by the community development housing organization if the community housing development organization is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for sale to low-income families in accordance with § 92.254.

(i) To be the "developer" the community development housing organization must arrange financing of the project and be in sole charge of construction. The community housing development organization may provide direct homeownership assistance (e.g., downpayment assistance) when it sells the housing to low-income families and the community housing development organization will not be considered a subrecipient. The HOME funds for downpayment assistance shall not be greater than 10 percent of the amount of HOME funds for development of the housing.

(ii) The participating jurisdiction must determine and set forth in its written agreement with the community housing development organization the actual sales prices of the housing or the method by which the sales prices for the housing will be established and whether the proceeds must be returned to the participating jurisdiction or may be retained by the community housing development organization.

(A) While proceeds that the participating jurisdiction permits the community housing development organization to retain are not subject to the requirements of this part, the participating jurisdiction must specify in the written agreement with the community housing development organization whether the proceeds are to be used for HOME-eligible activities or other housing activities to benefit low-income families.

(B) Funds that are recaptured because the housing no longer meets the affordability requirements under § 92.254(a)(5)(ii) are subject to the requirements of this part in accordance with § 92.503.

(7) The participating jurisdiction determines the form of assistance (e.g., grant or loan) that it will provide to the community housing development organization receives or, for rental housing projects under paragraph (a)(4) of this section, to the entity that owns the project.

(b) Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved consolidated plan and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable community housing development organizations, up to 20 percent of the minimum community housing development organization setaside of 15 percent specified in paragraph (a) of this section, above, (but not more than $150,000 during the 24 month period) may be committed to develop the capacity of community housing development organizations in the jurisdiction.

(c) Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under § 92.301.

(d) HOME funds required to be reserved under this section are subject to reduction, as provided in § 92.500(d).

(e) If funds for operating expenses are provided under § 92.208 to a community housing development organization that is not also receiving funds under paragraph (a) of this section for housing to be owned, developed or sponsored by the community housing development organization, the participating jurisdiction's written agreement with the community housing development organization must provide that the community housing development organization is expected to receive funds under paragraph (a) of this section for a project within 24 months of the date of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

(f) The participating jurisdiction must ensure that a community housing development organization does not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or $50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This also includes organizational support and housing education provided under section 233(b)(1), (2), and (6) of the Act, as well as funds for operating expenses provided under § 92.208.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28930, May 28, 1997; 78 FR 44677, July 24, 2013]

§ 92.301 Project-specific assistance to community housing development organizations.

(a) ***Project-specific technical assistance and site control loans*** -

(1) ***General.*** Within the percentage specified in § 92.300(c), HOME funds may be used by a participating jurisdiction to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. These loans may not exceed amounts that the participating jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (a)(2) of this section. All costs must be related to a specific eligible project or projects.

(2) ***Allowable costs.*** A loan may be provided to cover project costs necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, option to acquire property, site control and title clearance. General operational expenses of the community housing development organization are not allowable costs.

(3) ***Repayment.*** The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(b) ***Project-specific seed money loans*** -

(1) ***General.*** Within the percentage specified in § 92.300(c), HOME funds may be used to provide loans to community housing development organizations to cover preconstruction project costs that the participating jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

(2) ***Eligible sponsors.*** A loan may be provided only to a community housing development organization that has, with respect to the project concerned, site control (evidenced by a deed, a sales contract, or an option contract to acquire the property), a preliminary financial commitment, and a capable development team.

(3) ***Repayment.*** The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the community housing development organization.

§ 92.302 Housing education and organizational support.

HUD is authorized to provide education and organizational support assistance, in conjunction with HOME funds made available to community housing development organizations in accordance with section 233 of the Act. HUD will publish a notice in the FEDERAL REGISTER announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

§ 92.303 Tenant participation plan.

A community housing development organization that receives assistance under this part must adhere to a fair lease and grievance procedure approved by the participating jurisdiction and provide a plan for and follow a program of tenant participation in management decisions.

Subpart H - Other Federal Requirements

§ 92.350 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 include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; drug-free work; and housing counseling.

(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).

[62 FR 28930, May 28, 1997, as amended at 81 FR 90657, Dec. 14, 2016]

§ 92.351 Affirmative marketing; minority outreach program.

(a) ***Affirmative marketing.***

(1) Each participating jurisdiction 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, tenant-based rental assistance 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 participating jurisdiction'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 participating jurisdiction 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:

(i) Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the participating jurisdiction'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);

(ii) Requirements and practices each subrecipient and owner must adhere to in order to carry out the participating jurisdiction'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);

(iii) 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);

(iv) Records that will be kept describing actions taken by the participating jurisdiction and by subrecipients and owners to affirmatively market the program and units and records to assess the results of these actions; and

(v) A description of how the participating jurisdiction 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 participating jurisdiction 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, underwriters, 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 participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction. Section 200.321 of title 2 Code of Federal Regulations describes actions to be taken by a participating jurisdiction to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44678, July 24, 2013; 80 FR 75935, Dec. 7, 2015]

§ 92.352 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 (tenant-based rental assistance) as a whole, not on the type of the cost paid with HOME funds.

(b) *Responsibility for review.*

(1) The jurisdiction (e.g., the participating jurisdiction or State recipient) or insular area must assume responsibility for environmental review, decisionmaking, 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 participating jurisdiction 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.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44678, July 24, 2013]

§ 92.353 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, the participating jurisdiction 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:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;

(iii) 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

(iv) 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.***

(i) 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 participating jurisdiction 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)(i)(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.

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

(A) 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 participating jurisdiction 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.

(B) 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;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

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

(3) ***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.

(d) ***Optional relocation assistance.*** The participating jurisdiction 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.

(e) ***Residential antidisplacement and relocation assistance plan.*** The participating jurisdiction shall comply with the requirements of 24 CFR part 42, subpart C.

(f) ***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.

(g) ***Appeals.*** A person who disagrees with the participating jurisdiction'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.

[61 FR 48750, Sept. 16, 1996, as amended at 61 FR 51760, Oct. 3, 1996; 62 FR 28930, May 28, 1997; 67 FR 61756, Oct. 1, 2002; 78 FR 44678, July 24, 2013]

§ 92.354 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) Participating jurisdictions, 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. Participating jurisdictions shall be responsible for ensuring compliance by contractors and subcontractors with labor standards described in this section. In accordance with procedures specified by HUD, participating jurisdictions shall:

(i) Ensure that bid and contract documents contain required labor standards provisions and the appropriate Department of Labor wage determinations;

(ii) Conduct on-site inspections and employee interviews;

(iii) Collect and review certified weekly payroll reports;

(iv) Correct all labor standards violations promptly;

(v) Maintain documentation of administrative and enforcement activities; and

(vi) 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.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44678, July 24, 2013]

§ 92.355 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.

[64 FR 50224, Sept. 15, 1999]

§ 92.356 Conflict of interest.

(a) *Applicability.* In the procurement of property and services by participating jurisdictions, State recipients, and subrecipients, the conflict of interest provisions in 2 CFR 200.317 and 2 CFR 200.318, apply. In all cases not governed by 2 CFR 200.317 and 2 CFR 200.318, 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 participating jurisdiction, State recipient, or subrecipient which are receiving HOME funds.

(d) *Exceptions: Threshold requirements.* Upon the written request of the participating jurisdiction, 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 participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction 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 participating jurisdiction'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 participating jurisdiction 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 decisionmaking 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 participating jurisdiction 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 community housing development organization (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 participating jurisdiction (or State recipient, if authorized by the State participating jurisdiction) 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 participating jurisdiction shall consider the following factors:

(i) 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;

(ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted housing in question;

(iii) Whether the tenant protection requirements of § 92.253 are being observed;

(iv) Whether the affirmative marketing requirements of § 92.351 are being observed and followed; and

(v) Any other factor relevant to the participating jurisdiction's determination, including the timing of the requested exception.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28930, May 28, 1997; 78 FR 44679, July 24, 2013; 80 FR 75935, Dec. 7, 2015]

§ 92.357 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.

§ 92.358 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.

[62 FR 28930, May 28, 1997]

§ 92.359 VAWA requirements.

(a) *General.*

(1) 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 supplemented by this section.

(2) For the HOME program, the "covered housing provider," as this term is used in HUD's regulations in 24 CFR part 5, subpart L, refers to:

(i) The housing owner for the purposes of 24 CFR 5.2005(d)(1), (d)(3), and (d)(4) and § 5.2009(a); and

(ii) The participating jurisdiction and the owner for purposes of 24 CFR 5.2005(d)(2), 5.2005(e), and 5.2007, except as otherwise provided in paragraph (g) of this section.

(b) *Effective date.* 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 2013 on March 7, 2013. Compliance with the VAWA regulatory requirements under this section and 24 CFR part 5, subpart L, are required for any tenant-based rental assistance or rental housing project for which the date of the HOME funding commitment is on or after *December 16, 2016*.

(c) *Notification requirements.* The participating jurisdiction must provide a notice and certification form that meet the requirements of 24 CFR 5.2005(a) to the owner of HOME-assisted rental housing.

(1) *For HOME-assisted units.* The owner of HOME-assisted rental housing must provide the notice and certification form described in 24 CFR 5.2005(a) to the applicant for a HOME-assisted unit at the time the applicant is admitted to a HOME-assisted unit, or denied admission to a HOME-assisted unit based on the owner's tenant selection policies and criteria. The owner of HOME-assisted rental housing must also provide the notice and certification form described in 24 CFR 5.2005 with any notification of eviction from a HOME-assisted unit.

(2) *For HOME tenant-based rental assistance.* The participating jurisdiction must provide the notice and certification form described in 24 CFR 5.2005(a) to the applicant for HOME tenant-based rental assistance when the applicant's HOME tenant-based rental assistance is approved or denied. The participating jurisdiction must also provide the notice and certification form

described in 24 CFR 5.2005(a) to a tenant receiving HOME tenant-based rental assistance when the participating jurisdiction provides the tenant with notification of termination of the HOME tenant-based rental assistance, and when the participating jurisdiction learns that the tenant's housing owner intends to provide the tenant with notification of eviction.

(d) ***Bifurcation of lease requirements.*** For the purposes of this part, the following requirements shall apply in place of the requirements at 24 CFR 5.2009(b):

(1) If a family living in a HOME-assisted rental unit separates under 24 CFR 5.2009(a), the remaining tenant(s) may remain in the HOME-assisted unit.

(2) If a family who is receiving HOME tenant-based rental assistance separates under 24 CFR 5.2009(a), the remaining tenant(s) will retain the HOME tenant-based rental assistance. The participating jurisdiction must determine whether the tenant that was removed from the unit will receive HOME tenant-based rental assistance.

(e) ***VAWA lease term/addendum.*** The participating jurisdiction must develop a VAWA lease term/addendum to incorporate all requirements that apply to the owner or lease under 24 CFR part 5, subpart L, and this section, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). This VAWA lease term/addendum must also provide that the tenant may terminate the lease without penalty if the participating jurisdiction determines that the tenant has met the conditions for an emergency transfer under 24 CFR 5.2005(e). When HOME tenant-based rental assistance is provided, the lease term/addendum must require the owner to notify the participating jurisdiction before the owner bifurcates the lease or provides notification of eviction to the tenant. If HOME tenant-based rental assistance is the only assistance provided (*i.e.*, the unit is not receiving project-based assistance under a covered housing program, as defined in 24 CFR 5.2003), the VAWA lease term/addendum may be written to expire at the end of the rental assistance period.

(f) ***Period of applicability.*** For HOME-assisted rental housing, the requirements of this section shall apply to the owner of the housing for the duration of the affordability period. For HOME tenant-based rental assistance, the requirements of this section shall apply to the owner of the tenant's housing for the period for which the rental assistance is provided.

(g) ***Emergency Transfer Plan.***

(1) The participating jurisdiction must develop and implement an emergency transfer plan and must make the determination of whether a tenant qualifies under the plan. The plan must meet the requirements in 24 CFR 5.2005(e), as supplemented by this section.

(2) For the purposes of § 5.2005(e)(7), the required policies must specify that for tenants who qualify for an emergency transfer and who wish to make an external emergency transfer when a safe unit is not immediately available, the participating jurisdiction must provide a list of properties in the jurisdiction that include HOME-assisted units. The list must include the following information for each property: The property's address, contact information, the unit sizes (number of bedrooms) for the HOME-assisted units, and, to the extent known, any tenant preferences or eligibility restrictions for the HOME-assisted units. In addition, the participating jurisdiction may:

(i) Establish a preference under the participating jurisdiction's HOME program for tenants who qualify for emergency transfers under 24 CFR 5.2005(e);

(ii) Provide HOME tenant-based rental assistance to tenants who qualify for emergency transfers under 24 CFR 5.2005(e); or

(iii) Coordinate with victim service providers and advocates to develop the emergency transfer plan, make referrals, and facilitate emergency transfers to safe and available units.

[81 FR 80803, Nov. 16, 2016]

Subpart I - Technical Assistance

§ 92.400 Coordinated Federal support for housing strategies.

(a) ***General.*** HUD will provide assistance in accordance with Subtitle C of the Act.

(b) ***Notice of funding.*** HUD will publish a notice in the Federal Register announcing the availability of funding under this section as appropriate.

Subpart J - Reallocations

§ 92.450 General.

(a) This subpart J sets out the conditions under which HUD reallocates HOME funds that have been allocated, reserved, or placed in a HOME Investment Trust Fund.

(b) A jurisdiction that is not a participating jurisdiction but is meeting the requirements of §§ 92.102, 92.103, and 92.104, (participation threshold, notice of intent, and submission of consolidated plan) is treated as a participating jurisdiction for purposes of receiving a reallocation under subpart J of this part.

§ 92.451 Reallocation of HOME funds from a jurisdiction that is not designated a participating jurisdiction or has its designation revoked.

(a) ***Failure to be designated a participating jurisdiction.*** HUD will reallocate, under this section, any HOME funds allocated to or reserved for a jurisdiction that is not a participating jurisdiction if:

(1) HUD determines that the jurisdiction has failed to:

(i) Meet the participation threshold amount in § 92.102;

(ii) Provide notice of its intent to become a participating jurisdiction in accordance with § 92.103; or

(iii) Submit its consolidated plan, in accordance with 24 CFR part 91; or

(2) HUD after providing for amendments and resubmissions in accordance with 24 CFR part 91 disapproves the jurisdiction's consolidated plan.

(b) ***Designation revoked.*** HUD will reallocate, under this section, any funds remaining in a jurisdiction's HOME Investment Trust Fund after HUD has revoked the jurisdiction's designation as a participating jurisdiction under § 92.107.

(c) ***Manner of reallocation.*** HUD will reallocate funds that are subject to reallocation under this section in the following manner:

(1) If the funds to be reallocated under this section are from a State, HUD will:

(i) Make the funds available by competition in accordance with criteria in § 92.453 among applications submitted by units of general local government within the State and with preference being given to applications from units of general local government that are not participating jurisdictions, and

(ii) Reallocate the remainder by formula in accordance with § 92.454.

(2) If the funds to be reallocated are from a unit of general local government:

(i) Located in a State that is participating jurisdiction, HUD will reallocate the funds to that State. The State, in distributing these funds, must give preference to the provision of affordable housing within the unit of general local government; or

(ii) Located in a State that is not a participating jurisdiction, HUD will reallocate the funds by competition among units of general local government and community housing development organizations within the State, with priority going to applications for affordable housing within the unit of general local government; and reallocate the remainder by formula in accordance with § 92.454.

§ 92.452 Reallocation of community housing development organization set-aside.

HUD will reallocate, under this section, any HOME funds reduced or recaptured by HUD from a participating jurisdiction's HOME Investment Trust Fund under § 92.300(d). HUD will reallocate these funds by competition in accordance with criteria in § 92.453 to other participating jurisdictions for affordable housing developed, sponsored, or owned by community housing development organizations.

§ 92.453 Competitive reallocations.

(a) HUD will invite applications through FEDERAL REGISTER publication of a Notice of Funding Availability (NOFA), in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) and the requirements of sec. 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), for HOME funds that become available for competitive reallocation under § 92.451 or § 92.452, or both. The NOFA will describe the application requirements and procedures, including the total funding available for the competition and any maximum amount of individual awards. The NOFA will also describe the selection criteria and any special factors to be evaluated in awarding points under the selection criteria.

(b) The NOFA will include the selection criteria at sec. 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), with the following maximum number of points awarded for each category of criteria:

(1) ***Commitment.*** Up to 25 points for the criteria at sec. 217(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(1));

(2) ***Actions.*** Up to 50 points for the criteria at sec. 217(c)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(2)); and

(3) ***Policies.*** Up to 25 points for the criteria at sec. 217(c)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(3)).

[62 FR 44840, Aug. 22, 1997]

§ 92.454 Reallocations by formula.

(a) HUD will reallocate under this section:

(1) Any HOME funds remaining available for reallocation after HUD has made competitive reallocations under § 92.451 and § 92.452;

(2) Any HOME funds available for reallocation because HUD reduced or recaptured funds from participating jurisdiction under § 92.500(d) for failure to commit the funds within the time specified;

(3) Any HOME funds withdrawn by HUD from a participating jurisdiction under 24 CFR 91.520(f) for failure to submit in a timely manner a performance report required by 24 CFR 91.520 that is satisfactory to HUD; and

(4) Any HOME funds remitted to HUD under § 92.503(b) when a jurisdiction ceases to be a participating jurisdiction.

(b) Any reallocation of funds from a State must be made only among all participating States, and any reallocation of funds from units of general local government must be made only among all participating units of general local government, except those participating jurisdictions that HUD has removed from participating in reallocations under § 92.552.

(c) A local participating jurisdiction's share of a reallocation is calculated by multiplying the amount available for reallocation to units of general local government by a factor that is that ratio of the participating jurisdiction's formula allocation provided under § 92.50 to the total of the formula allocations provided for all local participating jurisdictions sharing in the reallocation. A State participating jurisdiction's share is comparably determined using the amount available for reallocation to States.

(d) HUD will make reallocations under this section quarterly, unless the amount available for such reallocation is insufficient to warrant making a reallocation. In any event, HUD will make a reallocation under this section at least once a year. The minimum amount of a reallocation is $1000.

Subpart K - Program Administration

§ 92.500 The HOME Investment Trust Fund.

(a) *General.* A HOME Investment Trust Fund consists of the accounts described in this section solely for investment in accordance with the provisions of this part. HUD will establish a HOME Investment Trust Fund United States Treasury account for each participating jurisdiction. Each participating jurisdiction may use either a separate local HOME Investment Trust Fund account or, a subsidiary account within its general fund (or other appropriate fund) as the local HOME Investment Trust Fund account.

(b) *Treasury Account.* The United States Treasury account of the HOME Investment Trust Fund includes funds allocated to the participating jurisdiction under § 92.50 (including for a local participating jurisdiction, any transfer of the State's allocation pursuant to § 92.102(b)(2)) and funds reallocated to the participating jurisdiction, either by formula or by competition, under subpart J of this part; and

(c) *Local account.*

(1) The local account of the HOME Investment Trust Fund includes deposits of HOME funds disbursed from the Treasury account; the deposit of any State funds (other than HOME funds transferred pursuant to § 92.102(b)(2)) or local funds that enable the jurisdiction to meet the participating threshold amount in § 92.102, any program income (from both the allocated funds and matching contributions in accordance with the definition of program income), and any repayments or recaptured funds as required by § 92.503. The local account must be interest-bearing.

(2) The participating jurisdiction may establish a second local account of the HOME Investment Trust Funds if:

(i) The participating jurisdiction has its own affordable housing trust fund that the participating jurisdiction will use for matching contributions to the HOME program;

(ii) The statute or local ordinance requires repayments from its own trust fund to be made to the trust fund;

(iii) The participating jurisdiction establishes a separate account within its own trust fund for repayments of the matching contributions; and

(iv) The funds in the account are used solely for investment in eligible activities within the participating jurisdiction's boundaries in accordance with the provisions of this part, except as provided under § 92.201(a)(2).

(3) The funds in the local account cannot be used for the matching contribution and do not need to be matched.

(d)

(1) *Reductions of Fiscal Year 2015 and subsequent fiscal year allocations.* HUD will reduce or recapture HOME funds in the HOME Investment Trust Fund, as follows:

(i) Any funds from a specific fiscal year allocation that are in the United States Treasury account that are not committed (including funds for community housing development organizations under § 92.300) within 24 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement for the specific fiscal year allocation;

(ii) Any funds from a specific fiscal year allocation that were committed to a State recipient or subrecipient that are not committed to a specific local project within 36 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement for the specific fiscal year allocation;

(iii) Any funds from a specific fiscal year allocation that are in the United States Treasury account that are not expended (drawn down) by September 30 of the fifth year after the end of the period of availability of the fiscal year allocation for obligation by HUD. Due to end-of-year financial system closeouts that begin before this date and prevent electronic access to the payment system, requests to draw down the funds must be made at least 7 full business days before this date to ensure that the funds still can be drawn from the United States Treasury account through the computerized disbursement and information system; and

(iv) Any penalties assessed by HUD under § 92.552.

(2)

(i) *Reductions of Fiscal Year 2014 and prior fiscal year allocations.* HUD will reduce or recapture HOME funds in the HOME Investment Trust Fund by the amount of:

(A) Any funds from Fiscal Year 2014 and prior fiscal year allocations in the United States Treasury account that are required to be reserved (*i.e.*, 15 percent of the funds) by a participating jurisdiction, under § 92.300, and which are not committed to a

community housing development organization project within 24 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement;

(B) Any funds from Fiscal Year 2014 and prior fiscal year allocations in the United States Treasury account that are not committed within 24 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement;

(C) Any funds from Fiscal Year 2014 and prior fiscal year allocations in the United States Treasury account that are not expended within 5 years after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement; and

(D) Any penalties assessed by HUD under § 92.552.

(ii) For purposes of determining the amount by which the HOME Investment Trust Fund will be reduced or recaptured under paragraphs (d)(2)(i)(A), (B), and (C) of this section, HUD will consider the sum of commitments to CHDOs, commitments, or expenditures, as applicable, from all fiscal year allocations through the Fiscal Year 2014 allocation. This sum must be equal to or greater than the sum of all fiscal year allocations through the fiscal year allocation being examined (minus previous reductions to the HOME Investment Trust Fund), or in the case of commitments to CHDOs, 15 percent of those fiscal year allocations.

(iii) HUD will reduce or recapture HOME funds in the HOME Investment Trust Fund by the amount of all fiscal year allocations through the Fiscal Year 2014 allocation that are uncommitted by the commitment deadline for the Fiscal Year 2015 allocation.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28930, May 28, 1997; 78 FR 44679, July 24, 2013; 81 FR 86952, Dec. 2, 2016]

§ 92.501 HOME Investment Partnership Agreement.

Allocated and reallocated funds will be made available pursuant to a HOME Investment Partnership Agreement. The agreement ensures that HOME funds invested in affordable housing are repayable if the housing ceases to qualify as affordable housing before the period of affordability expires.

§ 92.502 Program disbursement and information system.

(a) *General.* The HOME Investment Trust Fund account established in the United States Treasury is managed through a computerized disbursement and information system established by HUD. The system disburses HOME funds that are allocated or reallocated, and collects and reports information on the use of HOME funds in the United States Treasury account. (For purposes of reporting in the Integrated Disbursement and Information System, a HOME project is an activity.) The participating jurisdiction must report all program income in HUD's computerized disbursement and information system.

(b) *Project set-up.* After the participating jurisdiction executes the HOME Investment Partnership Agreement, submits the applicable banking and security documents, complies with the environmental requirements under 24 CFR part 58 for release of funds and commits funds to a specific local project, the participating jurisdiction may identify (set up) specific investments in the disbursement and information system. Investments that require the set-up of projects in the system are the acquisition, new construction, or rehabilitation of housing, and the provision of tenant-based rental assistance. The participating jurisdiction is required to enter complete project set-up information at the time of project set-up.

(c) *Disbursement of HOME funds.*

(1) After complete project set-up information is entered into the disbursement and information system, HOME funds for the project may be drawn down from the United States Treasury account by the participating jurisdiction by electronic funds transfer. The funds will be deposited in the local account of the HOME Investment Trust Fund of the participating jurisdiction within 48 to 72 hours of the disbursement request. Any drawdown of HOME funds from the United States Treasury account is conditioned upon the provision of satisfactory information by the participating jurisdiction about the project or tenant-based rental assistance and compliance with other procedures, as specified by HUD.

(2) HOME funds drawn from the United States Treasury account must be expended for eligible costs within 15 days. Any interest earned within the 15-day period may be retained by the participating jurisdiction as HOME funds. Any funds that are drawn down and not expended for eligible costs within 15 days of the disbursement must be returned to HUD for deposit in the participating jurisdiction's United States Treasury account of the HOME Investment Trust Fund. Interest earned after 15 days belongs to the United States and must be remitted to the United States as provided in 2 CFR 200.305(b)(9), except interest amounts up to $500 per year may be retained for administrative expenses.

(3) HOME funds in the local account of the HOME Investment Trust Fund must be disbursed before requests are made for HOME funds in the United States Treasury account. Beginning with the Fiscal Year 2015 allocation, the specific funds that are committed to a project will be disbursed for that project. If both funds in the local account and funds in the United States Treasury account are committed to a project, the funds in the local account must be disbursed before requests are made for HOME funds in the United States Treasury account for the project.

(4) A participating jurisdiction will be paid on an advance basis provided it complies with the requirements of this part.

(d) *Project completion.*

(1) Complete project completion information must be entered into the disbursement and information system, or otherwise provided, within 120 days of the final project drawdown. If satisfactory project completion information is not provided, HUD may suspend further project set-ups or take other corrective actions.

(2) Additional HOME funds may be committed to a project up to one year after project completion, but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under § 92.250.

(e) *Access by other participants.* Access to the disbursement and information system by other entities participating in the HOME program (e.g., State recipients) will be governed by procedures established by HUD. Only participating jurisdictions and State recipients (if permitted by the State) may request disbursement.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44679, July 24, 2013; 80 FR 75935, Dec. 7, 2015; 81 FR 86952, Dec. 2, 2016]

§ 92.503 Program income, repayments, and recaptured funds.

(a) *Program income.*

(1) Program income must be used in accordance with the requirements of this part. Program income must be deposited in the participating jurisdiction's HOME Investment Trust Fund local account unless the participating jurisdiction permits the State recipient or subrecipient to retain the program income for additional HOME projects pursuant to the written agreement required by § 92.504.

(2) If the jurisdiction is not a participating jurisdiction when the program income is received, the funds are not subject to the requirements of this part.

(3) Program income derived from consortium activities undertaken by or within a member unit of general local government which thereafter terminates its participation in the consortium continues to be program income of the consortium.

(b) *Repayments.*

(1) Any HOME funds invested in housing that does not meet the affordability requirements for the period specified in § 92.252 or § 92.254, as applicable, must be repaid by the participating jurisdiction in accordance with paragraph (b)(3) of this section.

(2) Any HOME funds invested in a project that is terminated before completion, either voluntarily or otherwise, must be repaid by the participating jurisdiction, in accordance with paragraph (b)(3) of this section, except for repayments of project-specific community housing development organization loans that are waived, in accordance with §§ 92.301(a)(3) and (b)(3). In addition, any HOME funds used for costs that are not eligible under this part must be repaid by the participating jurisdiction, in accordance with paragraph (b)(3) of this section.

(3) HUD will instruct the participating jurisdiction to either repay the funds to the HOME Investment Trust Fund Treasury account or the local account. If the jurisdiction is not a participating jurisdiction at the time the repayment is made, the funds must be remitted to HUD and reallocated, in accordance with § 92.454.

(c) *Recaptures.* HOME funds recaptured in accordance with § 92.254(a)(5)(ii) must be used in accordance with the requirements of this part. Recaptured funds must be deposited in the participating jurisdiction's HOME Investment Trust Fund local account unless the participating jurisdiction permits the State recipient, subrecipient, or community housing development organization to retain the recaptured funds for additional HOME projects pursuant to the written agreement required by § 92.504. If the jurisdiction is not a participating jurisdiction when the recaptured funds are received, the funds must be remitted to HUD and reallocated in accordance with § 92.454.

(d) *Commitment of funds in the local account.* Beginning with the Fiscal Year 2017 action plan, as provided in 24 CFR 91.220(l)(2) and 91.320(k)(2), program income, repayments, and recaptured funds in the participating jurisdiction's HOME Investment Trust Fund local account must be used in accordance with the requirements of this part, and the amount of program income, repayments, and recaptured funds in the participating jurisdiction's HOME Investment Trust Fund local account at the beginning of the program year must be committed before HOME funds in the HOME Investment Trust Fund United States Treasury account, except for the HOME funds in the United States Treasury account that are required to be reserved (*i.e.*, 15 percent of the funds), under § 92.300(a), for investment only in housing to be owned, developed, or sponsored by community housing development organizations. The deadline for committing program income, repayments, and recaptured funds received during a program year is the date of the participating jurisdiction's commitment deadline for the subsequent year's grant allocation.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44680, July 24, 2013; 81 FR 86952, Dec. 2, 2016]

§ 92.504 Participating jurisdiction responsibilities; written agreements; on-site inspection.

(a) *Responsibilities.* The participating jurisdiction is responsible for managing the day-to-day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the participating jurisdiction of this responsibility. The performance and compliance of each contractor, State recipient, and subrecipient must be reviewed at least annually. The participating jurisdiction must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring entities consistent with this section, to ensure that the requirements of this part are met.

(b) ***Executing a written agreement.*** Before disbursing any HOME funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a State recipient, subrecipient, or contractor which is administering all or a part of the HOME program on behalf of the participating jurisdiction, must also enter into a written agreement with that entity. The written agreement must ensure compliance with the requirements of this part.

(c) ***Provisions in written agreements.*** The contents of the agreement may vary depending upon the role the entity is asked to assume or the type of project undertaken. This section details basic requirements by role and the minimum provisions that must be included in a written agreement.

(1) ***State recipient.*** The provisions in the written agreement between the State and a State recipient will depend on the program functions that the State specifies the State recipient will carry out in accordance with § 92.201(b). In accordance with § 92.201, the written agreement must either require the State recipient to comply with the requirements established by the State or require the State recipient to establish its own requirements to comply with this part, including requirements for income determinations and underwriting subsidy layering guidelines, rehabilitation standards, refinancing guidelines, homebuyer program policies, and affordability.

(i) ***Use of the HOME funds.*** The agreement must describe the amount and use of the HOME funds to administer one or more programs to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance, including the type and number of housing projects to be funded (e.g. the number of single- family homeowner loans to be made or number of homebuyers to receive downpayment assistance), tasks to be performed, a schedule for completing the tasks (including a schedule for committing funds to projects that meet the deadlines established by this part), a budget for each program, and any requirement for matching contributions. These items must be in sufficient detail to provide a sound basis for the State to effectively monitor performance under the agreement.

(ii) ***Affordability.*** The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. The agreement must state if repayment of HOME funds or recaptured HOME funds must be remitted to the State or retained by the State recipient for additional eligible activities.

(iii) ***Program income.*** The agreement must state if program income is to be remitted to the State or to be retained by the State recipient for additional eligible activities.

(iv) ***Uniform administrative requirements.*** The agreement must require the State recipient to comply with applicable uniform administrative requirements, as described in § 92.505.

(v) ***Project requirement.*** The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted.

(vi) ***Other program requirements.*** The agreement must require the State recipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the State recipient does not assume the State's responsibilities for release of funds under § 92.352 and the intergovernmental review process in § 92.357 does not apply to the State recipient. If HOME funds are provided for development of rental housing or provision of tenant-based rental assistance, the agreement must set forth all obligations the State imposes on the State recipient in order to meet the VAWA requirements under § 92.359, including notice obligations and any obligations with respect to the emergency transfer plan (including whether the State recipient must develop its own plan or follow the State's plan).

(vii) ***Affirmative marketing.*** The agreement must specify the State recipient's affirmative marketing responsibilities in accordance with § 92.351.

(viii) ***Requests for disbursement of funds.*** The agreement must specify that the State recipient may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the State recipient requests funds from the State.

(ix) ***Records and reports.*** The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the State in meeting its recordkeeping and reporting requirements.

(x) ***Enforcement of the agreement.*** The agreement must provide for a means of enforcement of affordable housing requirements by the State or the intended beneficiaries, if the State recipient will be the owner at project completion of the affordable housing. The means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements in § 92.252 must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the HOME requirements. The agreement must specify that, in accordance with 2 CFR 200.338, suspension or termination may occur if the State recipient materially fails to comply with any term of the agreement. The State may permit the agreement to be terminated in whole or in part in accordance with 2 CFR 200.339.

(xi) ***Written agreement.*** Before the State recipient provides funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, homeowners, homebuyers, tenants (or landlords) receiving tenant-based rental assistance, or contractors who are providing services to the State recipient, the State recipient must have a written agreement with such entities that meets the requirements of this section.

(xii) ***Duration of the agreement.*** The duration of the agreement will depend on which functions the State recipient performs (e.g., whether the State recipient or the State has responsibility for monitoring rental projects for the period of affordability) and which activities are funded under the agreement.

(xiii) ***Fees.*** The agreement must prohibit the State recipient and its subrecipients and community housing development organizations from charging servicing, origination, processing, inspection, or other fees for the costs of administering a HOME program, except as permitted by § 92.214(b)(1).

(2) ***Subrecipient.*** A subrecipient is a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME programs to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance. The agreement must set forth and require the subrecipient to follow the participating jurisdiction's requirements, including requirements for income determinations, underwriting and subsidy layering guidelines, rehabilitation standards, refinancing guidelines, homebuyer program policies, and affordability requirements. The agreement between the participating jurisdiction and the subrecipient must include:

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

(ii) ***Program income.*** The agreement must state if program income is to be remitted to the participating jurisdiction or to be retained by the subrecipient for additional eligible activities.

(iii) ***Uniform administrative requirements.*** The agreement must require the subrecipient to comply with applicable uniform administrative requirements, as described in § 92.505.

(iv) ***Other program requirements.*** The agreement must require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under § 92.352 and the intergovernmental review process in § 92.357 does not apply. The agreement must set forth the requirements the subrecipient must follow to enable the participating jurisdiction to carry environmental review responsibilities before HOME funds are committed to a project. If HOME funds are being provided to develop rental housing or provide tenant-based rental assistance, the agreement must set forth all obligations the participating jurisdiction imposes on the subrecipient in order to meet the VAWA requirements under § 92.359, including notice obligations and obligations under the emergency transfer plan.

(v) ***Affirmative marketing.*** The agreement must specify the subrecipient's affirmative marketing responsibilities in accordance with § 92.351.

(vi) ***Requests for disbursement of funds.*** The agreement must specify that the subrecipient may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the participating jurisdiction.

(vii) ***Reversion of assets.*** The agreement must specify that upon expiration of the agreement, the subrecipient must transfer to the participating jurisdiction any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

(viii) ***Records and reports.*** The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.

(ix) ***Enforcement of the agreement.*** The agreement must specify remedies for breach of the provisions of the agreement. The agreement must specify that, in accordance with 2 CFR 200.338, suspension or termination may occur if the subrecipient materially fails to comply with any term of the agreement. The participating jurisdiction may permit the agreement to be terminated in whole or in part in accordance with 2 CFR 200.339.

(x) ***Written agreement.*** Before the subrecipient provides HOME funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, homeowners, homebuyers, tenants (or landlords) receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement that meets the requirements of this section. The agreement must state if repayment of HOME funds or recaptured HOME funds must be remitted to the participating jurisdiction or retained by the subrecipient for additional eligible activities.

(xi) ***Fees.*** The agreement must prohibit the subrecipient and any community housing development organizations from charging servicing, origination, or other fees for the costs of administering the HOME program, except as permitted by § 92.214(b)(1).

(3) ***For-profit or nonprofit housing owner, sponsor, or developer (other than single-family owner-occupant).*** The participating jurisdiction may preliminarily award HOME funds for a proposed project, contingent on conditions such as obtaining other financing for the project. This preliminary award is not a commitment to a project. The written agreement committing the HOME funds to the project must meet the requirements of "commit to a specific local project" in the definition of "commitment" in § 92.2 and contain the following:

(i) ***Use of the HOME funds.*** The agreement between the participating jurisdiction and a for-profit or nonprofit housing owner, sponsor, or developer must describe the address of the project or the legal description of the property if a street address has not been assigned to the property, the use of the HOME funds and other funds for the project, including the tasks to be performed for the project, a schedule for completing the tasks and the project, and a

complete budget. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement to achieve project completion and compliance with the HOME requirements.

(ii) ***Affordability.*** The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. The affordability requirements in § 92.252 must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD under which the participating jurisdiction has the right to require specific performance.

(A) If the owner or developer is undertaking rental projects, the agreement must establish the initial rents, the procedures for rent increases pursuant to § 92.252(f)(2), the number of HOME units, the size of the HOME units, and the designation of the HOME units as fixed or floating, and include the requirement that the owner or developer provide the address (e.g., street address and apartment number) of each HOME unit no later than the time of initial occupancy.

(B) If the owner or developer is undertaking a homeownership project for sale to homebuyers in accordance with § 92.254(a), the agreement must set forth the resale or recapture requirements that must be imposed on the housing, the sales price or the basis upon which the sales price will be determined, and the disposition of the sales proceeds. Recaptured funds must be returned to the participating jurisdiction.

(iii) ***Project requirements.*** The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted. The agreement may permit the owner to limit eligibility or give a preference to a particular segment of the population in accordance with § 92.253(d).

(iv) ***Property standards.*** The agreement must require the housing to meet the property standards in § 92.251, upon project completion. The agreement must also require owners of rental housing assisted with HOME funds to maintain the housing compliance with § 92.251 for the duration of the affordability period.

(v) ***Other program requirements.*** The agreement must require the owner, developer or sponsor to carry out each project in compliance with the following requirements of subpart H of this part:

(A) The agreement must specify the owner or developer's affirmative marketing responsibilities as enumerated by the participating jurisdiction in accordance with § 92.351.

(B) The federal requirements and nondiscrimination established in § 92.350.

(C) Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with § 92.353.

(D) The labor requirements in § 92.354.

(E) The conflict of interest provisions prescribed in § 92.356(f).

(F) If HOME funds are being provided to develop rental housing, the agreement must set forth all obligations the participating jurisdiction imposes on the owner in order to meet the VAWA requirements under § 92.359, including the owner's notice obligations and owner obligations under the emergency transfer plan.

(vi) ***Records and reports.*** The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements. The owner of rental housing must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with § 92.252. If the rental housing project has floating HOME units, the owner must provide the participating jurisdiction with information regarding unit substitution and filling vacancies so that the project remains in compliance with HOME rental occupancy requirements. The agreement must specify the reporting requirements (including copies of financial statements) to enable the participating jurisdiction to determine the financial condition (and continued financial viability) of the rental project.

(vii) ***Enforcement of the agreement.*** The agreement must provide for a means of enforcement of the affordable housing requirements by the participating jurisdiction and the intended beneficiaries. This means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements in § 92.252 must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD under which the participating jurisdiction has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

(viii) ***Requests for disbursement of funds.*** The agreement must specify that the developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

(ix) ***Duration of the agreement.*** The agreement must specify the duration of the agreement. If the housing assisted under this agreement is rental housing, the agreement must be in effect through the affordability period required by the participating jurisdiction under § 92.252. If the housing assisted under this agreement is homeownership housing, the agreement must be in effect at least until completion of the project and ownership by the low-income family.

(x) ***Community housing development organization provisions.*** If the nonprofit owner or developer is a community housing development organization and is using set-aside funds under § 92.300, the agreement must include the appropriate provisions under §§ 92.300, 92.301, and 92.303. If the community development organization is receiving HOME funds as a developer of homeownership housing, the agreement must specify if the organization may retain proceeds from the sale of the housing and whether the proceeds are to be used for HOME-eligible or other housing activities to benefit low-income families. Recaptured funds are subject to the requirements of § 92.503. If the community housing development organization is receiving assistance for operating expenses, see paragraph (c)(6) of this section.

(xi) ***Fees.*** The agreement must prohibit project owners from charging fees that are not customarily charged in rental housing such as laundry room access fees, and other fees. However, rental project owners may charge reasonable application fees to prospective tenants may charge parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and may charge fees for services such as bus transportation or meals, as long as such services are voluntary. The agreement must also prohibit the developer that is undertaking a homeownership project from charging servicing, origination, processing, inspection, or other fees for the costs of providing homeownership assistance.

(4) ***Contractor.*** The participating jurisdiction selects a contractor through applicable procurement procedures and requirements. The contractor provides goods or services in accordance with a written agreement (the contract). For contractors who are administering all or some of the participating jurisdiction's HOME programs or specific services for one or more programs, the contract must include at a minimum the following provisions:

(i) ***Use of the HOME funds.*** The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the length of the agreement.

(ii) ***Program requirements.*** The agreement must provide that the contractor is subject to the requirements in part 92 that are applicable to the participating jurisdiction, except §§ 92.505 and 92.506 do not apply, and the contractor cannot assume the participating jurisdiction responsibilities for environmental review, decisionmaking, and action under § 92.352. Where the contractor is administering only a portion of the program, the agreement must list the requirements applicable to the activities the contractor is administering. If applicable to the work under the contract, the agreement must set forth all obligations the participating jurisdiction imposes on the contractor in order to meet the VAWA requirements under § 92.359, including any notice obligations and any obligations under the emergency transfer plan.

(iii) ***Duration of agreement.*** The agreement must specify the duration of the contract. Generally, the duration of a contract should not exceed two years.

(5) ***Homebuyer, homeowner or tenant receiving tenant-based rental or security deposit assistance.*** When a participating jurisdiction provides assistance to a homebuyer, homeowner or tenant the written agreement may take many forms depending upon the nature of assistance. As appropriate, it must include as a minimum:

(i) For homebuyers, the agreement must conform to the requirements in § 92.254(a), the value of the property, principal residence, lease-purchase, if applicable, and the resale or recapture provisions. The agreement must specify the amount of HOME funds, the form of assistance, e.g., grant, amortizing loan, deferred payment loan, the use of the funds (e.g., down-payment, closing costs, rehabilitation) and the time by which the housing must be acquired.

(ii) For homeowners, the agreement must conform to the requirements in § 92.254(b) and specify the amount and form of HOME assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met.

(iii) For tenants, the rental assistance contract or the security deposit contract must conform to §§ 92.209 and 92.253.

(6) ***Community housing development organization receiving assistance for operating expenses.*** The agreement must describe the use of HOME funds for operating expenses; e.g., salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; and materials and supplies. If the community housing development organization is not also receiving funds for a housing project to be developed, sponsored, or owned by the community housing development organization, the agreement must provide that the community housing development organization is expected to receive funds for a project within 24 months of the date of receiving the funds for operating expenses, and must specify the terms and conditions upon which this expectation is based and the consequences of failure to receive funding for a project.

(7) ***Community housing development organization receiving assistance for project-specific technical assistance and site control loans or project-specific seed money loans.*** The agreement must identify the specific site or sites and describe the amount and use of the HOME funds (in accordance with § 92.301), including a budget for work, a period of performance, and a schedule for completion. The agreement must also set forth the basis upon which the participating jurisdiction may waive repayment of the loans, consistent with § 92.301, if applicable.

(8) ***Technical assistance provider to develop the capacity of community housing development organizations in the jurisdiction.*** The agreement must identify the specific nonprofit organization(s) to receive capacity building assistance. The agreement must describe the amount and use (scope of work) of the HOME funds, including a budget, a period of performance, and a schedule for completion.

(d) ***On-site inspections and financial oversight.***

(1) ***Inspections.*** The participating jurisdiction must inspect each project at project completion and during the period of affordability to determine that the project meets the property standards of § 92.251.

(i) ***Completion inspections.*** Before completing the project in the disbursement and information system established by HUD, the participating jurisdiction must perform an on-site inspection of HOME-assisted housing to determine that all contracted work has been completed and that the project complies with the property standards of § 92.251.

(ii) ***Ongoing periodic inspections of HOME-assisted rental housing.*** During the period of affordability, the participating jurisdiction must perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of § 92.251 and to verify the information submitted by the owners in accordance with the requirements of § 92.252. The inspections must be in accordance with the inspection procedures that the participating jurisdiction establishes to meet the inspection requirements of § 92.251.

(A) The on-site inspections must occur within 12 months after project completion and at least once every 3 years thereafter during the period of affordability.

(B) If there are observed deficiencies for any of the inspectable items in the property standards established by the participating jurisdiction, in accordance with the inspection requirements of § 92.251, a follow-up on-site inspection to verify that deficiencies are corrected must occur within 12 months. The participating jurisdiction may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re-inspection. Health and safety deficiencies must be corrected immediately, in accordance with § 92.251. The participating jurisdiction must adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies.

(C) The property owner must annually certify to the participating jurisdiction that each building and all HOME- assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the participating jurisdiction to meet the requirements of § 92.251.

(D) Inspections must be based on a statistically valid sample of units appropriate for the size of the HOME-assisted project, as set forth by HUD through notice. For projects with one-to-four HOME-assisted units, participating jurisdiction must inspect 100 percent of the HOME-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-assisted units.

(iii) ***Annual inspections.*** Tenant- based rental assistance (TBRA). All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the standards in 24 CFR 982.401 or the successor requirements as established by HUD. The participating jurisdiction must perform annual on-site inspections of rental housing occupied by tenants receiving HOME-assisted TBRA to determine compliance with these standards.

(2) ***Financial oversight.*** During the period of affordability, the participating jurisdiction must examine at least annually the financial condition of HOME-assisted rental projects with 10 units or more to determine the continued financial viability of the housing and must take actions to correct problems, to the extent feasible.

[61 FR 48750, Sept. 16, 1996, as amended at 64 FR 50224, Sept. 15, 1999; 67 FR 61757, Oct. 1, 2002; 68 FR 56404, Sept. 30, 2003; 78 FR 44680, July 24, 2013; 80 FR 75935, Dec. 7, 2015; 81 FR 80804, Nov. 16, 2016; 81 FR 86952, Dec. 2, 2016]

§ 92.505 Applicability of uniform administrative requirements.

The requirements of 2 CFR part 200 apply to participating jurisdictions, State recipients, and subrecipients receiving HOME funds, except for the following provisions: §§ 200.306, 200.307, 200.308 (not applicable to participating jurisdictions), 200.311 (except as provided in § 92.257), 200.312, 200.329, 200.333, and 200.334. The provisions of 2 CFR 200.305 apply as modified by § 92.502(c). If there is a conflict between definitions in 2 CFR part 200 and 24 CFR part 92, the definitions in 24 CFR part 92 govern.

[80 FR 75935, Dec. 7, 2015]

§ 92.506 Audit.

Audits of the participating jurisdiction, State recipients, and subrecipients must be conducted in accordance with 2 CFR part 200, subpart F.

[67 FR 61757, Oct. 1, 2002, as amended at 80 FR 75935, Dec. 7, 2015]

§ 92.507 Closeout.

HOME funds will be closed out in accordance with 2 CFR part 200, subpart D.

[80 FR 75935, Dec. 7, 2015]

§ 92.508 Recordkeeping.

(a) ***General.*** Each participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of this part. At a minimum, the following records are needed:

(1) ***Records concerning designation as a participating jurisdiction.***

(i) For a consortium, the consortium agreement among the participating member units of general local government as required by § 92.101.

(ii) For a unit of general local government receiving a formula allocation of less than $750,000 (or less than $500,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part), records demonstrating that funds have been made available (either by the State or the unit of general local government, or both) equal to or greater than the difference between its formula allocation and $750,000 (or $500,000 in fiscal years in which Congress appropriates less than $1.5 billion) as required by § 92.102(b).

(2) *Program records.*

(i) Records of the efforts to maximize participation by the private sector as required by § 92.200.

(ii) The forms of HOME assistance used in the program, including any forms of investment described in the Consolidated Plan under 24 CFR part 91 that are not identified in § 92.205(b), and which are specifically approved by HUD.

(iii) The underwriting and subsidy layering guidelines adopted in accordance with § 92.250 that support the participating jurisdiction's Consolidated Plan certification.

(iv) If existing debt is refinanced for multi-family rehabilitation projects, the refinancing guidelines established in accordance with § 92.206(b), described in the Consolidated Plan.

(v) If HOME funds are used for tenant-based rental assistance, records supporting the participating jurisdiction's Consolidated Plan certification in accordance with § 92.209(b), including documentation of the local market conditions that led to the choice of this option; written selection policies and criteria; supporting documentation for preferences for specific categories of individuals with disabilities; and records supporting the rent standard and minimum tenant contribution established in accordance with § 92.209(h).

(vi) If HOME funds are used for tenant-based rental assistance or rental housing, records evidencing that not less than 90 percent of the families receiving such rental assistance meet the income requirements of § 92.216.

(vii) If HOME funds are used for homeownership housing, the procedures used for establishing 95 percent of the median purchase price for the area in accordance with § 92.254(a)(2), in the Consolidated Plan.

(viii) If HOME funds are used for acquisition of housing for homeownership, the resale or recapture guidelines established in accordance with § 92.254(a)(5), as set forth in the Consolidated Plan.

(ix) Records demonstrating compliance with the matching requirements of § 92.218 through § 92.222 including a running log and project records documenting the type and amount of match contributions by project.

(x) Records documenting compliance with the 24 month commitment deadline of § 92.500(d).

(xi) Records demonstrating compliance with the fifteen percent CHDO set-aside requirement of § 92.300(a).

(xii) Records documenting compliance with the ten percent limitation on administrative and planning costs in accordance with § 92.207.

(3) *Project records.*

(i) A full description of each project assisted with HOME funds, including the location (address of each unit), form of HOME assistance, and the units or tenants assisted with HOME funds.

(ii) The source and application of funds for each project, including supporting documentation in accordance with 2 CFR 200.302; and records to document the eligibility and permissibility of the project costs, including the documentation of the actual HOME-eligible development costs of each HOME-assisted unit (through allocation of costs, if permissible under § 92.205(d)) where HOME funds are used to assist less than all of the units in a multi-unit project.

(iii) Records demonstrating that each rental housing or homeownership project meets the minimum per-unit subsidy amount of § 92.205(c), the maximum per-unit subsidy amount of § 92.250(a), and the subsidy layering and underwriting evaluation adopted in accordance with § 92.250(b).

(iv) Records (e.g., inspection reports) demonstrating that each project meets the property standards of § 92.251 at project completion. In addition, during the period of affordability, records for rental projects demonstrating compliance with the property standards and financial reviews and actions pursuant to § 92.504(d).

(v) Records demonstrating that each family is income eligible in accordance with § 92.203.

(vi) Records demonstrating that each tenant-based rental assistance project meets the written tenant selection policies and criteria of § 92.209(c), including any targeting requirements, the rent reasonableness requirements of § 92.209(f), the maximum subsidy provisions of § 92.209(h), property inspection reports, and calculation of the HOME subsidy.

(vii) Records demonstrating that each rental housing project meets the affordability and income targeting requirements of § 92.252 for the required period. Records must be kept for each family assisted.

(viii) Records demonstrating that each multifamily rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with § 92.206(b).

(ix) Records demonstrating that each lease for a tenant receiving tenant-based rental assistance and for an assisted rental housing unit complies with the tenant and participant protections of § 92.253. Records must be kept for each family.

(x) Records demonstrating that the purchase price or estimated value after rehabilitation for each homeownership housing project does not exceed 95 percent of the median purchase price for the area in accordance with § 92.254(a)(2). The records must demonstrate how the estimated value was determined.

(xi) Records demonstrating that each homeownership project meets the affordability requirements of § 92.254 for the required period.

(xii) Records demonstrating that any pre-award costs charged to the HOME allocation meet the requirements of § 92.212.

(xiii) Records demonstrating that a site and neighborhood standards review was conducted for each project which includes new construction of rental housing assisted under this part to determine that the site meets the requirements of 24 CFR 983.57(e)(2) and (e)(3), in accordance with § 92.202.

(xiv) Records (written agreements) demonstrating compliance with the written agreements requirements in § 92.504.

(4) ***Community Housing Development Organizations (CHDOs) Records.***

(i) Written agreements committing HOME funds to CHDO projects in accordance with § 92.300(a).

(ii) Records setting forth the efforts made to identify and encourage CHDOs, as required by § 92.300(b).

(iii) The name and qualifications of each CHDO and amount of HOME CHDO set-aside funds committed.

(iv) Records demonstrating that each CHDO complies with the written agreements required by § 92.504.

(v) Records concerning the use of CHDO setaside funds, including funds used to develop CHDO capacity pursuant to § 92.300(b).

(vi) Records concerning the use of funds for CHDO operating expenses and demonstrating compliance with the requirements of §§ 92.208, 92.300(e) and 92.300(f).

(vii) Records concerning the tenant participation plan required by § 92.303.

(viii) Records concerning project-specific assistance to CHDOs pursuant to § 92.301, including the impediments to repayment, if repayment is waived.

(5) ***Financial records.***

(i) Records, in accordance with 2 CFR 200.302, identifying the source and application of funds for each fiscal year, including the formula allocation, any reallocation (identified by federal fiscal year appropriation), and any State or local funds provided under § 92.102(b).

(ii) Records concerning the HOME Investment Trust Fund Treasury account and local account required to be established and maintained by § 92.500, including deposits, disbursements, balances, supporting documentation and any other information required by the program disbursement and information system established by HUD.

(iii) Records identifying the source and application of program income, repayments and recaptured funds.

(iv) Records demonstrating adequate budget control and other records required by 2 CFR 200.302, including evidence of periodic account reconciliations.

(6) ***Program administration records.***

(i) Written policies, procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring entities consistent with this section, to ensure that the requirements of this part are met.

(ii) Records demonstrating compliance with the written agreements required by § 92.504.

(iii) Records demonstrating compliance with the applicable uniform administrative requirements required by § 92.505.

(iv) Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.

(7) ***Records concerning other Federal requirements*** -

(i) ***Equal opportunity and fair housing records.***

(A) Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME funds.

(B) Documentation of the actions the participating jurisdiction has taken to affirmatively further fair housing pursuant to §§ 5.151, 5.152, 91.225, 91.325, and 91.425 of this title.

(ii) Affirmative marketing and MBE/WBE records.

(A) Records demonstrating compliance with the affirmative marketing procedures and requirements of § 92.351.

(B) Documentation and data on the steps taken to implement the jurisdiction's outreach programs to minority-owned (MBE) and female-owned (WBE) businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of $25,000 or more paid, or to be paid, with HOME funds; the amount of the contract or subcontract, and documentation of participating jurisdiction's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services.

(iii) Records demonstrating compliance with the environmental review requirements of § 92.352 and 24 CFR part 58, including flood insurance requirements.

(iv) Records demonstrating compliance with the requirements of § 92.353 regarding displacement, relocation, and real property acquisition, including project occupancy lists identifying the name and address of all persons occupying the real property on the date described in § 92.353(c)(2)(i)(A), moving into the property on or after the date described in § 92.353(c)(2)(i)(A), and occupying the property upon completion of the project.

(v) Records demonstrating compliance with the labor requirements of § 92.354, including contract provisions and payroll records.

(vi) Records demonstrating compliance with the lead-based paint requirements of part 35, subparts A, B, J, K, M and R of this title.

(vii) Records supporting exceptions to the conflict of interest prohibition pursuant to § 92.356.

(viii) Records demonstrating compliance with debarment and suspension requirements in 2 CFR part 2424.

(ix) Records concerning intergovernmental review, as required by § 92.357.

(x) Records of emergency transfers requested under 24 CFR 5.2005(e) and 92.359 pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of those requests.

(xi) Documentation of actions undertaken to meet the requirements of 24 CFR part 75 which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).

(b) *States with State Recipients.* A State that distributes HOME funds to State recipients must require State recipients to keep the records required by paragraphs (a)(2), (a)(3), (a)(5), (a)(6) and (a)(7) of this section, and such other records as the State determines to be necessary to enable the State to carry out its responsibilities under this part. The State need not duplicate the records kept by the State recipients. The State must keep records concerning its review of State recipients required under § 92.201(b)(3).

(c) *Period of record retention.* All records pertaining to each fiscal year of HOME funds must be retained for the most recent five year period, except as provided below.

(1) For rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five year period, until five years after the affordability period terminates.

(2) For homeownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.

(3) For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates.

(4) Written agreements must be retained for five years after the agreement terminates.

(5) Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with § 92.353.

(6) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

(d) *Access to records.*

(1) The participating jurisdiction must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

(2) HUD and the Comptroller General of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the participating jurisdiction, state recipients, and subrecipients, in order to make audits, examinations, excerpts, and transcripts.

[61 FR 48750, Sept. 16, 1996, as amended at 64 FR 50224, Sept. 15, 1999; 67 FR 61757, Oct. 1, 2002; 72 FR 73493, Dec. 27, 2007; 78 FR 44682, July 24, 2013; 80 FR 42366, July 16, 2015; 80 FR 75935, Dec. 7, 2015; 81 FR 80805, Nov. 16, 2016; 85 FR 47910, Aug. 7, 2020; 85 FR 61567, Sept. 29, 2020; 85 FR 82137, Dec. 17, 2020; 86 FR 30792, June 10, 2021; 86 FR 34943, July 1, 2021; 86 FR 30792, June 10, 2021]

§ 92.509 Performance reports.

(a) *Management reports.* Each participating jurisdiction must submit management reports on its HOME Investment Partnerships Program in such format and at such time as HUD may prescribe.

(b) *Annual performance report.* For annual performance report requirements, see 24 CFR part 91.

Subpart L - Performance Reviews and Sanctions

§ 92.550 Performance reviews.

(a) *General.* HUD will review the performance of each participating jurisdiction in carrying out its responsibilities under this part whenever determined necessary by HUD, but at least annually. In conducting performance reviews, HUD will rely primarily on information obtained from the participating jurisdiction's and, as appropriate, the State recipient's records and reports, findings from on-site monitoring, audit reports, and information generated from the disbursement and information system established by HUD. Where applicable, HUD may also consider relevant information pertaining to a participating jurisdiction's or State recipient's performance gained from other sources, including citizen comments, complaint determinations, and litigation. Reviews to determine compliance with specific requirements of this part will be conducted as necessary, with or without prior notice to the participating jurisdiction or State recipient. Comprehensive performance reviews under the standards in paragraph (b) of this section will be conducted after prior notice to the participating jurisdiction.

(b) *Standards for comprehensive performance review.* A participating jurisdiction's performance will be comprehensively reviewed periodically, as prescribed by HUD, to determine:

(1) For local participating jurisdictions and State participating jurisdictions administering their own HOME programs, whether the participating jurisdiction has committed the HOME funds in the United States Treasury account as required by § 92.500 and expended the funds in the United States Treasury account as required by § 92.500, and has met the requirements of this part, particularly eligible activities, income targeting, affordability, and matching requirements; or

(2) For State participating jurisdictions distributing HOME funds to State recipients, whether the State has met the matching contribution and other requirements of this part; has distributed the funds in accordance with the requirements of this part; and has made such reviews and audits of its State recipients as may be appropriate to determine whether they have satisfied the requirements of paragraph (b)(1) of this section.

§ 92.551 Corrective and remedial actions.

(a) *General.* HUD will use the procedures in this section in conducting the performance review as provided in § 92.550 and in taking corrective and remedial actions.

(b) *Performance review.*

(1) If HUD determines preliminarily that the participating jurisdiction has not met a requirement of this part, the participating jurisdiction will be given notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD (not to exceed 30 days) and on the basis of substantial facts and data, that it has done so.

(2) If the participating jurisdiction fails to demonstrate to HUD's satisfaction that it has met the requirement, HUD will take corrective or remedial action in accordance with this section or § 92.552.

(c) *Corrective and remedial actions.* Corrective or remedial actions for a performance deficiency (failure to meet a provision of this part) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence.

(1) HUD may instruct the participating jurisdiction to submit and comply with proposals for action to correct, mitigate and prevent a performance deficiency, including:

(i) Preparing and following a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;

(ii) Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;

(iii) Canceling or revising activities likely to be affected by the performance deficiency, before expending HOME funds for the activities;

(iv) Reprogramming HOME funds that have not yet been expended from affected activities to other eligible activities;

(v) Reimbursing its HOME Investment Trust Fund in any amount not used in accordance with the requirements of this part;

(vi) Suspending disbursement of HOME funds for affected activities; and

(vii) Establishing procedures to ensure compliance with HOME requirements;

(viii) Making matching contributions as draws are made from the participating jurisdiction's HOME Investment Trust Fund United States Treasury Account and establishing a remedial plan to make up the matching contributions deficit; and

(ix) If the participating jurisdiction is a metropolitan city, forming a consortium with the urban county if the urban county is willing to carry out the HOME program in the metropolitan city.

(2) HUD may also change the method of payment from an advance to reimbursement basis and may require supporting documentation to be submitted for HUD review for each payment request before payment is made; determine the participating jurisdiction to be high risk and

impose special conditions or restrictions on the next year's allocation in accordance with 2 CFR 200.207; and take other remedies that may be legally available, including remedies under 2 CFR 200.338.

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44683, July 24, 2013; 80 FR 75935, Dec. 7, 2015]

§ 92.552 Notice and opportunity for hearing; sanctions.

(a) If HUD finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply with any provision of this part and until HUD is satisfied that there is no longer any such failure to comply:

(1) HUD shall reduce the funds in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this part; and

(2) HUD may do one or more of the following:

(i) Prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by the failure to comply;

(ii) Restrict the participating jurisdiction's activities under this part to activities that conform to one or more model programs which HUD has developed in accordance with section 213 of the Act;

(iii) Remove the participating jurisdiction from participation in allocations or reallocations of funds made available under subpart B or J of this part;

(iv) Require the participating jurisdiction to make matching contributions in amounts required by § 92.218(a) as HOME funds are drawn from the participating jurisdiction's HOME Investment Trust Fund United States Treasury Account. Provided, however, that HUD may on due notice suspend payments at any time after the issuance of a notice of opportunity for hearing pursuant to paragraph (b)(1) of this section, pending such hearing and a final decision, to the extent HUD determines such action necessary to preclude the further expenditure of funds for activities affected by the failure to comply.

(b) *Proceedings.* When HUD proposes to take action pursuant to this section, the respondent in the proceedings will be the participating jurisdiction or, at HUD's option, the State recipient. Proceedings will be conducted in accordance with 24 CFR part 26.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 44840, Aug. 22, 1997; 78 FR 44683, July 24, 2013]

Subpart M - American Dream Downpayment Initiative

Source: 69 FR 16766, Mar. 30, 2004, unless otherwise noted.

§ 92.600 Purpose.

This subpart describes the requirements for the HOME Program American Dream Downpayment Initiative (ADDI). Through the ADDI, HUD makes formula grants to participating jurisdictions that qualify for allocations to assist low-income families achieve homeownership in accordance with the provisions of this subpart. Unless otherwise noted in this subpart, the HOME Program requirements contained in subparts B through L of this part do not apply to the ADDI.

§ 92.602 Eligible activities.

(a) *Eligible activities.* ADDI funds may only be used for:

(1) Downpayment assistance towards the purchase of single family housing by low-income families who are first-time homebuyers; and

(2) Rehabilitation that is completed in conjunction with the home purchase assisted with ADDI funds. The rehabilitation assisted with ADDI funds, including the reduction of lead paint hazards and the remediation of other home health hazards, must be completed within one year of the purchase of the home. Total rehabilitation shall not exceed 20 percent of the participating jurisdiction's ADDI fiscal year formula allocation. FY2003 ADDI funds may not be used for rehabilitation.

(3) *Manufactured housing.* ADDI funds may be used to purchase a manufactured housing unit and purchase a manufactured housing lot. The manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing owner, owned as a cooperative, or is subject to a leasehold interest with a term equal to at least the term of the mortgage financing on the unit or the period of affordability (whichever is greater).

(b) *Eligible project costs.* ADDI funds may be used for the following eligible costs:

(1) *Acquisition costs.* The costs of acquiring single family housing.

(2) *Rehabilitation costs.* The eligible development hard costs for rehabilitation projects described in § 92.206(a) and the costs for reduction of lead paint hazards and the remediation of other home health hazards. FY2003 ADDI funds may not be used for rehabilitation.

(3) *Related soft costs.* Reasonable and necessary costs incurred by the homebuyer or participating jurisdiction and associated with the financing of single family housing acquisition and rehabilitation. These costs include, but are not limited to:

(i) Costs to process and settle the financing for purchase of a home, such as private lender origination fees, credit report fees, fees for title evidence, fees for recordation and filing of legal documents, attorneys fees, and private appraisal fees.

(ii) Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups.

(iii) Costs to provide information services, such as fair housing information to prospective homeowners.

(iv) Staff and overhead costs directly related to carrying out the project, such as work specifications preparation, loan processing inspections, and other services related to assisting a potential homebuyer (*e.g.*, housing counseling), which may be charged to project costs only if the individual purchases single family housing with ADDI assistance.

(v) Costs of environmental review and release of funds (in accordance with 24 CFR part 58) that are directly related to the project.

(4) ***Ineligible costs.*** ADDI funds may not be used for the development costs (hard costs or soft costs) of new construction of housing or for rental assistance.

(c) ***Forms of investment.*** A participating jurisdiction may invest ADDI funds as interest-bearing loans or advances, non-interest bearing loans or advances, interest subsidies consistent with the purposes of this subpart, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with this subpart. Each participating jurisdiction has the right to establish the terms of assistance, subject to the requirements of this subpart.

(d) ***Minimum amount of assistance.*** The minimum amount of ADDI funds in combination with HOME funds that must be invested in a project is $1,000.

(e) ***Maximum amount of assistance.*** The amount of ADDI funds provided to any family shall not exceed the greater of six percent of the purchase price of the single family housing or $10,000. This limitation does not apply to FY2003 ADDI funds.

(f) ***Limitation on subrecipients and contractors.*** A participating jurisdiction may not provide ADDI funds to an entity or organization that provides downpayment assistance, if the activities of that entity or organization are financed in whole or in part, directly or indirectly, by contributions, service fees, or other payments from the sellers of housing, whether or not made in conjunction with the sale of specific housing acquired with ADDI funds.

[69 FR 16766, Mar. 30, 2004, as amended at 72 FR 16685, Apr. 4, 2007]

§ 92.604 ADDI allocation formula.

(a) ***General.*** HUD will provide ADDI funds to participating jurisdictions in amounts determined by the formula described in this section.

(b) ***Allocation to states that are participating jurisdictions.*** HUD will provide ADDI funds to each state in an amount that is equal to the percentage of the national total of low-income households residing in rental housing in the state, as determined on the basis of the most recent available U.S. census data (as adjusted by HUD).

(c) ***Local participating jurisdictions.*** Subject to paragraph (d) of this section, HUD will further allocate to each local participating jurisdiction located within a state an amount equal to the percentage of the state-wide total of low-income households residing in rental housing in such participating jurisdiction, as determined on the basis of the most recent available U.S. census data (as adjusted by HUD).

(d) ***Limitation on allocations to local participating jurisdictions.***

(1) Allocations under paragraph (c) of this section shall be made only if the local participating jurisdiction:

(i) Has a total population of 150,000 individuals or more, as determined on the basis of the most recent available U.S. census data (as adjusted by HUD); or

(ii) Would receive an allocation of $50,000 or more.

(2) Any allocation that would have otherwise been made to a local participating jurisdiction that does not meet the requirements of paragraph (d)(1) of this section shall revert back to the state in which the participating jurisdiction is located.

(e) ***Consortia with members in more than one state.*** A consortium with members in more than one state will receive an allocation if the consortium meets the requirements described in paragraph (d) of this section.

(f) ***Allocation of FY2003 ADDI funds.*** For the allocation of FY2003 ADDI funds, HUD will consider a participating jurisdiction's need for, and prior commitment to, assistance to homebuyers. Puerto Rico is a "state" for FY2003 ADDI funds.

(1) ***Need.*** The need of the participating jurisdiction for assistance to homebuyers is measured by its ADDI formula allocation, as calculated under paragraphs (b) through (e) of this section.

(2) ***Prior commitment.*** Only those participating jurisdictions that have demonstrated prior commitment to assistance to homebuyers will receive FY2003 ADDI funds. A participating jurisdiction has demonstrated prior commitment to homebuyers if it has previously committed funds to such purpose under the HOME program, the Community Development Block Grants (CDBG) program, mortgage revenue bonds, or existing funding from state and local governments.

§ 92.606 Reallocations.

If any funds allocated to a participating jurisdiction under § 92.604 become available for reallocation, the funds shall be reallocated in the next fiscal year in accordance with § 92.604.

§ 92.608 Consolidated plan.

To receive an ADDI formula allocation, a participating jurisdiction must address the use of the ADDI funds in its consolidated plan submitted in accordance with 24 CFR part 91.

§ 92.610 Program requirements.

The following program requirements contained in subpart E of this part apply to the ADDI:

(a) ***Private-public partnership.*** The private-public partnership provisions contained in § 92.200 apply to the ADDI.

(b) ***Distribution of assistance.*** The distribution of assistance requirements contained in § 92.201 apply to the ADDI.

(c) ***Income determinations.*** The income determination requirements contained in § 92.203 apply to the ADDI.

(d) ***Pre-award costs.*** The requirements regarding pre-award costs contained in § 92.212 apply to the ADDI.

(e) ***Matching contribution requirement.*** The matching contribution requirements contained in §§ 92.218 through 92.222 apply to FY2003 ADDI funds only.

§ 92.612 Project requirements.

The following project requirements contained in subpart F of this part apply to the ADDI:

(a) ***Maximum per-unit subsidy amount and subsidy layering.*** The maximum per-unit subsidy limits and subsidy layering requirements contained in § 92.250 apply to the total HOME and ADDI funds in a project.

(b) ***Property standards.*** Housing assisted with ADDI funds must meet the property standards contained in § 92.251.

(c) ***Qualification as affordable housing.*** Housing assisted with ADDI funds must meet the affordability requirements contained in § 92.254(a) and (c). If a project receives both HOME and ADDI funds, the total of HOME and ADDI funds in the project is used for calculating the period of affordability described in § 92.254(a)(4) and applied to resales (§ 92.254(a)(5)(i)) and recaptures (§ 92.254(a)(5)(ii)).

(d) ***Faith-based organizations.*** Faith-based organizations are eligible to participate in the ADDI as subrecipients or contractors as provided in § 92.257.

§ 92.614 Other Federal requirements.

(a) The following Federal requirements contained in subpart H of this part apply to the ADDI:

(1) ***Other Federal requirements and nondiscrimination.*** The Federal and nondiscrimination requirements contained in § 92.350 apply to the ADDI.

(2) ***Environmental review.*** The environmental review requirements contained in § 92.352 apply to the ADDI.

(3) ***Affirmative marketing.*** The affirmative marketing requirements contained in § 92.351(a).

(4) ***Labor.*** The labor requirements contained in § 92.354 apply to ADDI.

(5) ***Lead-based paint.*** The lead-based paint prevention and abatement requirements contained in § 92.355 apply to the ADDI.

(6) ***Conflict of interest.*** The conflict of interest requirements contained in § 92.356 apply to the ADDI.

(7) ***Consultant activities.*** The requirements regarding consultant activities contained in § 92.358 apply to the ADDI.

(b) The following Federal requirements contained in subpart H of this part do not apply to the ADDI:

(1) ***Displacement, relocation, and acquisition.*** The displacement, relocation, and acquisition requirements implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4201-4655) and the implementing regulations at 49 CFR part 24, contained in § 92.353 do not apply to ADDI, except the requirements do apply to FY2003 ADDI funds.

(2) ***Executive Order 12372.*** The requirements of Executive Order 12372 (entitled "Intergovernmental Review) described in § 92.357.

[69 FR 16766, Mar. 30, 2004, as amended at 78 FR 44683, July 24, 2013]

§ 92.616 Program administration.

The following program administration requirements contained in subpart K of this part apply to the ADDI:

(a) ***HOME Investment Trust Fund.*** The requirements regarding the HOME Investment Trust Fund contained in § 92.500 apply to the ADDI, with the exception of paragraphs (c)(2) and (d)(1)(A).

(b) ***HOME Investment Partnership Agreement.*** The requirements regarding HOME Investment Partnership Agreements contained in § 92.501 apply to the ADDI.

(c) ***Program disbursement and information system.*** The requirements regarding program disbursement and information systems contained in § 92.502 apply to the ADDI.

(d) ***Program income, repayments and recaptured funds.*** The requirements regarding program income, repayments, and recaptured funds contained in § 92.503 apply to the ADDI, except the program income and recaptured funds must be deposited in the participating jurisdiction's HOME investments trust fund local account and used in accordance with the HOME program requirements.

(e) ***Participating jurisdiction responsibilities and written agreements.*** The requirements regarding participating jurisdiction responsibilities and written agreements contained in § 92.504 apply to the ADDI, with the modification that the written agreement is not required to cover any HOME requirement that is not applicable to the ADDI.

(f) ***Applicability of uniform administrative requirements.*** The uniform administrative requirements contained in § 982.505 apply to the ADDI.

(g) ***Audit.*** The audit requirements contained in § 92.506 apply to the ADDI.

(h) ***Closeout.*** The closeout requirements contained in § 92.507 apply to the ADDI.

(i) ***Recordkeeping.*** The project records must include records demonstrating that the family qualifies as a first-time homebuyer. The recordkeeping requirements contained in § 92.508 apply to the ADDI, with the exception of the following paragraphs:

(1) Paragraph (a)(1);

(2) Paragraphs (a)(2)(iv), (a)(2)(v), (a)(2)(vi), (a)(2)(xi), and (a)(2)(xii);

(3) Paragraphs (a)(3)(vi), (a)(3)(vii), (a)(3)(viii), (a)(3)(ix), and (a)(3)(xiii);

(4) Paragraph (a)(4);

(5) Paragraphs (a)(7)(i)(B), (a)(7)(i)(C), (a)(7)(ii)(A), and (a)(7)(ix) (in addition, the requirements of paragraph (a)(7)(iv) apply to FY2003 ADDI funds only); and

(6) Paragraphs (c)(1) and (c)(3) (in addition, the requirements of paragraph (c)(5) apply to FY2003 ADDI funds only).

(j) ***Performance reports.*** The requirements regarding performance reports contained in § 92.509 apply to the ADDI.

§ 92.618 Performance reviews and sanctions.

HUD will review the performance of participating jurisdictions in carrying out its responsibilities under the ADDI in accordance with the policies and procedures contained in subpart L of this part.

HHFDC HOME-ARP ALLOCATION PLAN: APPENDIX B

HOME-ARP Allocation Plan

Participating Jurisdiction: State of Hawaii, Hawaii Housing Finance and Development Corporation Date: March 16, 2022

Introduction

In April 2021, the U.S. Department of Housing and Urban Development (HUD) announced the allocation of $6,413,733 to the State of Hawaii in the form of HOME Investment Partnerships Program - American Rescue Plan (HOME-ARP) funds under Fiscal Year (FY) 2021. This one-time funding was purposed with creating opportunity to meet housing and service needs of Hawaii's most vulnerable populations. The City and County of Honolulu is an entitlement jurisdiction and will receive its own allocation. Funds received through the state's Hawaii Housing Finance and Development Corporation (HHFDC) will be used to serve qualifying populations within the neighbor island counties of Hawaii, Kauai, and Maui.

Under HOME-ARP, qualifying populations include:

- Sheltered and Unsheltered Homeless Populations
- Those currently housed at risk of homelessness
- Those fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Other populations: (1) requiring services or housing assistance to prevent homelessness, and (2) those at greatest risk of housing instability
- Veterans and families that include a veteran family member that meet one of the preceding criteria

Eligible activities under the HOME-ARP program include: the production or preservation of affordable rental housing; tenant-based rental assistance; supportive services, including homeless prevention services and housing counseling; and the purchase or development of non-congregate shelter for individuals and families experiencing homelessness. In addition, 15% percent of the total allocation may be used for planning costs and administration.

The development of the HOME-ARP allocation plan involved consultation with homeless service providers, public housing agencies, and other organizations and agencies that assist qualifying populations in areas that funds are to be utilized. In addition, submittal of a HOME-ARP Allocation Plan is required before receiving funds. This HOME-ARP Allocation Plan describes the distribution and intended use of HOME-ARP funds within the neighbor island counties.

Consultation

Summarize the consultation process.

Bridging the Gap (BTG) is a collaboration of stakeholders committed toward preventing and ending homelessness in the neighbor island counties of Hawaii, Maui, and Kauai. BTG is responsible for the operating and planning responsibilities of the Continuum of Care (CoC) and serves as the central hub that strengthens coordination between CoC-funded activities, other

HUD-funded activities, and local government or private resources targeted at ending homelessness.

To seek input on the needs of qualifying populations within the neighbor island counties, HHFDC consulted with BTG as well as the local chapters representing each county (Kauai Community Alliance, Maui Homeless Alliance, and Community Alliance Partners), the Hawaii Public Housing Authority, the Hawaii Civil Rights Commission, the Legal Aid Society of Hawaii, Women Helping Women, Child and Family Services – East and West Hawaii Island, the Molokai Community Service Council, Women in Need, the YWCA Kauai, the Veterans of Foreign Wars Hawaii Department and U.S. Department of Veterans Affairs- Hilo Vet Center. Each CoC is composed of providers who serve qualifying populations, including victims of domestic violence and veterans. Additionally, consultation was done with each neighbor island county's PHA through their respective housing agency. (See Table 1.)

List the organizations consulted, and summarize the feedback received from these entities.

Agency/ Organization Consulted	Type of Agency/ Organization Consulted	Method of Consultation	Feedback
Bridging the Gap	Continuum of Care	Teams meeting	The lack of housing stock keeps people in shelters for longer periods of time and needs to be increased; Homeless Management Information System (HMIS) has data to show the By Name List (BNL) is long. There are many (200+) holding Section 8 vouchers. There are many rapid re-housing resources available, but more permanent affordable rentals are needed, along with long-term supportive services.
Kauai Community Alliance	Continuum of Care - County of Kauai	Zoom Meeting	County is looking at plans for funds to be used for a project like the Kealaula project. (Rental housing for those transitioning out of homelessness). Using the Coordinated Entry System may provide financial assistance and case management. Interested in the concept of non-congregate shelters (possibly on the west side) to help reduce unsheltered homeless, which could eventually be converted to permanent rental housing. There is a need for affordable rental housing and use of funds to rehabilitate homes for foster youth. There are currently several supportive and mental health services available.
Maui Homeless Alliance	Continuum of Care - County of Maui	Zoom Meeting	There is a large need for affordable rental housing with supportive services to help individual/family remain in their unit. There is also a need for short term (6-8 weeks) assistance for veterans requiring care before

Agency/ Organization Consulted	Type of Agency/ Organization Consulted	Method of Consultation	Feedback
			entering housing. Inquiry about using funds to rehabilitate an existing building to build a non-congregate shelter.
Community Alliance Partners	Continuum of Care - County of Hawaii	Zoom Meeting	There is a substantial amount of rent assistance available through six different organizations, but affordable rental units are needed and hard to find. Youth aging out of foster care have unmet housing needs. OHA is working on a $3M grant to be issued statewide and wants to look at leveraging funds.
Hawaii Public Housing Authority—State Agency	State PHA	Phone Conference	Possible use toward Rental assistance. Rehabilitate or create more affordable rental units. Leverage other funds and offer landlord incentives such as maintenance reimbursements.
Office of Housing and Community Development	Existing Housing Division- Hawaii County PHA	Various - Virtual meetings, email, phone conference	Information on the HOME-ARP program was presented by HHFDC at housing directors meetings covering the eligible uses and proposed distribution of funds, consultation process, and qualifying populations (following release of program guidelines). Staff from each county housing agency assisted with gathering input from each PHA regarding the best use of HOME-ARP funds. Information provided evidenced a significant amount of funding in Housing Choice Vouchers and an insufficient inventory of rental units.
Department of Housing and Human Concerns	Housing Division- Maui County PHA		
Kauai County Housing Agency	Kauai County PHA		
House Select Committee on COVID-19 Economic and Financial Preparedness (Housing Sub-Committee)	HOPE Services-Nonprofit Organization	Teams Meeting	More rental units are needed. Families have rent vouchers, but providers have difficulty helping those families find rentals units.
House Select Committee on COVID-19 Economic and Financial Preparedness (Housing Sub-Committee)	Hawaii Budget & Policy Center/Hawaii Appleseed—Non-profit Organization	Teams Meeting	The Housing Policy Director would like funds to go toward acquisition/rehabilitation of rental units.

Agency/ Organization Consulted	Type of Agency/ Organization Consulted	Method of Consultation	Feedback
House Select Committee on COVID-19 Economic and Financial Preparedness (Housing Sub-Committee)	Weinberg Foundation—Non-profit Organization	Teams Meeting	Lack of housing supply is the #1 issue identified by homeless and youth groups they work with.
Department of Human Services- State	Governor's Coordinator on Homelessness	Phone Conference/ Teams Meeting	Increase Housing Supply. Emergency housing is also needed on Kauai. ARP funds could fund acquisition/rehab and leverage additional State and County funds for supportive services.
Department of Housing and Human Concerns- County of Maui	Government/ County Housing Agency	E-mail	Exploring ways to use funds to develop Single Room Occupancy (SRO) units for single chronically homeless.
Hawaii Civil Rights Commission	Fair Housing & Civil Rights; Persons with Disabilities	E-mail	All four eligible uses of HOME-ARP are worthy and in need of funding, but the greatest need is the production and preservation of affordable housing.
Legal Aid Society of Hawaii	Fair Housing & Civil Rights; Persons with Disabilities	E-mail	Production/preservation of affordable rental housing is the greatest need, followed by Supportive Services, including homeless prevention services and housing counseling (moving expenses and security deposits). Often come across tenants who are disabled and unable to move on their own, relying on limited income while moving costs are unaffordable. Funds made available in these situations would be very helpful.

Agency/ Organization Consulted	Type of Agency/ Organization Consulted	Method of Consultation	Feedback
Women Helping Women (Maui)	Non-profit Organization - Victims of Domestic Violence	E-mail	At least half of clients in the shelter program have worked with the Transitions Program where rent, security deposit, utility assistance, and more may be received. In finding new, independent living arrangements, roadblocks include low rental housing inventory, high costs, stiff competition from other renters, and growing tendency of landlords to not accept Section 8 housing vouchers or rental assistance directly from WHW. As a result, placing clients in permanent housing is very difficult.
Molokai Community Service Council-Hale Hoomalu Shelter	Non-profit Organization – Victims of Domestic Violence	E-mail	On Molokai, survivors of domestic violence often have difficulty finding housing. There is one low-income housing complex, Ka Hale Mua, which has turned away many applicants. Funds are needed to repair units and rent subsidies would help survivors afford non-subsidized housing.
Child and Family Services-East and West Hawaii	Non-profit Organization – Homelessness and Victims of Domestic Violence	E-mail	There is a housing shortage on the Big Island, especially after losing over 700 homes in Leilani Estates to the 2018 Kilauea eruption. With few rental housing units available, the cost of rent continues to increase and those with Section 8 vouchers have the most difficulty finding a rental unit. Barriers to the development of affordable housing in Puna and Oceanview are the lack of infrastructure and transportation systems. For the homeless, in Kona, there is only one program to which referrals can be made—Na Kahua O Ulu Wini (only for families), resulting in low amounts of resources for homeless single persons. The CFS West-Hawaii shelter programs are not funded to address chronic homelessness and are specifically for domestic violence survivors and their children. The stay is limited to 120 days and limited bed capacity is also a challenge.

Agency/ Organization Consulted	Type of Agency/ Organization Consulted	Method of Consultation	Feedback
Women in Need (Kauai)	Non-profit Organization – Homelessness Operates Kealaula on Pua Loke (Transitional Housing Facility)	E-mail	As strong advocates of affordable housing and supportive services, WIN operates transitional housing facilities on Kauai and Oahu. A project that incorporates both components is Kauai's Kealaula on Pua Loke. WIN manages the permanent housing unit facility and provides wrap around support services for families and individuals transitioning from homelessness. For WIN, funding for case management services is vital to the success of projects like Kealaua, or any type of housing project meant to benefit those transitioning from homelessness.
YWCA Kauai	Non-profit Organization – Victims of Domestic Violence	E-mail	Domestic Violence is the leading cause of homelessness for women and children, and the need for safe and affordable housing is one of the most pressing concerns for survivors of domestic violence and abuse. In 2021, the Family Violence Shelter (FVS), saw an increase of 960 bed days from 2020, which is likely correlated to the lack of affordable housing inventory. FVS residents identified a lack of housing as the primary barrier to their transition out of Shelter.
Veterans of Foreign Wars Hawaii Department	Non-profit Organization – Veterans	Phone Conference	Affordable rental units needed are a piece of the issue faced by homeless veterans and needs to be integrated into a community where healthcare, retail and transportation are easily accessible. Obtaining identification and medical records can be a challenge. In general, homeless veterans from the Vietnam era have difficulty trusting the government and have Social Security but accessibility is a challenge. WWII and Korean War veterans integrate well but are the last to ask for help.
U.S. Department of Veterans Affairs – Hilo Vet Center	Federal - Veterans	Phone Conference	The homeless veteran population could use more funding in many areas, including affordable rental units (that accept pets), insurance, medication, and elderly housing. Many homeless veterans are doubled up, living with others if not on the streets. Supportive services are offered depending on the type of disability.

Table 1 – Agencies Consulted

Public Participation

Describe the public participation process, including information about and the dates of the public comment period and public hearing(s) held during the development of the plan:

- ***15-day Public comment period: start date*** – 2/28/2022 ***end date*** – 3/15/2022
- ***Public hearings***: 8/17/2021, 8/25/2021, 9/10/2021, 10/11/2021, and 10/22/2021

During the consultation and outreach public hearings for the PY2022 Annual Action Plan, HHFDC conducted five public hearings in the Counties of Hawaii, Kauai, Maui, and the City and County of Honolulu. Information on the State's HOME-ARP funding and range of activities was presented at each of the hearings. The information was also included in the State's Informational Packet (providing information on the state's Consolidated Plan and its HOME, HOME-ARP, HTF, ESG and HOPWA programs), which was presented to the public at each of the hearings. The public hearings were held on August 17 and August 25 (County of Hawaii), September 10 (City and County of Honolulu), October 11 (County of Kauai), and October 22, 2021 (County of Maui).

On February 28, 2022, HHFDC published a Notice of Public Comment (Notice) inviting the public to comment on the draft HOME-ARP Allocation Plan and informing the public where copies of the draft HOME-ARP Allocation Plan are available for review. HHFDC published the Notice in the Honolulu Star-Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Garden Island, and The Maui News. The Notice and draft HOME-ARP Allocation Plan was also posted to the HHFDC website at www.hawaii.gov/dbedt/hhfdc. The 15-day comment period expired on March 15, 2022. No public comments were received.

Describe any efforts to broaden public participation:

In addition to meeting with Bridging the Gap, HHFDC met with CoCs representing each neighbor island county, where input was gathered from providers serving qualifying populations directly. Input on the best use of HOME-ARP funds was also gathered in meetings with the House Select Committee on COVID-19 Economic and Financial Preparedness (Housing Sub-Committee), the State's Adult Mental Health Division and the Governor's Coordinator on Homelessness. Efforts to broaden public participation were made by phone and email outreach to the Hawaii Public Housing Authority, Hawaii Civil Rights Commission and Legal Aid Society of Hawaii. Additional efforts were also made to contact providers addressing domestic violence and veteran's needs in each county. Maui's Women Helping Women, the Molokai Community Service Council, Child and Family Services – East and West Hawaii Island, Kauai's Women Helping Women, and the YWCA Kauai provided responses on unmet needs and supporting data. Input was also received from the Veterans of Foreign Wars Hawaii Department and U.S. Department of Veterans Affairs- Hilo Vet Center.

Summarize the comments and recommendations received through the public participation process:

During the consultation process, providers agreed that affordable rental units are sorely needed and, in addition, would like to see long-term supportive services to help those receiving services retain permanent housing. Agencies noted that rental assistance was available from

various programs, but a shortage of rentals units continues to exist. During the 15-day public comment period, no comments were received.

Summarize any comments or recommendations not accepted and state the reasons why:

During the 15-day public comment period, no comments were received.

Needs Assessment and Gaps Analysis

In addition to consulting with various agencies and organizations, unmet needs of qualifying populations were determined by estimating the size of each population and comparing it to current resources available, including shelter inventory and number of rental housing units affordable to families within specific income categories. To the extent possible, data on demographic composition of qualifying populations was gathered and analyzed to identify gaps and priority needs. Data sources used to inform the Needs Assessment and Gap Analysis tables include the 2020 Point in Time (PIT) Count Report, 2021 Housing Inventory Count (HIC), 2016 Comprehensive Housing Affordability Strategy (CHAS) Data Dictionary, 2014-2018 CHAS Data, and 2019 Hawaii Housing Planning Study.

Homeless – Hawaii, Kauai and Maui (combined)									
	Current Inventory			Homeless Population				Gap Analysis	
	Family Adults and their child(ren)	**Individuals** Without child(ren)	Veterans* and Persons in Veteran Families	**Family HH Individuals** Adults and their child(ren)	**Individuals** Without Child(ren)	Veterans* and Persons in Veteran Families	Victims* of Domestic Violence	**Family**	**Individuals**
	Number of Beds	Number of Beds	Number of Beds	Number of Family HH Individuals	Number of Individuals			Number of beds needed	Number of beds needed
Emergency Shelter	360	398	15						
Transitional Housing	100	56	0						
Permanent Supportive Housing	190	476	266						
Sheltered Homeless				416	290	41	55		
Unsheltered Homeless				253	1,051	104	0		
Current Gap								19	411

*These columns are subpopulations within the family and individual columns

Table 2 – Homeless Needs Inventory and Gap Analysis Table

Data Sources: 1. 2020 PIT Count Report; 2. BTG 2021 Housing Inventory Count

Non-Homeless – Hawaii, Kauai and Maui (combined)			
	Current Inventory	Level of Need	Gap Analysis
	# of Units	# of Households	# of Households
Total Rental Units	64,068		
Rental Units Affordable to HH at 30% AMI	3,645		
Rental Units Affordable to HH at 50% AMI	4,475		
0% to 30% AMI Renter HH w/ 1 or more severe housing problems		7,855	
30% to 50% AMI Renter HH w/ 1 or more severe housing problems		6,260	
Current Gap (0% to 50% AMI)			5,995

Table 3 – Housing Needs Inventory and Gap Analysis Table
Data Sources: 1. 2014-2018 Comprehensive Housing Affordability Strategy (CHAS); 2. 2016 CHAS Data Dictionary

Describe the size and demographic composition of qualifying populations within the PJ's boundaries:

HOME-ARP funds will be used to benefit individuals and families in the counties of Hawaii, Kauai and Maui who meet the criteria defined by HUD, of qualifying populations:

- Sheltered and Unsheltered Homeless Populations
- Those Currently Housed Populations at Risk of Homelessness
- Those Fleeing or Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking
- Other Populations: 1) Individuals or families requiring services or housing assistance to prevent homelessness, and 2) Individuals or families at greatest risk of housing instability or in unstable housing situations

Qualifying Population #1 - Sheltered and Unsheltered Homeless:

Homeless							
County	Sheltered Homeless			Unsheltered Homeless			Total Sheltered and Unsheltered Individuals
	Family HH Individuals Adults and their Child(ren)	Individuals Without child(ren)	Total Sheltered Homeless	Family HH Individuals Adults and their Child(ren)	Individuals Without child(ren)	Total Unsheltered Homeless	
Hawaii	159	117	276	85	436	521	797
Kauai	22	33	55	100	269	369	424
Maui	235	140	375	68	346	414	789
Totals	416	290	706	253	1,051	1,304	2,010

Table 4 – Sheltered and Unsheltered Homeless Populations (by county)
Data Source: BTG 2020 PIT Count Report

Homeless Subpopulations						
	Sheltered Homeless			Unsheltered Homeless		
County	CH Individuals and Persons in CH Families Emergency Shelter	Veterans and persons in Veteran families Emergency and Transitional Shelters	Fleeing Domestic Violence Emergency and Transitional Shelters	Chronically Homeless	Veterans and persons in Veteran Families	Fleeing Domestic Violence
Hawaii	67	22	28	239	50	N/A
Kauai	7	3	7	137	0	N/A
Maui	46	16	20	213	34	N/A
Totals	120	41	55	589	84	N/A

CH = Chronically Homeless **Table 5 – Sheltered and Unsheltered Homeless Subpopulations (by county)**
Data Source: BTG 2020 PIT Count Report

Additional Homeless Subpopulations						
	Sheltered Homeless			Unsheltered Homeless		
County	Serious Mental Illness Emergency and Transitional Shelters	Substance Use Disorder Emergency and Transitional Shelters	HIV/AIDS Emergency and Transitional Shelters	Serious Mental Illness	Substance Use Disorder	HIV/AIDS
Hawaii	83	51	2	228	131	5
Kauai	11	15	0	82	87	2
Maui	53	27	0	164	149	7
Totals	147	93	2	474	367	14

Table 6 – Additional Sheltered and Unsheltered Homeless Subpopulations (by county)
Data Source: BTG 2020 PIT Count Report

BTG's 2020 PIT Count Report reflects an unduplicated estimate of sheltered and unsheltered homelessness. The count was conducted in each neighbor island county on the night of January 26, 2020. In 2020, the PIT Count was not conducted on the islands of Lanai and Molokai due to a lack of capacity. A total of 2,010 sheltered and unsheltered individuals were reported experiencing homelessness— 797 in Hawaii County (40%), 424 in Kauai County (21%), and 789 in Maui County (39%). (See Table 4.) Details of sheltered and unsheltered homeless populations are provided for each neighbor island county in the tables above and narratives below. Numbers reflecting the size of subpopulations (i.e., chronic homelessness, veterans and persons in veteran families, those fleeing domestic violence, serious mental illness, substance use disorder, and HIV/AIDS) within the sheltered and unsheltered homeless populations are also provided. (See Tables 5 and 6.)

In **Hawaii County**, 797 sheltered and unsheltered individuals were reported as experiencing homelessness. Of these, 276 (or 35%) were sheltered, consisting of 159 family household individuals and 117 individuals. Within the sheltered population, there were 67 chronically homeless persons, 22 veterans and persons in veteran families, and 28 individuals fleeing domestic violence in emergency and/or transitional shelters. Additional homeless adult subpopulations in emergency and transitional shelters included 83 individuals with a serious

mental illness, 51 individuals with a substance abuse disorder, and two individuals with HIV/AIDS.

The remaining 521 (or 65%) of persons within Hawaii County's homeless population were unsheltered, consisting of 85 family household individuals and 436 individuals. Of these, 239 were chronically homeless individuals, and 50 were veterans and persons in veteran families. The number of unsheltered individuals fleeing domestic violence were not reported in the 2020 PIT Count Report. Additional unsheltered, adult subpopulations included 228 individuals with a serious mental illness, 131 with a substance use disorder, and five individuals with HIV/AIDS. In Hawaii County, 40% of unsheltered homeless individuals were in South Hilo and 31% in North Kona, with the remaining 30% throughout rural parts of the island such as Kohala, South Kona, Kau, Puna, North Hilo, and Hamakua.

In **Kauai County**, a total of 424 sheltered and unsheltered individuals were reported as experiencing homelessness. Of these, 55 (or 13%) were sheltered, consisting of 22 family household individuals and 33 individuals. Within the sheltered population, there were seven chronically homeless persons, three veterans and persons in veteran families, and seven individuals fleeing domestic violence in emergency and/or transitional shelters. Additional adult subpopulations in emergency and transitional shelters included 11 individuals with a serious mental illness, and 15 individuals with a substance use disorder.

The remaining 369 (or 87%) persons within Kauai County's homeless population were unsheltered, consisting of 100 family household individuals and 269 individuals. Of these, 137 were chronically homeless individuals. There were no unsheltered veterans or persons in veteran families, and the number of unsheltered individuals fleeing domestic violence were not reported in the 2020 PIT Count Report. Additional unsheltered, adult subpopulations included 82 individuals with a serious mental illness, 87 with a substance use disorder, and two individuals with HIV/AIDS. In Kauai County, 38% of the unsheltered homeless population were in the south-central area, 31% in the west region, and the remaining 31% in other parts of the county such as Hanalei, Kapaa and Koloa.

In **Maui County,** a total of 789 sheltered and unsheltered individuals were reported as experiencing homelessness. Of these, 375 (or 48%) were sheltered, consisting of 235 family household individuals and 140 individuals. Within the sheltered population, there were 46 chronically homeless persons in emergency shelters, 16 veterans and persons in veteran families, and 20 individuals fleeing domestic violence in emergency and/or transitional shelters. Additional adult subpopulations in emergency and transitional shelters included 53 individuals with a serious mental illness and 27 individuals with a substance abuse disorder.

The remaining 414 (or 52%) persons within Maui County's homeless population were unsheltered, consisting of 68 family household individuals and 346 individuals. Of these, 213 were chronically homeless individuals and 34 were veterans and persons in veteran families. The number of unsheltered individuals fleeing domestic violence were not reported in the 2020 PIT Count Report. Additional unsheltered, adult subpopulations included 164 individuals with a serious mental illness, 149 with a substance use disorder, and seven individuals with HIV/AIDS. In Maui County, 42% of all unsheltered individuals reported in the count were in the Central Maui (Kahului/Wailuku) area, 21% in Kihei, 20% in Lahaina, and the remaining 17% in other regions of the island such as lower Waiehu, Hana and upcountry region, which includes Paia.

As previously mentioned, the 2020 PIT count was not conducted on the islands of Lanai and Molokai due to a lack of capacity.

Among the total neighbor island county homeless population, 1,516 (or 75%) individuals were over the age of 24 (426 sheltered and 1,090 unsheltered), 125 (or 6%) were between 18 and 24 (47 sheltered and 78 unsheltered), and 369 (or 18%) were under the age of 18 (233 sheltered and 136 unsheltered).

Of the total neighbor island homeless population, 1,140 individuals (or 57%) were male. Of 669 sheltered and unsheltered household individuals with at least one adult and one child, the number of females exceeded the number of males by 14%. Among 1,341 sheltered and unsheltered individuals and households without children, total males exceeded females by 27% and one percent identified as Gender Non-Conforming (i.e., not exclusively male or female). Sheltered and unsheltered Unaccompanied Youth homeless populations consisted of 15% more males than females, and five percent of individuals who identified as Gender Non-Conforming. Within the sheltered and unsheltered population of Parenting Youth households (youth parents only), there were 30% more males than females. All sheltered and unsheltered veterans in a household with at least one adult and one child were male. Of 128 veterans without children, males exceeded females by 80% and one percent identified as Gender Non-Conforming.

In the 2020 PIT count report, 85% of the sheltered and unsheltered homeless population identified as Non-Hispanic/Non-Latino and the remaining 15% as Hispanic/Latino. Almost one-third of homeless individuals identified as White (32%), followed by individuals of Multiple Races (30%), Native Hawaiian/Pacific Islander (27%), Asian (6%), Black/African American (3%), and American Indian or Alaska Native (2%). Within the sheltered population, individuals of multiple races exceeded the number of White individuals by eight percent.

Qualifying Population #2 – At-Risk of Homelessness:

In the HUD CPD Notice: CPD-21-10 and 24 CFR 91.5, at-risk of homelessness is defined as (1) an individual or family: with an annual income below 30% AMI, does not have sufficient resources or support networks, immediately available to prevent them from becoming homeless, and meets one of seven conditions listed in section (iii) of the definition; (2) a child or youth who does not qualify as "homeless" under 24 CFR 91.5 but qualifies as "homeless" under sections of other Acts listed in the HUD CPD Notice: CPD-21-10; and (3) a child or youth who does not qualify as "homeless" under 24 CFR 91.5 but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

At-Risk of Homelessness				
County	Total Households	Households with Income from 0% to 30% AMI and Experiencing at least 1 of 4 Housing Problems		
		Renters	Owners	Renters and Owners
Hawaii	68,410	4,075	3,435	7,510
Kauai	22,525	965	910	1,875
Maui	54,275	2,815	1,700	4,515
Total	145,210	7,855	6,045	13,900

Table 7 – At Risk of Homelessness (by county)
Data Source: 2014 – 2018 CHAS data

According to HUD's 2014-2018 Comprehensive Housing Affordability Strategy (CHAS) data, within the neighbor island counties, there are at least 13,900 renter and owner households with incomes at or below 30% of the Area Median Income (AMI) and experiencing one of four housing problems: housing lacks a kitchen or complete plumbing facilities, overcrowding with more than one person per room, and/or experiencing housing cost burden greater than 30%, of which 7,855 (or 57%) were renters. (See Table 7.) These housing problems are characteristics associated with instability and increased risk of homelessness, as shown in each county's 5-year Consolidated Plan. In Hawaii County, of approximately 68,410 households, at least 7,510 (or 11%) households were earning 0% to 30% AMI and experiencing at least one of four housing problems, of which 4,075 (or 54%) were renters. Of Kauai County's 22,525 estimated households, 1,875 (or 8%) were earning 0% to 30% AMI and experiencing at least one of four housing problems, of which 965 (or 51%) were renters. In Maui County, of roughly 54,275 total households, 4,515 (or 8%) were earning at or below 0 to 30% AMI and experiencing at least one of four housing problems, of which 2,815 (or 68%) were renters. In general, renter households earning 0% to 30% AMI experience housing problems at a greater rate than owner households.

The 2019 Hawaii Housing Planning Study identified households likely to become homeless using two indicators: At-risk households and Hidden Homeless. In the 2019 Housing Demand Survey, respondents were asked how long they could stay in their current residence if they were to lose their primary source of household income. Twenty-five percent of Hawaii Households reported that they would be forced out of their homes after two months or less of sustained income loss. For the 2019 HHPS, these households were identified as At-Risk Households.

The second indicator of potential homelessness examines households that have doubled up, also referred to as "Hidden Homeless". According to the U.S. Census, doubled up households are those that include at least one "additional" adult— or a person 18 or older who is not enrolled in school and is not the householder.

At Risk of Homelessness – Hidden Homeless			
County	**Total Households (2019 HHPS)**	**Number of Households with Some Hidden Homeless**	**% Total Households**
Hawaii	67,054	10,058	15.0%
Kauai	22,563	4,287	19.0%
Maui	54,433	11,976	22.0%
Total	144,050	26,321	18.0%

Table 8 – At Risk of Homelessness, Hidden Homeless (neighbor island counties)
Data Source: 2019 Hawaii Housing Planning Study, Page 57

A survey was conducted to estimate the number of households containing some hidden homeless. (See Table 8.) Survey results reported 15% of households in Hawaii County, 19% in Kauai County, and 22% in Maui County containing some hidden homeless. In all counties, survey results describe hidden homeless as younger individuals who are relatively recent arrivals to the state, with few economic resources, and tend to be a part of larger households, with 5.8 persons per household on average. Findings also showed that hidden homeless were more likely to be doubled-up with family members, rather than unrelated individuals. In 2019, hidden homeless households had lower income per household member than households that did not include hidden homeless members ($21,250 vs. $33,750).

Qualifying Population #3 – Fleeing or Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking:

Across the neighbor island counties, on the night of the 2020 PIT Count, there were 47 adult individuals in emergency shelters and eight in transitional shelters targeted at victims of domestic violence. In Hawaii County, there were 28 sheltered individuals fleeing domestic violence— 21 in emergency shelter and seven in transitional shelter. In Kauai County, there were seven individuals fleeing domestic violence in emergency shelter. In Maui County, there were 20 individuals fleeing domestic violence— 19 in emergency shelter and one in transitional shelter. (See Table 5.) Due to the confidential nature of information, the PIT Count Report does not include children and information on demographic composition is not available.

In the **Hawaii County**, the Child and Family Service (CFS) - West Hawaii Island provides shelter programs, specifically for sheltering Domestic Violence survivors and their children. In Fiscal Year 2021 (July 2020 to June 2021), 192 individual participants were served. Of these, 12 (or 6%) were under the age of 17, 172 (or 90%) were 18 years of age or older, and the ages of eight individuals (or 4%) were unknown. Of 192 individuals, 141 (or 73%) were reported as female, 49 (or 26%) as male, and the gender of two individuals (or 1%) were unknown.
Also, 38 individuals (or 20%) were reported as homeless. In general, most individual participants served identified as Caucasian, followed by Native Hawaiian, Asian, Hispanic or Latin, and Pacific Islander. There were also individuals who refused to provide their ethnicity, and those whose ethnicity was other, or unknown.

In **Kauai County**, the Young Women's Christian Association (YWCA), a provider which serves victims of domestic violence, sheltered 111 individuals between January and December 2021. Of 111 individuals served, 43 (or 39%) were under the age of 17, and 68 (or 61%) individuals were 18 years of age or older. Female individuals made up 85% of the total individuals served, while the remaining 15% served were male. Of the 111 individuals served, six (or 5%) identified as Hispanic or Latino, with ties to Latin America, of any race. There were 28 individuals (or 25%) who identified as Native Hawaiian, and one as Micronesian. Additionally, there were 34 individuals (or 31%) who identified as White or of European descent, 15 (or 14%) as Asian (including Central Asian, East Asian, South Asian and Southeast Asian), five as Black/African American (having origins in Sub-Saharan Africa), 18 (or 16%) as Multiracial, three (or 5%) as Native American. Data on Race/Ethnicity was not collected for one individual. Since the start of COVID-19, the YWCA reported a significant increase in the length of time individuals and families are staying in Shelter due to a lack of affordable housing options.

In **Maui County**, Women Helping Women (WHW), a provider which serves victims of domestic violence on Maui and Lanai, sheltered 207 individuals in 2021—193 on Maui and 14 on Lanai. Of 207 individuals served, 149 (or 72%) were adults and children in family households and 58 (28%) were adult individuals. For adults and children in families, the age group representing the highest count (of 44 individuals) was zero to four years of age, while 25 individuals were 25 to 34 years old. Children between five and nine, 10 and 17, and adults between 35 and 49 trended similarly. In age groups from 18 to 24 and 50 to 64, counts were significantly lower. Female adult individuals and family household individuals made up slightly over half (55%) of the 207 individuals served, while the other individuals (45%) were male and female children in family households. Of the 207 individuals served, 42 (20%) identified as Hispanic. There were 98 individuals who identified as Pacific Islander (including Native Hawaiian and Micronesian), 60

as White/Caucasian, 19 as Asian (including Chinese, Filipino, Japanese, Korean, Southeast Asian and Other Asian), 11 as Black/African American, 10 as Multiple Races, five as Native American/Alaskan, and four as Other (race not listed). Within 193 individuals served on Maui, half were from the Central Maui area (Kahului and Wailuku); a quarter from Paia, Makawao, and Kula; under a quarter from Lahaina and Kihei; and the remainder from Haiku, Hana and Hawaii Island (Hilo and Pepeeko). At its Lanai location, all individuals were from Lanai City. Nearly three quarters of adult and child individuals did not have income, while one quarter had monthly incomes of $4,000 or less. One person had a monthly income between $4,001 and $9,999.

On the Island of Molokai (Maui County), the Molokai Community Service Council provides services to victims of domestic violence through its Hale Hoomalu Domestic Violence Program. Annually, the Shelter provides an average of 800 bed days for women and children fleeing their homes due to domestic violence.

Across all neighbor island counties, the COVID-19 pandemic has led to an increase in domestic and intimate partner violence incidences due to stay-at-home mandates, meaning the size of this population may be greater than what is currently being reported.

Qualifying Population #4 – Other Populations:

Also included as qualifying populations are other populations, where assistance would: 1) prevent the family's homelessness or 2) serve those with the greatest risk of housing instability, defined by HUD as: a) has an annual income of less than or equal to 30% AMI and is experiencing severe cost burden or b) has an income less than or equal to 50% AMI and meets at least one of seven conditions in the At Risk of Homelessness definition at 24 CFR 91.5.

Other Populations					
County	Households with Income from 0% to 30% AMI and Experiencing Severe Cost Burden				
	Renters	% Renters	Owners	% Owners	Renters and Owners
Hawaii	3,035	59%	2,145	41%	5,180
Kauai	665	51%	650	49%	1,315
Maui	2,300	62%	1,420	38%	3,720
Total	6,000	59%	4,215	41%	10,215

Table 9 – Other Populations with Household Income from 0% to 30% AMI and Experiencing Severe Cost Burden
Data Source: 2014 – 2018 CHAS data

According to 2014-2018 Comprehensive Housing Affordability (CHAS) data, across the counties of Hawaii, Maui, and Kauai, there are at least 10,215 renter and owner households at with an annual income of 0% to 30% AMI, while experiencing severe housing cost burden (paying greater than 50% of monthly household income toward housing costs). These households are considered at greatest risk of housing instability—6,000 (or 59%) of which are renters. (See Table 9.) In Hawaii County, 5,180 households earning 0% to 30% AMI are severely cost burdened, of which 3,035 (or 59%) are renters. In Kauai County, 1,315 households earning 0% to 30% AMI are severely cost burdened, of which 665 (or 51%) are renters. In Maui County, 3,720 households earning 0% to 30% AMI are severely cost burdened, of which 2,300 (or 62%) are renters. Renter households earning 0% to 30% AMI are affected more by severe cost burden than owner households.

Other Populations					
County	Households with Income from 0% to 50% AMI and Experiencing at least 1 of 4 Housing Problems				
	Renters	% Renters	Owners	% Owners	Renters and Owners
Hawaii	6,965	56%	5,430	44%	12,395
Kauai	1,950	56%	1,525	44%	3,475
Maui	5,200	64%	2,975	36%	8,175
Total	14,115	59%	9,930	41%	24,045

Table 10 – Other Populations with Household Income from 0% to 30% AMI and Experiencing Severe Cost Burden
Data Source: 2014 – 2018 CHAS data

Also at greatest risk of housing instability are households with an annual income less than or equal to 50% AMI and which meet one of the conditions in the At Risk of Homelessness definition at 24 CFR 91.5. In each county's 5-year Consolidated Plan, one condition covered in household data is: Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, such as: 1) lacking a kitchen, 2) incomplete plumbing facilities, 3) overcrowding with more than one person per room, and 4) or experiencing housing cost burden greater than 30%, also known as "housing problems". 2014-2018 CHAS data reports 24,045 renter and owner households with an annual income between 0% and 50% AMI, who are also experiencing one or more of the four housing problems. In the counties of Hawaii, Maui, and Kauai, 14,115 households (59%) are renter households. (See Table 10.) In Hawaii County, there are 12,395 households earning 0% to 50% AMI and experiencing at least one of the four housing problems, of which 6,965 (or 56%) are renters. In Kauai County, there are 3,475 households earning 0% to 50% AMI and experiencing at least one of four of the housing problems, of which 1,950 (or 56%) are renters. In Maui County, 8,175 households earning 0% to 50% AMI are experiencing at least one of four of the housing problems, of which 5,200 (or 64%) are renters. Renter households earning 0% to 50% AMI are affected more by housing problems than owner households.

Households experiencing one or more housing problems described above represent a fraction of other qualifying populations. Households earning 0% to 50% AMI, while meeting other conditions at 24 CFR 91.5 such as: 1) Moved two or more times during the 60 days immediately preceding the application for homeless prevention assistance, 2) Living in a hotel or motel without assistance for low-income individuals, or 3) Exiting a publicly funded institution or system of care exist among other qualifying populations.

Describe the unmet housing and service needs of qualifying populations, including but not limited to:

- ***Sheltered and unsheltered homeless populations***
- ***Those currently housed populations at risk of homelessness***
- ***Those fleeing domestic violence, dating violence, sexual assault, stalking and human trafficking***
- ***Other families requiring services or housing assistance or to prevent homelessness; and those at greatest risk of housing instability or in unstable housing situations:***

Homeless Populations:

The 2020 PIT Count and 2021 HIC reports were used to inform the Homeless Needs and Gap Analysis, which produced a gap need for 19 family shelter beds for family household individuals and 411 shelter beds for individuals in the neighbor island counties. (See Table 2.) Gap need was calculated by comparing the total number of shelter beds in Emergency Shelters, Transitional Shelters, and Permanent Supportive housing facilities to the total (Sheltered and Unsheltered) homeless population. The Needs Assessment and Gap Analysis table reflects the situation of each unsheltered person entering a shelter and occupying a bed (on the night of the PIT Count), which resulted in a gap need for beds; however, it does not consider unmet needs of homeless individuals in emergency and transitional shelters who are ready to exit to permanent housing. Also, within the unsheltered population, there are individuals and families who elect not to receive assistance or placement in shelter facilities, which the method of calculation used in Table 2 does not capture.

Within the neighbor island counties, the greatest unmet need is for affordable rental housing units, for individuals and households experiencing homelessness—especially for those moving through and exiting emergency shelters, rapid re-housing programs, and transitional housing. Recent HMIS data (from October 2021) covering the neighbor island counties reports 937 households exiting all programs, of which 455 exits (or 49%) were to permanent housing. Creating more affordable housing options for qualifying clients could substantially increase the amount of exits to permanent housing and reduce the "bottleneck" effect occurring at the shelter level. The COVID-19 pandemic has also introduced a potential need for non-congregate shelters within the neighbor island counties to help meet the immediate shelter needs of the homeless population. During the consultation process and when determining unmet needs of the homeless population, TBRA was not identified as an unmet housing need.

To accompany the housing needs of the homeless population, there is a continued need for increased supportive services. Delivered through effective case management and referrals to appropriate community resources, supportive services will facilitate in making permanent, affordable rental housing achievable to ensure that families and individuals do not fall back into homelessness.

Individuals and Families at Risk of Homelessness:

Within the neighbor island counties, currently housed individuals and families at risk of homelessness need access to more permanent rental units that are affordable. Considering that annual earnings of at-risk households are equal to or less than 30% AMI and the frequent presence of cost burden, an increase in housing stock affordable to this qualifying population could reduce the number of falls into homelessness. Many households at risk of homelessness currently receive rental assistance or hold rental assistance vouchers but have difficulty finding an affordable rental unit where the voucher is accepted. Although at-risk households greatly benefit from rental assistance, TBRA was not identified as an unmet housing need and instead, the need for affordable rental units was determined as the unmet need. Non-congregate shelter units were also not identified as an unmet need for those at-risk of homelessness. These households are currently housed and instead of non-congregate shelter units, need affordable housing units that will reduce their housing cost burden.

To prevent households and individuals who are at-risk of homelessness from becoming homeless, there continues to be an ongoing need to pursue a persistent approach in offering homeless prevention services such as: counseling and advocacy to aid in connecting individuals or households to housing; budget and credit counseling resources; in-kind emergency assistance such as transportation vouchers; and other financial assistance for rent, mortgage, and utility payments to prevent eviction. As a result of the COVID-19 pandemic, the numbers of households, individuals financially affected, and those who may fall into the at-risk population resulting from the lift of the eviction moratorium are yet unknown.

Fleeing or Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking or Human Trafficking:

Since an emergency shelter is a first step for those fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking, shelters need to keep space available to victims in need. Although the stay is temporary, if shelters become full, survivors are often left facing the decision of returning to their abuser or situation— or risk homelessness. In all neighbor island counties, the high cost of living combined with the low housing opportunity makes it difficult for many victims and survivors to escape or transition from unstable situations. For this reason, access to decent, safe, and affordable rental housing, offers a safe choice and chance at achieving stability. During the consultation process and when determining unmet needs of those fleeing domestic violence, dating violence, sexual assault, stalking, or human trafficking, TBRA was not identified as an unmet housing need, likely due to the amount or rental assistance currently available through other programs. Non-congregate shelter was also not identified as an unmet housing need.

To obtain decent, safe, affordable housing, financial services such as budget and credit counseling are key in assisting those who find it challenging to find rental properties due to damaged credit, rental, and employment histories, resulting from abuse. Access to Legal Aid Services, Child Care and other Mainstream Services also continue to be necessary for survivors to achieve overall stability.

Other Populations:

Many families requiring services or housing assistance to prevent them from being homeless hold rental assistance vouchers from programs such as Section 8 but have difficulty accessing available units due to a lack of affordable rental housing inventory. For this reason, TBRA was not identified as an unmet need for this qualifying population. Instead, the greatest unmet need identified was expansion of the affordable rental housing inventory, will allow for more choice in the housing selection process and may result in better housing outcomes and retention. In the consultation process and while determining the unmet needs of this qualifying population, non-congregate shelters were not identified as an unmet need.

The level and types of services needed for this broad population widely varies. Outreach, Homelessness Prevention, and Rapid Re-housing services continue to be priority needs. To help individuals and households sustain permanent housing, ongoing availability of supportive services and financial assistance continues to be a need.

Identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, tenant based rental assistance, and affordable and permanent supportive rental housing:

The neighbor island counties of Hawaii, Kauai and Maui receive annual allocations of federal formula grant funding through the Community Development Block Grant (CDBG) program. In addition, the counties receive funding through the HOME Investment Partnerships (HOME) and National Housing Trust Fund (HTF) programs on a rotating basis through HHFDC. The County of Hawaii has been designated to receive such funding for Program Year 2021 (PY2021) and will utilize approximately $5.8 million of HOME and HTF funds toward the development of affordable rental and homeownership housing. The County of Hawaii also administers the Housing Choice Voucher (HCV) program and was awarded 110 ARP-Emergency Housing Vouchers, in addition to their HCV program vouchers, Mainstream vouchers, and Veterans Affairs Supportive Housing vouchers.

Emergency Rental Assistance (ERA) programs were set up within each county to assist households unable to pay rent and/or utilities due to effects of the COVID-19 pandemic, with priority being given to households with incomes below 50% AMI, where one or more household member(s) has been unemployed for 90 days prior to application or can demonstrate risk of experiencing homelessness or housing instability. The counties partnered with their service provider(s) or began accepting applications directly, in effort to provide assistance quickly and efficiently. Of the $10.4 million received by the County of Hawaii, $7.1 million has been disbursed. The County of Kauai received a total of $21 million and disbursed nearly $14.5 million. In Maui County, a total of $36 million was received, and $16.3 has been disbursed.

For the year ending June 2022, the state's Department of Human Services Homeless Programs Office (DHS-HPO) allocated a total of $1.7 million toward the Housing First Program and assistance for at-risk and homeless families within the three counties through selected service providers. The Housing First approach to ending homelessness emphasizes permanent housing placement for those experiencing homelessness and is incorporated into contracts for all State funded homeless programs including outreach, emergency and transitional shelter, rapid re-housing, and permanent supportive housing. Eligible uses of funding for at-risk and homeless families include financial assistance, permanent housing placement, and supportive services.

DHS-HPO also received supplemental allocation of PY2019 Emergency Solutions Grant (ESG) funds totaling $10,034,673 through the Coronavirus, Aid, Relief, and Economic Security (CARES) Act. These funds were purposed with providing immediate assistance and support to homeless individuals and families within the neighbor island counites battling the effects of COVID-19 in the form of emergency shelter operations, rapid re-housing financial assistance, and homelessness prevention financial assistance. To date, $1,661,891 has been expended.

Through the Coordinated Entry System (CES), homeless individuals and households have access to a variety of CoC-funded housing inventory types including congregate and non-congregate emergency shelters, transitional housing facilities, and permanent supportive housing. The 2021 BTG HIC was utilized to obtain the most current bed and unit inventory for each type of facility within the counties of Hawaii, Kauai, and Maui.

- Hawaii County has 10 congregate shelters with 254 beds and no non-congregate shelters. There are five transitional housing facilities (one for victims of domestic violence), with a total of 111 beds, and four permanent supportive housing (PSH) facilities (one for veterans) totaling 314 PSH beds.

- Kauai County has three congregate shelters (one for victims of domestic violence) with 46 beds and no non-congregate shelters. There are three transitional housing facilities with 29 beds, and four permanent housing facilities (one for veterans) totaling 89 PSH beds.

- Maui County has five congregate shelters with 154 beds and two non-congregate shelters with 304 beds. There is one transitional housing facility with one bed, and eight permanent supportive housing facilities (one for veterans) with a total of 263 PSH beds.

Identify any gaps within the current shelter and housing inventory as well as the service delivery system:

Data from the 2020 PIT Count and 2021 HIC were used to identify gaps within the current shelter inventory. This method of calculation produces a gap of 411 individual and 19 family beds (for adults with children) by comparing the number of beds in each facility for families and individuals with the total (sheltered and unsheltered) homeless population. (See Table 2.) Within the unsheltered population, there are individuals and families who elect not to receive assistance or placement in shelter facilities, which the method of calculation used in Table 2 does not account for.

Throughout the consultation process, the need for more affordable rental units was frequently voiced and input received suggested that increasing the inventory will in turn, alleviate the "bottleneck" effect at the sheltering level. County-specific 2014-2018 CHAS data also provides strong evidence that permanent affordable rental units continue to be an unmet need with a gap of 5,995 rental units, affordable to households or individuals earning 0% 30% and 30% to 50% of the area median income. (See Table 3.) Based on a Housing Demand Survey and Hawaii Housing Model, the 2019 Hawaii Housing Planning Study estimated a slightly higher total of 6,834 affordable rental units needed for neighbor island individuals and households within the 0% to 30% and 30% to 50% HUD income classifications by 2025.

Each neighbor island county works with its non-profit partners and within their CoC to maximize available resources in delivering services to those in need. Limited funding for providers and supportive services offered creates gaps within the service delivery system. A shortage of qualified case workers and lack of capacity also creates gaps in service delivery. As previously mentioned, there continues to be a need for supportive services to assist individuals and families facing homelessness, at-risk of homelessness, and exiting the shelter system to permanent housing.

Identify the characteristics of housing associated with instability and an increased risk of homelessness if the PJ will include such conditions in its definition of "other populations" as established in the HOME-ARP notice:

HHFDC will not further identify "other populations" within the qualifying populations already outlined.

Identify priority needs for qualifying populations:

Across the neighbor island counties, permanent affordable rental housing remains a priority need, which individuals and households within all four qualifying populations would greatly benefit from. For the homeless population, more affordable housing options could substantially increase the number of exits to permanent housing. Those at risk of homelessness need access to an expanded inventory of affordable for homelessness prevention. For a chance at achieving stability, those fleeing domestic or dating violence, sexual assault, stalking, or human trafficking also need decent, safe, affordable housing options. Lastly, many families requiring services or housing assistance to prevent them from being homeless hold rental assistance vouchers from programs such as Section 8 but have difficulty accessing available units due to a lack of affordable rental housing inventory.

Increasing the affordable rental housing inventory will allow for more choice in the housing selection process, which may result in better housing outcomes and retention. To help households or individuals across all four qualifying populations maintain permanent housing and achieve stability, an increase in supportive services has also been identified as a priority need (paired with access to affordable rental housing).

Explain how the level of need and gaps in its shelter and housing inventory and service delivery systems based on the data presented in the plan were determined:

Since providers under BTG and CoCs representing each county are the front line of service to individuals and households within qualifying populations, input received through consultation was widely used in determining the level of need and gaps in the shelter, housing inventory, and service delivery system. Data was retrieved from resources such as the 2020 BTG PIT Count Report, 2021 HIC, 2014-2018 CHAS data, the 2016 CHAS data dictionary, and 2019 Hawaii Planning Study. The level of need and gaps based on data presented in the plan were determined by comparing the size of each qualifying population with resources currently on hand to assist the population, shown in Tables 2 and 3. Current resources considered includes number of beds and units within each type of facility as well funding for rental assistance, outreach, rapid re-housing, and homelessness prevention services.

HOME-ARP Activities

Describe the method for soliciting application for funding and/or selecting developers, service providers, subrecipients and/or contractors and whether the PJ will administer eligible activities directly:

HHFDC intends to allocate its HOME-ARP funds to the neighbor island counties of Hawaii, Kauai and Maui, as State Recipients. Each county will issue its own Request for Proposals or

application to distribute its funds through a competitive process. The projects will be ranked and rated to assess program eligibility, needs, goals, applicant experience/capacity, etc.

Should a State Recipient be unable to identify an eligible HOME-ARP project(s) or meet the drawdown schedule for the HOME-ARP activities within a specified timeframe, HHFDC, in its sole discretion, shall seek alternate activities from the remaining State Recipients.

If any portion of the PJ's HOME-ARP administrative funds were provided to a subrecipient or contractor prior to HUD's acceptance of the HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the PJ's entire HOME-ARP grant, identify the subrecipient or contractor and describe its role and responsibilities in administering all of the PJ's HOME-ARP program:

No portion of HHFDC's HOME-ARP administrative funds were provided to a subrecipient or contractor prior to HUD's acceptance of the HOME-ARP allocation plan.

Use of HOME-ARP Funding					
FY2021 HOME-ARP Allocation	$6,413,733				
Use of HOME-ARP Funding	**Funding Amount**	County State Recipients			HHFDC
		Hawaii	Kauai	Maui	
Administration and Planning	**$831,715 (13%)**	$160,343	$160,343	$30,000	$481,029
Supportive Services	**$0**				
Acquisition and Development of Non-Congregate Shelters	**$0**				
Tenant Based Rental Assistance	**$0**				
Acquisition, Production or Rehabilitation of Affordable Rental Housing	**$5,582,018 (87%)**	$1,817,225	$1,817,225	$1,947,568	
Non-Profit Operating	**$0**				
Non-Profit Capacity Building	**$0**				
Total HOME-ARP	**$6,413,733**	$1,977,568	$1,977,568	$1,977,568	$481,029

Table 11 – Use of HOME-ARP Funding

Additional narrative, if applicable:
n/a

Describe how the characteristics of the shelter and housing inventory, service delivery system, and the needs identified in the gap analysis provided a rationale for the plan to fund eligible activities:

In developing the HOME-ARP Allocation Plan, information was gathered through consultation with BTG, individual Continuums of Care representing each island (Kauai Community Alliance, Maui Homeless Alliance, and Community Alliance Partners), and the Hawaii Public Housing Authority. Additionally, a meeting was held with the House Select Committee on COVID-19 Economic and Financial Preparedness (Housing Sub-Committee); the State's Adult Mental Health Division staff; and the Governor's Coordinator on Homelessness. The Hawaii Civil Rights Commission, Legal Aid Society of Hawaii, Women Helping Women, Child and Family Services – West Hawaii and East Hawaii, Women in Need, YWCA Kauai, Veterans of Foreign Wars Hawaii Department, and U.S. Department of Veterans Affairs- Hilo Vet Center were also consulted in developing this plan. Data was also gathered from various sources including the 2020 BTG PIT Count Report, 2021 HIC, 2014-2018 CHAS data, 2016 CHAS data dictionary and, 2019 Hawaii Planning Study.

During the consultation process, input gathered identified an insufficient amount of affordable rental units in comparison to the amount of rental assistance available across the neighbor island counties. The 2021 combined budget for Housing Choice Voucher (Section 8) programs amounts to approximately $55.9 million. In addition, nearly $67.4 million in Emergency Rental Assistance (ERA) Program funds was received due to effects of COVID-19. To assist homeless and those at risk of homelessness in the neighbor island counties, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) provided supplemental funds under the Emergency Solutions Grant (ESG-CV) Program in the amount of $10,034,673 for Homelessness Prevention, Rapid Re-housing, Emergency Shelter, Street Outreach, and administrative purposes.

Although significant gaps continue to exist within the shelter and service delivery system, the gap identified across all four qualifying populations exists within the housing inventory—specifically, a lack of affordable rental housing units. The homeless population, as well as those fleeing domestic violence, dating violence, sexual assault, stalking, and human trafficking need access to decent, safe, affordable rental housing units when exiting the shelter system and would greatly benefit from supportive services to retain their housing and achieve overall stability. Increasing the affordable rental housing inventory for these qualifying populations could help alleviate overcrowding at the shelter level and shorten the stay of individuals and households in the system. For those at risk of homelessness and other populations, rental assistance and other financial assistance are frequently tapped, however, to reduce severe cost burden and other housing problems, units truly affordable to this qualifying population are still needed.

HOME-ARP Production Housing Goals

Estimate the number of affordable rental housing units for qualifying populations that the PJ will produce or support with its HOME-ARP allocation:

Use of HOME-ARP Funding	Proposed Total HOME-ARP Units	County State Recipients		
		Hawaii	Kauai	Maui
Development of Affordable Rental Housing	21	6	9	6

Table 12 – Use of HOME-ARP Funding

Describe the specific affordable rental housing production goal that the PJ hopes to achieve and describe how it will address the PJ's priority needs:

HOME-ARP funds will be utilized for the development of affordable rental housing within the three counties of Hawaii, Kauai, and Maui. Each county will deliver a rental project to meet the needs of the Qualifying Population for a proposed total of 21 HOME-ARP units. (See Table 12.) The actual delivery of units will depend on the type of project, location, and available resources to assist the project. The production and preservation of affordable housing provides housing stability that assists families in their efforts to attain economic self-sufficiency.

Preferences

Identify whether the PJ intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project:
n/a

If a preference was identified, describe how the PJ will use HOME-ARP funds to address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in the preference:

n/a. HHFDC does not intend to provide any preferences and eligibility for HOME-ARP assisted units will be limited to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with the HOME-ARP requirements. Each HOME-ARP assisted project will maintain a project-specific waitlist and may accept referrals from the Coordinated Entry system as well as applicants or referrals from other agencies that represent all qualifying households. Local service providers such as Women in Need, the YWCA and Child and Family Services may provide referrals for the fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking population.

HOME-ARP Refinancing Guidelines

If the PJ intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, the PJ must state its HOME-ARP refinancing guidelines in accordance with 24 CFR 92.206(b). The guidelines must describe the conditions under which the PJ will refinance existing debt for a HOME-ARP rental project, including:

- ***Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity***
  n/a

- ***Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.***
  n/a
- ***State whether the new investment is being made to maintain current affordable units; create additional affordable units, or both.***
  n/a
- ***Specify whether the new investment is being made to maintain current affordable units, create additional affordable units or both.***
  n/a
- ***Specify the required compliance period, whether it is the minimum 15 years or longer.***
  n/a

- ***State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.***
  n/a
- ***Other requirements in the PJ's guidelines, if applicable.***
  n/a

NOTICE CPD-21-10, REQUIREMENTS FOR THE USE OF FUNDS IN THE HOME-ARP PROGRAM: APPENDIX C

U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

CPD Division Directors
All HOME Coordinators
All HOME Participating Jurisdictions

Notice: CPD-21-10

Issued: September 13, 2021

Expires: **This NOTICE is effective until it is amended, superseded, or rescinded**
Cross Reference: 24 CFR Part 92

Subject: Requirements for the Use of Funds in the HOME-American Rescue Plan Program

Table of Contents

I. PURPOSE 2
II. BACKGROUND 2
III. ESTABLISHMENT OF HOME-ARP REQUIREMENTS 2
IV. QUALIFYING POPULATIONS, TARGETING AND PREFERENCES 3
V. HOME-ARP ALLOCATION PLAN 12
VI. ELIGIBLE ACTIVITIES 18
A. Administration and Planning 18
B. HOME-ARP Rental Housing 20
C. Tenant-Based Rental Assistance (TBRA) 38
D. Supportive Services 42
E. Acquisition and Development of Non-Congregate Shelter 55
F. Nonprofit Operating and Capacity Building Assistance 67
VII. OTHER FEDERAL REQUIREMENTS 68
VIII. PROGRAM ADMINISTRATION 75
IX. PERFORMANCE REVIEWS 95
X. FINDING OF NO SIGNIFICANT IMPACT 97
Appendix – Waivers and Alternative Requirements for HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP)

I. PURPOSE

This Notice establishes requirements for funds appropriated under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) ("**ARP**") for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services.

II. BACKGROUND

On March 11, 2021, President Biden signed ARP into law, which provides over $1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses.

To address the need for homelessness assistance and supportive services, Congress appropriated $5 billion in ARP funds to be administered through HOME to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other vulnerable populations. These activities include: (1) development and support of affordable housing, (2) tenant-based rental assistance (TBRA), (3) provision of supportive services; and (4) acquisition and development of non-congregate shelter units. The program described in this notice for the use of the $5 billion in ARP funds is the **HOME-American Rescue Plan** or "**HOME-ARP.**"

ARP defines qualifying individuals or families as those that are (1) homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. 11302(a)) ("**McKinney-Vento**"); (2) at risk of homelessness, as defined in section 401 of McKinney-Vento; (3) fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; (4) part of other populations where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability; or (5) veterans and families that include a veteran family member that meet the criteria in one of (1)-(4) above.

ARP authorized HUD to allocate HOME-ARP funds to states, units of general local government, insular areas, and consortia of units of general local government that qualified for an allocation of HOME funds in Fiscal Year (FY) 2021, pursuant to section 217 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended (42 U.S.C. 12701 et seq.) ("**NAHA**"). On April 8, 2021, HUD allocated HOME-ARP funds to 651 grantees using the HOME formula established at 24 CFR 92.50 and 92.60. The HOME-ARP allocation amounts can be found here.

III. ESTABLISHMENT OF HOME-ARP REQUIREMENTS

ARP provides funds for homelessness and supportive services assistance under the HOME statute of Title II of NAHA (42 U.S.C. 12721 et seq.) and authorizes the Secretary of HUD to waive or specify alternative requirements for any provision of NAHA or regulation for the administration of the HOME-ARP program, except requirements related to fair housing, civil rights, nondiscrimination, labor standards, and the environment, upon a finding that the waiver

or alternative requirement is necessary to expedite or facilitate the use of HOME-ARP funds. Pursuant to ARP, the per-unit cost limits (42 U.S.C. 12742(e)), commitment requirements (42 U.S.C. 12748(g)), matching requirements (42 U.S.C. 12750), and set-aside for housing developed, sponsored, or owned by community housing development organizations (CHDOs) (42 U.S.C. 12771) in NAHA do not apply to HOME-ARP funds.

This Notice describes the requirements applicable to a participating jurisdiction's (PJ's) use of HOME-ARP funds. Consolidated plan requirements for HOME are in title I of NAHA and 24 CFR part 91. HOME program regulations are in 24 CFR part 92. Except as described in ARP and this Notice, HOME statutory and regulatory provisions apply to a PJ's use of HOME-ARP funds. Sections I-IX of this Notice describe the HOME-ARP requirements imposed on a PJ for the use of HOME-ARP funds to assist the qualifying populations through HOME-ARP projects or activities. The Appendix describes the waivers and alternative requirements imposed on PJs for the use of HOME-ARP funds and is included in any reference to "this Notice." Specific citations in the Notice shall mean the statute or regulation cited, as may be revised by the Appendix to this Notice. PJs and insular areas must comply with all applicable statutory, regulatory, and alternative requirements, as described in this Notice, including the Appendix.

IV. QUALIFYING POPULATIONS, TARGETING AND PREFERENCES

ARP requires that funds be used to primarily benefit individuals and families in the following specified "qualifying populations." Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population or required for income determinations in HOME-ARP eligible activities must use the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1).

A. Qualifying Populations

1. **Homeless**, as defined in 24 CFR 91.5 *Homeless* (1), (2), or (3):

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

(iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

(ii) No subsequent residence has been identified; and

(iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

(i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

(ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

(iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

(iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

2. **At risk of Homelessness**, as defined in 24 CFR 91.5 *At risk of homelessness*:

(1) An individual or family who:

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

(ii) Does not have sufficient resources or support networks, *e.g.,* family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition in this section; and

(iii) Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;

(2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

(3) A child or youth who does not qualify as "homeless" under this section but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42

U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

3. **Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**, as defined by HUD.

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

   Domestic violence, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:

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

   Dating violence which is defined in 24 CFR 5.2003 means violence committed by a person:

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

Sexual assault which is defined in 24 CFR 5.2003 means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1) Fear for the person's individual safety or the safety of others; or
2) Suffer substantial emotional distress.

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

1) *Sex trafficking* means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

2) *Labor trafficking means* the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

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

(1) **Other Families Requiring Services or Housing Assistance to Prevent Homelessness** is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

(2) **At Greatest Risk of Housing Instability** is defined as household who meets either paragraph (i) or (ii) below:

(i) has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);

(ii) has annual income that is less than or equal to 50% of the area median income, as determined by HUD, **AND** meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at 24 CFR 91.5:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan

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

B. Use of Funds to Benefit Qualifying Populations

ARP states that funds must be used to primarily benefit the qualifying populations through the four eligible activities: (1) TBRA, (2) development and support of affordable housing, (3) provision of supportive services; and (4) acquisition and development of non-congregate shelter (NCS) units. Recognizing the urgent needs of individuals and families in qualifying populations, HUD is requiring that:

- 100% of HOME-ARP funds used by a PJ for TBRA, supportive services, and acquisition and development of non-congregate shelter units must benefit individuals and families in qualifying populations. Individuals and families in qualifying populations may be assisted by one or more of the HOME-ARP eligible activities, consistent with the requirements in this Notice.
- Not less than 70 percent of affordable rental housing units acquired, rehabilitated, or constructed with HOME-ARP funds by a PJ must be occupied by households in the qualifying populations. Units that are not restricted to occupancy by qualifying populations are subject to income targeting and rent requirements established under the

HOME-ARP Rental Program rules and are only permitted in projects with rental units restricted for occupancy by qualifying populations.

HUD recognizes that, because many households in the qualifying populations are unable to pay rents sufficient to cover unit operating costs, PJs and project owners should attempt to obtain Federal or state project-based rental subsidies, if available. Since project-based rental subsidies can be difficult to secure, additional flexibility may be necessary to structure and underwrite projects so that they remain both affordable and financially viable. HUD is providing PJs with additional flexibilities in Section VI.B. to structure and underwrite HOME-ARP rental projects so they remain financially viable during the minimum compliance period. One of these flexibilities is permitting up to 30 percent of HOME-ARP rental housing units funded by a PJ to be occupied by low-income households. PJs are encouraged to use this flexibility only when it is required to facilitate development of a HOME-ARP rental project.
PJs must determine and document that households meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to these populations, that households are low-income.

C. Preferences Among Qualifying Populations, Referral Methods, and Subpopulations

1. Preferences

ARP establishes the qualifying populations that are eligible for assistance with HOME-ARP funds. A PJ may establish reasonable preferences among the qualifying populations to prioritize applicants for HOME-ARP projects or activities based on the PJ's needs and priorities, as described in its HOME-ARP allocation plan. For example, a PJ may set a preference among qualifying individuals and families for a HOME-ARP non-congregate shelter for individuals and families who are homeless; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; and veterans and families with a veteran family member that meet the criteria of one of these prior qualifying populations, consistent with its HOME-ARP allocation plan.

The PJ must comply with all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a) when applying preferences through its referral methods. Persons who are eligible for a preference must have the opportunity to participate in all HOME-ARP activities of the PJ in which they are eligible under this Notice, including activities that are not separate or different, and cannot be excluded because of any protected characteristics or preferential status.

Targeted assistance: If HOME-ARP funds are used for TBRA, the PJ may establish a preference for individuals with special needs or persons with disabilities among the HOME-ARP qualifying populations. Within the qualifying populations, participation may be limited to persons with a specific disability only, if necessary, to provide effective housing, aid, benefit, or services that would be as effective as those provided to others in accordance with 24 CFR 8.4(b)(1)(iv). The PJ may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) within the qualifying

populations only if the specific category is identified in the PJ's HOME-ARP allocation plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

2. Referral Methods for Projects or Activities

A PJ may use the referral methods described below to administer HOME-ARP assistance to qualifying individuals and families. Regardless of the referral method used by the PJ, HUD holds the PJ responsible for determining and documenting that beneficiaries meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to qualifying populations, that beneficiaries are low-income.

A PJ may use the coordinated entry or coordinated entry process (CE) of a continuum of care (CoC) for referrals for projects and activities as described below. Under 24 CFR 578.3, a CE is a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals within a defined area. HUD requires each CoC to establish and operate a CE with the goal of increasing the efficiency of local crisis response systems and improving fairness and ease of access to resources, including mainstream resources. A PJ may permit a CoC CE to collect information and documentation required to determine whether an individual or family meets the criteria of a HOME-ARP qualifying population at any point in the coordinated entry process, (i.e., after or concurrently with the assessment and intake processes) as long as that information is not used to rank a person for HOME-ARP assistance other than as specified by the preferences or method of prioritization established by the PJ, in accordance with HOME-ARP requirements. If the PJ uses CE, the PJ cannot require HOME-ARP victim service providers to use the CE but may permit them to do so.

The PJ must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when using the following referral methods:

i. Use of Expanded CE in HOME-ARP

Under this referral method, a PJ may use a CE established by a CoC operating within its boundaries for one or more projects or activities if the CE accepts all HOME-ARP qualifying populations eligible for those activities or projects, in accordance with the preferences and prioritization, if any, established or approved by the PJ in its HOME-ARP allocation plan and imposed through the PJ's written agreements.

Before using a CoC's CE, PJs should consider whether the CE covers the same service area as the HOME-ARP project or activity that would use that CE. At a minimum, the PJ must establish policies and procedures that describe the relationship of the geographic area(s) served by the project or activity to the geographic area(s) covered by the CoC CE and address how the CE will provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

The PJ must require a project or activity to use CE along with other referral methods (as provided in section ii below) or to use only a project/activity waiting list (as provided in section iii below) if:

1. the CE does not have a sufficient number of qualifying individuals and families to refer to the PJ for the project or activity;
2. the CE does not include all HOME-ARP qualifying populations; or,
3. the CE fails to provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

ii. Use of CE with Other Referral Methods

The PJ may use a CoC CE with additional referrals from outside organizations or project-specific waiting lists consistent with HOME-ARP requirements. If using this referral method, the PJ must establish or approve any preferences or prioritization criteria applied by a CoC CE or other referral sources. The PJ may also use a waiting list to receive referrals from a CoC CE and other referral agencies for a project or activity, where a CoC CE or referral agency refers an applicant that is placed on the waiting list for that project or activity in chronological order.

If applicable, a PJ must establish policies and procedures for applying a PJ's established preferences and method of prioritization, if any, when accepting direct referrals from a CoC CE and other referral agencies and must document that such the policies and procedures were followed for each applicant served.

iii. Use of a Project/Activity Waiting List

The PJ may establish a waiting list for each HOME-ARP project or activity. All qualifying individuals or families must have access to apply for placement on the waiting list for an activity or project. Qualifying individuals or families on a waiting list must be accepted in accordance with the PJ's preferences, if any, consistent with this Notice or, if the PJ did not establish preferences, in chronological order, insofar as practicable.

3. Limiting Eligibility to Subpopulations

PJs must follow all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, section 504 of Rehabilitation Act, HUD's Equal Access Rule, and the Americans with Disabilities Act, as applicable.

HOME-ARP rental housing or NCS may be limited to a specific subpopulation of a qualifying population identified in Section IV.A. of this Notice, so long as admission does not discriminate against any protected class under federal nondiscrimination laws in 24 CFR 5.105 (*e.g.*, the housing may be limited to homeless households and at risk of homelessness households,

veterans and their families, victims of domestic violence, dating violence, sexual assault, stalking or human trafficking and their families).

Recipients may limit admission to or provide a preference for HOME-ARP rental housing or NCS to households who need the specialized supportive services that are provided (e.g., domestic violence services). However, no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

Consistent with the statutory authority under ARP, HOME-ARP NCS may be converted to permanent housing under the CoC program or used as shelters under the ESG program, when all program and fair housing and nondiscrimination requirements are met. As such, HOME-ARP NCS may need to limit eligibility to households that are homeless and/or at risk of homelessness if the shelter will be converted to permanent housing under the CoC program or used as an emergency shelter in the ESG program.

V. HOME-ARP ALLOCATION PLAN

PJs develop annual action plans as part of their application for HOME funding. To receive its HOME-ARP funds, a PJ must engage in consultation and public participation processes and develop a HOME-ARP allocation plan that meets the requirements established in this section of the Notice and submit it to HUD as a substantial amendment to its Fiscal Year 2021 annual action plan. HUD is using the waiver and alternative requirement authority provided by ARP to establish requirements for the HOME-ARP allocation plan in this Notice. The HOME-ARP allocation plan must describe how the PJ intends to distribute HOME-ARP funds, including how it will use these funds to address the needs of HOME-ARP qualifying populations. A PJ's HOME-ARP allocation plan must include:

- A summary of the consultation process and results of upfront consultation;
- A summary of comments received through the public participation process and a summary of any comments or recommendations not accepted and the reasons why;
- A description of HOME-ARP qualifying populations within the jurisdiction;
- An assessment of unmet needs of each qualifying population;
- An assessment of gaps in housing and shelter inventory, homeless assistance and services, and homelessness prevention service delivery system;
- A summary of the planned use of HOME-ARP funds for eligible activities based on the unmet needs of the qualifying populations;
- An estimate of the number of housing units for qualifying populations the PJ will produce or preserve with its HOME-ARP allocation; and
- A description of any preferences for individuals and families in a particular qualifying population or a segment of a qualifying population.

All the above required elements of the HOME-ARP allocation plan shall be part of the FY 2021 annual action plan for purposes of the HOME-ARP program. Consequently, PJs are not required to amend their consolidated plans.

A. Consultation

Before developing its HOME-ARP allocation plan, a PJ must consult with agencies and service providers whose clientele include the HOME-ARP qualifying populations to identify unmet needs and gaps in housing or service delivery systems. In addition, a PJ should use consultation to determine the HOME-ARP eligible activities currently taking place within its jurisdiction and potential collaborations for administering HOME-ARP. This consultation will provide a basis for the PJ's strategy for distributing HOME-ARP funds for eligible activities to best meet the needs of qualifying populations. At a minimum, a PJ must consult with the CoC(s) serving the jurisdiction's geographic area, homeless and domestic violence service providers, veterans' groups, public housing agencies (PHAs), public agencies that address the needs of the qualifying populations, and public or private organizations that address fair housing, civil rights, and the needs of persons with disabilities. State PJs are not required to consult with every PHA or CoC within the state's boundaries; however, local PJs must consult with all PHAs (including statewide or regional PHAs) and CoCs serving the jurisdiction. In its plan, a PJ must describe its consultation process, list the organizations consulted, and summarize the feedback received from these entities.

B. Public Participation

PJs must provide for and encourage citizen participation in the development of the HOME-ARP allocation plan. Before submitting the HOME-ARP allocation plan to HUD, PJs must provide residents with reasonable notice and an opportunity to comment on the proposed HOME-ARP allocation plan of no less than 15 calendar days. The PJ must follow its adopted requirements for "reasonable notice and an opportunity to comment" for plan amendments in its current citizen participation plan. In addition, PJs must hold at least one public hearing during the development of the HOME-ARP allocation plan prior to submitting the plan to HUD.

For the purposes of HOME-ARP, PJs are required to make the following information available to the public:

- The amount of HOME-ARP funds the PJ will receive.
- The range of activities the PJ may undertake.

A PJ must consider any comments or views of residents received in writing, or orally at a public hearing, when preparing the HOME-ARP allocation plan. In its plan, a PJ must describe its public participation process, including any efforts made to broaden public participation. In its plan, the PJ must also include a summary of comments and recommendations received through the public participation process and any comments or recommendations not accepted and the reasons why.

Throughout the HOME-ARP allocation plan public participation process, the PJ must follow its applicable fair housing and civil rights requirements and procedures for effective communication, accessibility and reasonable accommodation for persons with disabilities and providing meaningful access to participation by limited English proficient (LEP) residents that are in its current citizen participation plan as required by 24 CFR 91.105 and 91.115.

C. HOME-ARP Allocation Plan Requirements

The HOME-ARP allocation plan must describe the distribution of HOME-ARP funds and the process for soliciting applications and/or selecting eligible projects. The plan must also identify any preferences being established for eligible activities or projects. However, PJs are not required to identify specific projects that will be funded in the HOME-ARP allocation plan.

1. **Needs Assessment and Gaps Analysis:** A PJ must evaluate the size and demographic composition of qualifying populations within its boundaries and assess the unmet needs of those populations. In addition, a PJ must identify any gaps within its current shelter and housing inventory as well as the service delivery system. A PJ should use current data, including point in time count, housing inventory count, or other data available through CoCs, and consultations with service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services. A PJ should identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing. A PJ must consider the housing and service needs of qualifying populations, including but not limited to:
    - Sheltered and unsheltered homeless populations;
    - Those currently housed populations at risk of homelessness;
    - Other families requiring services or housing assistance to prevent homelessness; and
    - Those at greatest risk of housing instability or in unstable housing situations.

    A PJ should include data in its HOME-ARP allocation plan that describes the qualifying populations.

    In addition, a PJ must include a narrative description that:
    - Identifies the characteristics of housing associated with instability and an increased risk of homelessness if the PJ will include such conditions under HUD's definition of "other populations" as established in Section IV.A.4.2.ii.G. of this Notice.
    - Identifies the PJ's priority needs for qualifying populations; and,
    - Explains how the PJ determined the level of need and gaps in its shelter and housing inventory and service delivery systems.

2. **HOME-ARP Activities:** The HOME-ARP allocation plan must describe how a PJ will distribute HOME-ARP funds in accordance with its priority needs. The plan must describe the PJ's method for soliciting applications for funding and/or selecting developers, service providers, subrecipients and/or contractors and whether the PJ will administer eligible activities directly. If the PJ will provide any portion of its HOME-ARP administrative funds to a subrecipient or contractor prior to HUD's acceptance of the PJ's HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the PJ's entire HOME-ARP grant, the plan must identify the subrecipient or contractor and describe its role and responsibilities in administering all of the PJ's HOME-ARP program.

    PJs must indicate in the HOME-ARP allocation plan the amount of HOME-ARP funding that is planned for each eligible HOME-ARP activity type, including administrative and

planning activities. In addition, a PJ must demonstrate that any planned funding for nonprofit organization operating assistance, as described in Section VI.F, nonprofit capacity building, and administrative costs is within HOME-ARP limits. PJs must also include a narrative description about how the characteristics of its shelter and housing inventory, service delivery system, and the needs identified in the PJ's gap analysis provided a rationale for its plan to fund eligible activities.

3. **HOME-ARP Production Housing Goals:** The HOME-ARP allocation plan must estimate the number of affordable rental housing units for qualifying populations that a PJ will produce or support with its HOME-ARP allocation. The plan must also include a narrative about the specific affordable rental housing production goal that the PJ hopes to achieve and describe how it will address the PJ's priority needs.

4. **Preferences:** The HOME-ARP allocation plan must identify whether the PJ intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project. For example, PJs may include a preference for:
    - homeless individuals and families as defined in the ESG and CoC programs;
    - individuals with special needs or persons with disabilities among qualifying individuals and families;
    - a specific category of qualifying individuals and families (e.g., chronically homeless as defined in 24 CFR 91.5).

    PJs are not required to describe specific projects to which the preferences will apply in the HOME-ARP allocation plan. However, a PJ must explain how the use of a preference or method of prioritization will address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or category of qualifying population, consistent with the PJ's needs assessment and gap analysis. The PJ must also describe how it will still address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in a preference through the use of HOME-ARP funds.

    Preferences cannot violate any applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a). The PJ must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when establishing preferences or methods of prioritization.

5. **HOME-ARP Refinancing Guidelines:** If a PJ intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, it must state its refinancing guidelines in accordance with 24 CFR 92.206(b)(2). The guidelines must describe the conditions under with the PJ will refinance existing debt for a HOME-ARP rental project. At a minimum, the guidelines must:

    - Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity.

- Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.
- State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.
- Specify whether the required compliance period is the minimum 15 years or longer.
- State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.

6. **Substantial Amendments to the HOME-ARP Allocation Plan:** PJs must make a substantial amendment to the HOME-ARP allocation plan for changes in the method of distributing funds; to carry out an activity not previously described in the plan; or, to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan. In addition, the requirements for substantial amendments at 24 CFR 92.63 apply to the HOME-ARP allocation plan for insular areas. PJs are not required to make a substantial amendment to describe individual projects selected for funding if the eligible activity is included in the PJ's plan. PJs must make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission. Upon completion of the public comment period, PJs must submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan as described in Section V.D.

7. **Certifications and SF-424:** PJs must submit the required certifications in accordance with the requirements in this Notice, including the following:

   a. Affirmatively Further Fair Housing;
   b. Uniform Relocation Assistance and Real Property Acquisition Policies Act and Anti-displacement and Relocation Assistance Plan;
   c. Anti-Lobbying;
   d. Authority of Jurisdiction;
   e. Section 3; and,
   f. HOME-ARP specific certification that a PJ will only use HOME-ARP funds consistent with ARP and the HOME-ARP Notice for eligible activities and eligible costs.

   PJs must also submit the SF-424, SF-424B, and SF-424D with the HOME-ARP allocation plan.

D. Submission and Review Process

1. **HOME-ARP Submission and the eCon Planning Suite:** Upon completion of the HOME-ARP allocation plan, a PJ must submit the HOME-ARP allocation plan to HUD. To submit the HOME-ARP allocation plan, PJs must follow the process in IDIS to make an amendment to the Fiscal Year (FY) 2021 annual action plan. Once the FY 2021 annual action plan is reopened, a PJ must upload a Microsoft Word or PDF version of the plan as an attachment next to the "HOME-ARP allocation plan" option on the AD-26 screen (for

PJs whose FY. 2021 annual action plan is a Year 2-5 annual action plan) or the AD-25 screen (for PJs whose FY 2021 annual action plan is a Year 1 annual action plan that is part of the 2021 consolidated plan), unless instructed by HUD to follow a different submission procedure. PJs are not required to make any other edits to the FY 2021 annual action plan or applicable consolidated plan screens in the eCon Planning Suite. For more information on how to upload an attachment in the eCon Planning Suite, PJs can refer to the eCon Planning Suite Desk Guide.

2. **HUD Review of the HOME-ARP Allocation Plan:** The PJ must submit its HOME-ARP allocation plan to HUD for review in accordance with 24 CFR 91.500, as revised by this Notice. Unless instructed otherwise by HUD, the HOME-ARP allocation plan is received by HUD when the SF-424 is submitted electronically, which means that it is uploaded in the eCon Planning Suite as an attachment on AD-25 or AD-26 screen, as applicable, and the action plan status is changed to "Submitted for Review." HUD will review a PJ's HOME-ARP allocation plan to determine that it is:
   - Substantially complete, and
   - Consistent with the purposes of ARP.

   HUD may disapprove a PJ's HOME-ARP allocation plan in accordance with 24 CFR 91.500(b). HUD may also disapprove a HOME-ARP allocation plan or a portion of a plan if HUD determines that the plan is inconsistent with the purposes of ARP or substantially incomplete. A PJ's plan is inconsistent with ARP if it allocates HOME-ARP funds for uses other than a HOME-ARP eligible activity, as described in this Notice. A PJ's HOME-ARP allocation plan is substantially incomplete if:
   - The PJ does not complete the required public participation or consultation or fails to describe those efforts in the plan;
   - The PJ fails to include the required elements outlined in this Notice, including the amount of HOME-ARP funds for each eligible HOME-ARP activity type;
   - The PJ fails to identify and describe the responsibilities of the subrecipient or contractor administering all of its HOME-ARP award, if applicable; or,
   - HUD rejects the PJ's HOME-ARP certification as inaccurate.

   In accordance with section 105(c) of NAHA (42 U.S.C. 12705(c)) and 24 CFR 91.500(a), if the PJ's HOME-ARP allocation plan is not disapproved within 45 days, then the plan is deemed approved 45 days after HUD receives the plan, and HUD shall notify the PJ that the plan is accepted.

   If HUD determines that the plan is substantially incomplete or that the plan is inconsistent with ARP, HUD will notify the PJ in writing with the reasons for disapproval, in accordance with 24 CFR 91.500(c). If a PJ's plan is disapproved, the PJ may revise or resubmit the plan for HUD review within 45 days after the first notification of disapproval. HUD will respond to accept or disapprove the resubmitted plan within 30 days of receiving the revisions or resubmission.

   Once HUD notifies a PJ that the plan is accepted, the PJ must make the final HOME-ARP allocation plan available to the public in accordance with the same requirements in the PJ's

current citizen participation plan that are followed to make the PJ's adopted consolidated plan and substantial amendments available to the public, including the availability of materials in a form accessible to persons with disabilities, and translated materials in different languages to accommodate LEP persons, upon request.

3. **HUD Review of the HOME-ARP Allocation Plan for Insular Areas:** In addition to the standards for review described in Section V.D.2, HUD will review an insular area's HOME-ARP allocation plan in accordance with 24 CFR 92.62. If HUD cannot make a determination based on the information submitted that the HOME-ARP allocation plan complies with HOME-ARP allocation plan requirements, or if the eligible activities described in the plan are not within the insular area's management capability as demonstrated by past performance in housing and community development programs, HUD will notify the insular area within 30 days of receipt of the HOME-ARP allocation plan that supporting documentation is needed. The insular area will have a mutually agreed upon period to submit the necessary supporting information or to revise the eligible activities in its HOME-ARP allocation plan.

VI. ELIGIBLE ACTIVITIES

A. Administration and Planning

The PJ may expend, for payment of reasonable administrative and planning costs, up to 15 percent of its HOME-ARP allocation. Reasonable administrative and planning costs for the HOME-ARP program include:

1. Reasonable costs of overall HOME-ARP program management, coordination, monitoring, and evaluation. Such HOME-ARP costs include, but are not limited to, necessary expenditures for the following:

    a. Salaries, wages, and related costs of the PJ's staff. If a PJ charges costs to this category, the PJ may either include the entire salary and related costs allocable to the HOME-ARP program of each person whose *primary* responsibilities with regard to the HOME-ARP program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes *any* program administrative assignments. A PJ may only use one of these two methods. Program administration includes:
        i. Developing systems and schedules for complying with HOME-ARP program requirements, including systems to prevent a duplication of benefits among beneficiaries of HOME-ARP activities;
        ii. Developing interagency agreements and agreements with entities receiving HOME-ARP funds;
        iii. Monitoring HOME-ARP activities for progress and compliance with HOME-ARP program requirements;
        iv. Preparing HOME-ARP reports and other documents related to the HOME-ARP program for submission to HUD;

v. Coordinating the resolution of audit and monitoring findings on HOME-ARP activities;
vi. Evaluating HOME-ARP program results against stated objectives in the HOME-ARP allocation plan, and
vii. Managing or supervising persons whose primary responsibilities with regard to the HOME-ARP program include such assignments as those described above.

b. Travel costs incurred for official business in carrying out the HOME-ARP program.

c. Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services.

d. Other costs for goods and services required for administering the HOME-ARP program, such as: rental or purchase of equipment, insurance, information systems necessary to track and implement beneficiaries of HOME-ARP activities in accordance with the requirements of this Notice, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

e. Costs of administering HOME-ARP TBRA and HOME-ARP supportive services programs.

2. Staff and overhead costs of the PJ directly related to carrying out a HOME-ARP project, in accordance with 24 CFR 92.207(b).

3. The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME-ARP funds.

4. Activities to affirmatively further fair housing (AFFH) in accordance with 24 CFR 5.151 and the PJ's certification as required under this Notice and 24 CFR 5.152. The AFFH definition in HUD's Interim Final Rule entitled, "Restoring Affirmatively Furthering Fair Housing Definitions and Certifications" (86 FR 30779, June 10, 2021), as amended, at 24 CFR 5.151, and the AFFH certification requirement, at 24 CFR 5.152, available at https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications.

5. Indirect costs may be charged to the HOME-ARP program under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E, as amended.

6. Preparation of the HOME-ARP allocation plan as required in this Notice. Preparation includes the costs of public hearing, consultations, and publications.

7. Costs of complying with the applicable Federal requirements in 24 CFR part 92, subpart H. Project-specific environmental review costs may be charged as administrative or project costs in accordance with 24 CFR 92.206(d)(8) and is at the discretion of the PJ.

Funds available under the HOME-ARP appropriation for administration and planning may not be used to pay costs attributable to the regular HOME Program.

PJs may provide all or a portion of its HOME-ARP administrative funds to subrecipients and contractors that are administering activities on behalf of the PJ (e.g., CoC entity, other non-Federal entity), in accordance with the requirements in this Notice. However, from the obligation date of the HOME-ARP funds in the HOME-ARP Grant Agreement and prior to HUD's acceptance of the PJ's HOME-ARP allocation plan, a subrecipient or contractor to the PJ may only incur and expend HOME-ARP funds for eligible administrative and planning costs if the subrecipient or contractor is responsible for the use of the PJ's entire HOME-ARP award and has executed a HOME-ARP written agreement that complies with 24 CFR 92.504 and this Notice. The PJ must also identify the subrecipient or contractor administering the PJ's entire HOME-ARP award and describe the subrecipient or contractor's responsibilities in the PJ's HOME-ARP allocation plan.

All costs must comply with the Cost Principles contained in subpart E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200, as amended (Uniform Administrative Requirements).

Once HUD obligates the HOME-ARP funds, as described in Section VIII.C.2 of this Notice, the PJ may incur and expend up to 5 percent of its HOME-ARP allocation on eligible administrative and planning costs, as described in this section and 24 CFR 92.207. Before HUD's acceptance of the PJ's HOME-ARP allocation plan, the PJ is only permitted to incur and expend HOME-ARP funds on eligible administrative and planning costs.

If the PJ does not submit a HOME-ARP allocation plan or if the PJ's plan is not accepted within a reasonable period of time, as determined by HUD, all HOME-ARP administrative and planning costs incurred by the PJ will be ineligible costs and any HOME-ARP funds expended by the PJ must be repaid to the PJ's HOME Investment Trust Fund Treasury account, in accordance with guidance issued by HUD. Moreover, if the PJ's HOME-ARP allocation plan does not identify or include a description of the responsibilities of the subrecipient or contractor that is responsible for the PJ's entire HOME-ARP award, if applicable, the administrative and planning costs incurred or expended by the subrecipient or contractor will also be ineligible and any HOME-ARP funds expended by the PJ's subrecipient or contractor must be repaid to the PJ's HOME Investment Trust Fund Treasury account, in accordance with guidance from HUD.

B. HOME-ARP Rental Housing

HOME-ARP funds may be used to acquire, rehabilitate, or construct affordable rental housing primarily for occupancy by households of individuals and families that meet the definition of one or more of the qualifying populations described in Section IV.A of this Notice (**"qualifying households"**). Unlike the regular HOME Program, which targets HOME-assisted rental units based on tenant income, 70 percent of all HOME-ARP units will admit households based only upon their status as qualifying households. This complicates the underwriting and operation of projects that include HOME-ARP units. As a result, the requirements for HOME-ARP rental housing provide significant flexibilities to enable HOME-ARP rental projects to remain

financially viable and affordable for the qualifying populations throughout the minimum compliance period.

Eligible HOME-ARP rental housing includes "housing" as defined at 24 CFR 92.2, including but not limited to manufactured housing, single room occupancy (SRO) units, and permanent supportive housing. Emergency shelters, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses, and housing for students or dormitories do not constitute housing in the HOME-ARP program. However, HOME-ARP funds may be used to acquire and rehabilitate such structures into HOME-ARP rental housing.

Developing financially feasible rental housing for qualifying households is challenging in the absence of project-based rental assistance. Most HOME-assisted rental projects rely on tenant rents to cover all or a portion of the debt service and project operating costs. Most HOME-ARP qualifying households will be unable to pay a rent that covers allocated debt service or operating costs, requiring PJs to use other techniques to determine that HOME-ARP units are affordable and that projects containing HOME-ARP units are sustainable throughout the minimum compliance period. PJs are encouraged to work with local PHAs and other state or local agencies to obtain project-based rental assistance for units funded with HOME-ARP. In the absence of such project-based rental assistance, the HOME-ARP units for qualifying households may require substantial capital investment through HOME-ARP and other Federal, state, local, or private sources to eliminate debt service on the units. ARP suspended the maximum per-unit subsidy limit for HOME-ARP units, enabling HOME-ARP funds to pay the entire cost to acquire, rehabilitate and/or construct the HOME-ARP rental units, eliminating the need for the HOME-ARP units to support debt. In mixed-income developments, revenue from market rate or higher income-restricted units may also provide an internal subsidy to cover a portion of the operating costs of HOME-ARP units.

To address these challenges and maintain affordability, HUD is using its HOME-ARP statutory authority to:

- Establish alternative rent requirements to 24 CFR 92.252(b) and extend an owner's ability to charge the maximum rent permissible under a rental assistance program (to units occupied by recipients of tenant-based rental assistance (e.g., Housing Choice Vouchers, HOME TBRA, HOME-ARP TBRA).
- Establish a minimum compliance period of 15 years for all HOME-ARP rental units irrespective of the amount of subsidy per unit or whether the units are acquired, rehabilitated, and/or newly constructed.
- Permit the use of HOME-ARP funds to provide ongoing operating cost assistance or capitalize a project operating cost assistance reserve to address operating deficits of the HOME-ARP units restricted for qualifying households during the compliance period.
- Allow not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the PJ to be restricted to households that are low-income as defined in 24 CFR 92.2 ("low-income households"). These units may only be located in projects containing HOME-ARP units restricted for qualifying households. The HOME-ARP rental units occupied by low-income households must operate under the regulations applicable to HOME rental units at 24 CFR 92.252 (i.e., be occupied by low-income

households and bearing a rent not greater than the lesser of a. the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or b. a rent equal to 30 percent of the adjusted income of a family with annual income at 65 percent of median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit).

1. **Targeting and Occupancy Requirements**: ARP requires HOME-ARP activities to primarily benefit households in the qualifying populations. To improve the feasibility and maintain the long-term viability of projects with HOME-ARP rental units for qualifying households, a PJ may invest HOME-ARP funds in units that are not restricted for occupancy solely for qualifying populations as described in this section. Specifically, participating jurisdictions must comply with the following requirements:

   a. *Targeting:* HOME-ARP funds can only be invested in units restricted for qualifying households or low-income households as follows:

      i. Not less than 70 percent of the total number of rental units assisted with HOME-ARP funds by the PJ must be restricted for occupancy by households that are qualifying households at the time of the household's initial occupancy; and,

      ii. Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the PJ may be restricted to low-income households. These rental units do not have to be restricted for occupancy by qualifying households, however rental units restricted to low-income households are only permitted in projects that include HOME-ARP units for qualifying households.

   b. *Occupancy Requirements:*

      i. **Qualifying Households**. Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a qualifying population. As such, a unit restricted for a qualifying household remains in compliance with the HOME-ARP unit restriction as long as the unit is occupied by a qualifying household that met the definition of a qualifying population at the time of admission.

      ii. **Low-Income Households.** At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2. If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the PJ to take action in accordance with the rent and unit mix requirements in Sections VI.B.15 and VI.B.17 of this Notice, respectively.

2. **Eligible Activities**: A PJ may use HOME-ARP funds for acquisition, construction, and rehabilitation, including reconstruction as defined in 24 CFR 92.2, of affordable rental housing for qualifying and low-income households. Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide HOME-ARP rental housing within the timeframes provided in Section VI.B. of this Notice. A HOME-ARP rental project must meet the definition of *project* in 24 CFR 92.2.

   HOME-ARP funds may be used to assist one or more units in a project. Only the eligible development costs of the HOME-ARP units may be charged to the HOME-ARP program. Cost allocation in accordance with 24 CFR 92.205(d)(1) is required if the assisted and non-assisted units are not comparable. After project completion, the number of HOME-ARP units in a project cannot be reduced. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, a PJ may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion. A qualifying household admitted to a HOME-ARP rental unit may still receive HOME-ARP supportive services or TBRA in accordance with the requirements in this Notice.

3. **Forms of Assistance**: The PJ may invest HOME-ARP funds in accordance with the eligible forms of assistance described in 24 CFR 92.205(b). Each PJ has the right to establish the terms of assistance, subject to the HOME-ARP requirements described in this Notice.

4. **Minimum Amount of Assistance**: The minimum amount of HOME-ARP funds that must be invested in a rental housing project is $1,000 times the number of HOME-ARP-assisted units in the project as established in 24 CFR 92.205(c).

5. **Eligible Costs**: HOME-ARP funds may be used to pay for up to 100% of the following eligible costs associated with the acquisition, development, and operation of HOME-ARP rental units:

   a. *Development hard costs* – defined in 24 CFR 92.206(a).

   b. *Refinancing* – the cost to refinance existing debt secured by a rental project that is being rehabilitated with HOME-ARP funds in accordance with 24 CFR 92.206(b)(2) and the PJ's HOME-ARP refinancing guidelines, as stated in their HOME-ARP Allocation Plan.

   c. *Acquisition* – the costs of acquiring improved or unimproved real property.

   d. *Related soft costs* – defined in 24 CFR 92.206(d).

   e. *Relocation costs* – as defined in 24 CFR 92.206(f), 24 CFR 92.353, and described in this Notice.

   f. *Costs relating to payment of loans* – If the HOME-ARP funds are not used to directly pay a cost specified in this HOME-ARP rental housing section, but are used to pay off a

construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if: (1) the loan was used for eligible costs specified in this HOME-ARP rental housing section, and (2) the HOME-ARP funds are part of the original financing for the project and the project meets the requirements of this Notice.

g. *Operating Cost Assistance* – A PJ may pay ongoing operating cost assistance or capitalize an operating cost assistance reserve for HOME-ARP-assisted units restricted for occupancy by qualifying populations in a project where the PJ determines in its underwriting that the reserve is necessary to maintain the HOME-ARP units' long-term operational feasibility. However, HOME-ARP funds cannot be used for both a capitalized operating cost assistance reserve and ongoing payments for operating cost assistance during the minimum compliance period. The allowable amount of the reserve shall not exceed the amount determined by the PJ to be necessary to provide operating cost assistance for HOME-ARP units restricted for occupancy by qualifying populations for the 15-year HOME-ARP minimum compliance period.

The operating cost assistance reserve for HOME-ARP units for qualifying households must be held by the project owner in a separate interest-bearing account and sized, based on an analysis of projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units' share of operating costs. Funds in a capitalized operating cost assistance reserve can only be drawn to address operating deficits associated with HOME-ARP units restricted for occupancy by the qualifying populations. A PJ must use the definition of operating costs in this Notice in its calculation of operating deficits to determine the amount of HOME-ARP funds needed for an operating cost assistance reserve or when providing operating cost assistance. Unexpended operating cost assistance reserve amounts remaining at the end of the minimum compliance period must be returned in accordance with Section VI.B.24 of this Notice.

A PJ may provide operating cost assistance to a HOME-ARP rental project to cover an operating deficit associated with HOME-ARP units restricted for occupancy by qualifying households except for when an operating cost assistance reserve is already established for the project. Operating cost assistance committed to a project cannot be provided beyond the HOME-ARP budget period, as described in Section VIII.C.4 of this Notice.

Operating costs include costs for administrative expenses, property management fees, insurance, utilities, property taxes, and maintenance of a unit that is designated as a HOME-ARP-assisted unit and required to be occupied by a qualifying household. . Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project.

Project administrative expenses include payroll costs, which are gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits; employee education, training, and travel; advertising; and general administrative costs which are costs for goods and services

required for administration of the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance, and other administrative costs that are reasonable and customary for the general administration of a rental unit occupied by qualifying populations. HOME-ARP permits the pro-rated staffing costs of a Resident Services Coordinator to be included in the operating costs allocated to a HOME-ARP unit for low-income or qualifying households if such costs are not already paid by another source. Typically, the role of a Resident Services Coordinator is to arrange community activities for residents and link residents to outside service agencies as needed.

A property management fee includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. A management agent must cover its costs of supervising and overseeing operations of a HOME-ARP unit out of the fee they receive.

A reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a reserve for replacement of major systems included in the operating costs allocated to a HOME-ARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A reserve for replacement allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOME-ARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period.

Supportive services costs are not eligible operating costs of HOME-ARP units, however, qualifying households occupying HOME-ARP rental units may receive supportive services through the HOME-ARP supportive services eligible activity.

6. **Prohibited Activities and Fees**: HOME-ARP may not be used for any of the prohibited activities, costs or fees in 24 CFR 92.214, as revised by the Appendix to this Notice.

7. **HOME-ARP Funds and Public Housing**: HOME-ARP funds must be used in accordance with the requirements in 24 CFR 92.213(a)-(c).

8. **Commitment**: The affordable housing requirements in the definition of *Commitment* in 24 CFR 92.2, including the provisions in (2) *Commit to a specific local project*, apply to rental housing units assisted with HOME-ARP funds. This includes but is not limited to the requirements that the PJ and project owner have an executed legally binding written agreement under which HOME-ARP assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within 12 months of the agreement date.

9. **Maximum Per-Unit Subsidy and Limitations on Costs**: The maximum per-unit subsidy established in NAHA does not apply to HOME-ARP units. PJs may pay up to 100 percent of the eligible and reasonable HOME-ARP costs allocated to a HOME-ARP unit, including

operating cost assistance associated with units restricted for occupancy by qualifying households. All costs paid by HOME-ARP funds must comply with the requirements of this Notice and the Cost Principles at 2 CFR part 200, subpart E of the Uniform Administrative Requirements, as amended.

10. **Underwriting, Subsidy Layering**: Before the PJ can commit HOME-ARP funds to a project, it must evaluate the project to determine the amount of HOME-ARP capital subsidy and operating cost assistance necessary to provide quality affordable housing that meets the requirements of this Notice and is financially viable throughout the minimum 15-year HOME-ARP compliance period. The PJ must evaluate the project in accordance with underwriting and subsidy layering guidelines it has developed for HOME-ARP projects.

    The PJ's project underwriting must include an in-depth review of underlying project assumptions, development sources and uses, and projected operating income and expenses, and the project's long-term financial viability to determine the project's need for HOME-ARP assistance while preventing over-subsidization of the project. HUD anticipates that project developers will rely on Low-Income Housing Tax Credit (LIHTC) financing, HOME funds, Housing Trust Fund grants, project-based vouchers, project-based rental assistance, operating cost reserves, state or local sources, or a combination of these and other resources to create a feasible HOME-ARP project and maintain compliance with HOME-ARP requirements. HOME-ARP units for qualifying households that do not receive a commitment of project-based vouchers or project-based rental assistance may require both deep capital subsidy and operating cost assistance to remain financially sustainable for the minimum 15-year HOME-ARP compliance period. However, the PJ, through its underwriting, must also determine that the HOME-ARP capital and operating subsidies do not result in over-subsidization of the project.

    To secure HOME-ARP rental units for qualifying households, HOME-ARP funds may be invested in different types of projects, including permanent supportive housing, mixed-finance affordable housing, and market-rate projects. While the viability of the HOME-ARP units is the PJ's primary concern, it must not limit its underwriting analysis to the HOME-ARP units. The long-term viability of HOME-ARP units is contingent upon the financial health of the entire project. PJs must therefore take a holistic approach to underwriting that examines the overall feasibility of the entire project to determine that the property will be financially sustainable for the duration of the 15-year HOME-ARP compliance period.

    For projects that will receive operating cost assistance through a capitalized operating cost assistance reserve or on-going operating cost assistance for a specific period, the on-going operating cost assistance or operating cost assistance reserve must be included in the underwriting. Unless placed into an operating cost assistance reserve, operating cost assistance committed to a project for a specific period cannot be provided beyond the budget period, as described in Section VIII.C.4. of this Notice. HOME-ARP units that have commitments for a form of project-based rental assistance must be underwritten with the projected rental assistance and not with operating cost assistance. An operating cost assistance reserve must be sized based on an analysis of projected operating deficits

remaining after the expected payments toward rent by qualifying households are applied to the HOME-ARP unit's share of operating costs. While a PJ may offer on-going project operating cost assistance instead of providing an operating cost assistance reserve, it may find this approach makes it more difficult to develop HOME-ARP units.

a. *Underwriting and Subsidy Layering Guidelines*: PJs must develop standardized underwriting guidelines for HOME-ARP rental projects. These guidelines must provide for underwriting that accommodates and is appropriate for different types of projects. For example, a standard market analysis does not provide the necessary data for a project where 100% of the units are restricted as permanent supportive housing for qualifying populations. In contrast, if a mixed-income property relies on rental income from market-rate units to subsidize the operating costs of permanent supportive housing units for which little or no tenant-paid rental income is projected, then a market study confirming that the proposed market rents are achievable is needed to demonstrate the long-term financial viability of the project.

   PJs with existing HOME rental underwriting standards may use these standards as the foundation for their HOME-ARP underwriting guidelines, but all PJs are required to develop and implement standardized underwriting guidelines for HOME-ARP that require the following:

   i. An examination of the sources and uses of funds for the project and a determination that costs are necessary and reasonable. In examining a project's proposed sources and uses, a PJ must determine the amount of HOME-ARP development subsidy required to fill the gap between other committed funding sources and the cost to develop the project.

      A developer fee is a permitted development cost under the HOME-ARP program, but the PJ must review the fee and determine that it is reasonable. A PJ may set limits on the developer fee and other fees (e.g., asset management fee, property management fee) to be paid by HOME-ARP funds that differ from other funding sources (e.g., LIHTC underwriting standards).

   ii. An assessment of the current market demand for the proposed project.
      (1) For HOME-ARP units for qualifying households, a market assessment is not required. Rather, the PJ can demonstrate that there is unmet need among qualifying populations for the type of housing proposed through their gap analysis, CoC data, public housing and affordable housing waiting lists, point-in-time surveys, housing inventory count, or other relevant data on the need for permanent housing for the qualifying populations.
      (2) For projects containing units restricted for occupancy by low-income households or market-rate households, the PJ must conduct a market assessment in accordance with 24 CFR 92.250(b)(2). A third-party market assessment completed by the developer or another funder meets this requirement, but the PJ must review the assessment and provide a written, dated acknowledgement that it accepts the assessment's findings and conclusions. The market assessment and the PJ's written, dated

acknowledgement must be retained for recordkeeping purposes.

iii. Review of and determination that the developer's experience and financial capacity are satisfactory based on the size and complexity of the project. When assessing the developer, the PJ must review, at minimum, prior experience with similar projects and the current capacity to develop the proposed project. When determining whether the developer has the financial capacity to undertake the project, the PJ should examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.

iv. Firm written financial commitments for the project.

v. A careful review of the project's operating budget, including the basis for assumptions, projections of a project's net operating income, and reasonably expected changes in revenue and expenses during the minimum compliance period, to determine if any HOME-ARP-funded operating cost assistance is necessary and if applicable, an operating cost assistance reserve is sized appropriately. Operating income of the project must be sufficient to cover operating expenses throughout the minimum compliance period. For HOME-ARP units for qualifying households, the proforma or budget projections should include any anticipated ongoing operating cost assistance or draws from an operating cost assistance reserve, if applicable, that will offset operating deficits associated with those units to demonstrate sufficient operating support.
   (1) If project-based vouchers or project-based rental assistance is or will be awarded, this analysis must include that rental assistance revenue because operating cost assistance cannot be used for units for qualifying households with project-based vouchers or project-based rental assistance.
   (2) A PJ's underwriting standards may permit projects to generate reasonable net operating income throughout the minimum compliance period. However, HOME-ARP operating cost assistance may only be used to offset operating deficits, in accordance with the requirements of this Notice. Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.

vi. An assessment of the project's overall viability through the minimum compliance period based on the households (i.e., qualifying households, low-income households, market-rate households) it will serve.

11. **Property Standards**: HOME-ARP rental units must comply with all property standards applicable to rental projects required in 24 CFR 92.251 paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing, (e) manufactured housing, and (f) on-going property condition standards.

12. **Determining Household Income**: The PJ must require all HOME-ARP units to be restricted for eligible households (i.e., either qualifying or low-income households)

throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP rental units solely by meeting the definition of one of the qualifying populations (i.e., HOME-ARP does not impose income restrictions on units restricted for qualifying populations). If there is no income requirement in the qualifying population's definition, a PJ is not required to perform an initial determination of household income except as necessary to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restrictions (e.g., LIHTC). Each subsequent year during the compliance period, starting 1 year after initial occupancy, the PJ must use the definition of annual income as defined in 24 CFR 5.609 to examine the income of qualifying households to determine the household's contribution to rent. For low-income households, the PJ must use the definition of annual income as defined in 24 CFR 5.609 to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution.

a. *Qualifying populations*: For purposes of establishing the qualifying household's rental contribution after initial occupancy, a PJ must examine a HOME-ARP qualifying household's income using 24 CFR 92.203(a)(1)(i) or (iii), starting 1 year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the PJ. A project owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

b. *Low-income Households*: In accordance with 24 CFR 92.252(h), the income of each low-income household must be determined initially in accordance with 24 CFR 92.203(a)(1)(i), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the PJ. An owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

c. *Households Assisted by Other Programs*: Notwithstanding paragraphs (a) and (b), if a family is applying for or living in a HOME-ARP-assisted rental unit, and the unit is assisted by a Federal or State project based rental subsidy then a PJ must accept a public housing agency, section 8 project owner, or CoC recipient or subrecipient's

determination of the family's annual income and adjusted income under that program's rules and does not need to obtain source documentation in accordance with 24 CFR 92.203(a)(1) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP rental unit, and the family is assisted by a Federal tenant-based rental assistance program (e.g. housing choice vouchers) then a PJ may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under 24 CFR 92.203(a)(1).

13. **Rent limitations**: This Notice establishes rent limits for HOME-ARP units restricted for qualifying populations and for units that may be restricted for low-income households.

    a. *Units Restricted for Occupancy by Qualifying Households*: In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis.

    Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a qualifying household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

    The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance established pursuant to Section VI.B.13.d of this Notice.

    b. *Rent limitations – low-income households*: HOME-ARP rental units occupied by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives a form of Federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program). The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to Section VI.B.13.d of this Notice.

    c. *Rent limitations – Single Room Occupancy (SRO) Units*: A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental, a SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's

designation as a SRO cannot be inconsistent with the building's zoning and building code classification.

If the SRO units have both sanitary *and* food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established pursuant to Section VI.B.13.d of this Notice.

d. *Initial Rent Schedule and Utility Allowance*: The PJ must establish maximum allowances for utilities and services and update the allowances annually. The PJ may adopt the utility allowance schedule of the PHA.

The PJ must review and approve the HOME-ARP rents proposed by the owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the PJ must determine that the rent for the unit does not exceed the maximum rent minus the monthly allowance for utilities and services.

14. **Tenant Contribution to Rent – Qualifying Households**: The PJ must determine that the qualifying household's contribution to rent is affordable to the qualifying household based on a determination of the household's income. If the household is receiving project-based or tenant-based rental assistance, the household cannot be required to contribute more towards rent than the amount permitted by the requirements of the applicable rental assistance program (See Section VI.B.13.a of this Notice). If a qualifying household is not receiving project-based or tenant-based rental assistance and cannot contribute any income toward rent, or the contribution is insufficient to cover the unit rent, the project owner may draw from the project's operating cost assistance reserve if projected rental revenue minus the operating costs of the unit results in a deficit. If an operating cost assistance reserve was not capitalized at project completion:
    - The PJ may provide ongoing HOME-ARP operating cost assistance to cover the operating deficits associated with units occupied by qualifying households, subject to the requirements in this Notice.
    - The qualifying household may receive HOME-ARP TBRA to remain housed in the HOME-ARP rental unit or the PJ may offer, in conjunction with a qualifying household's admittance into a HOME-ARP rental unit, a simultaneous award of supportive services to the qualifying household in accordance with Section VI.D of this Notice. Any provision of supportive services must comply with all requirements of Section VI.D. of the Notice and the PJ's policies and procedures.
    - Operating cost assistance, HOME-ARP TBRA, and supportive services funds committed to a project cannot be provided beyond the budget period for the HOME-ARP funds, as described in Section VIII.C.4 of this Notice.

15. **Changes in Income and Over-income Households**:
A household that met the definition of one of the HOME-ARP qualifying populations at initial occupancy and whose annual income at the time of income re-certification is above

50 percent of median income for the area but at or below 80 percent of the median income for the area must pay the rent specified in 24 CFR 92.252(a).

HOME-ARP-assisted units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.

A qualifying or low-income household that is not low-income at the time of income re-certification (i.e., whose income is above 80 percent of the median income for the area) must pay rent that complies with the over income regulatory requirements at 24 CFR 92.252(i)(2), which includes requirements applicable to HOME units that also have LIHTC restrictions.

16. **Unit Designation**: The PJ must determine the number of HOME-ARP units in the project restricted for qualifying households and low-income households, respectively, and whether the units are fixed or floating units at the time of project commitment. The total number of HOME-ARP rental units restricted for occupancy by qualifying households and the total number of HOME-ARP rental units restricted for low-income households must be identified as separate totals in the written agreement. In a project containing HOME-ARP and other units, the PJ must designate fixed or floating HOME-ARP units in accordance with 24 CFR 92.252(j). The PJ must maintain this unit mix throughout the compliance period.

17. **Maintaining Unit Mix**: At the time of admission to a HOME-ARP rental unit, a household must meet the definition for at least one qualifying population or be determined to be a low-income household, depending on the applicable HOME-ARP restriction on the rental unit to which it is being admitted and in accordance with the written agreement.

    For HOME-ARP rental units restricted for occupancy by qualifying populations, a household that meets the definition of a qualifying population at the time of admission retains its eligibility to occupy a HOME-ARP rental unit restricted for occupancy by qualifying populations, irrespective of changes in income or whether the household continues to meet the definition of a qualifying population after initial occupancy. As an example, a household that qualifies as "Homeless" at admission does not meet the Homeless definition once the household occupies a HOME-ARP unit but remains a qualifying household and is eligible to remain in a HOME-ARP rental unit restricted for qualifying populations. Income determinations for qualifying households are therefore only for purposes of establishing a qualifying household's rental contribution as described in Section VI.B.15 of this Notice and not for maintaining continued eligibility in the HOME-ARP program. In a project with floating units, PJs are encouraged but not required to shift the HOME-ARP qualifying population designation to another unit to serve another qualifying household if the household's income subsequently is certified to be at or above 80 percent AMI and the household no longer meets the definition of any qualifying population.

For HOME-ARP rental units restricted for occupancy by low-income households, units will be considered temporarily out of compliance if the household's income increases above 80 percent of area median income. The requirements for correcting any noncompliance using vacancies or redesignation of units depends on whether the HOME-ARP rental units are fixed or floating and whether other funding sources (e.g., LIHTC) impose income or other restrictions on the units. Please note, in accordance with the requirements in 24 CFR 92.253 and in Section VI.B.19.c, an increase in a tenant's income does not constitute good cause to evict or refuse to renew a tenant's lease, regardless of program requirements associated with other funding sources such as LIHTC. In addition, compliance with unit restrictions for low-income households requires adjustment of rents as described in Section VI.B.15 of this Notice.

18. **Minimum Compliance Period**: HOME-ARP-assisted units must comply with the requirements of this Notice for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the activity being undertaken. A PJ may impose a longer compliance period but should plan for the project's financial feasibility for the longer period without HOME-ARP funds. The PJ may not use HOME-ARP funds to provide operating cost assistance, including a capitalized operating cost assistance reserve, to cover deficits during a PJ's extended compliance period.

    If a project-based rental assistance Housing Assistance Payments (HAP) contract is awarded to a HOME-ARP rental project, a PJ must impose a minimum compliance period that is the greater of 15 years or the term of the HAP contract. PJs are also encouraged to extend restrictions for occupancy of the HOME-ARP units in accordance with the requirements in this section to match the term of eligible HAP contract renewals.

    The provisions at 24 CFR 92.252(e)(1)-(4) apply, including the requirement that the PJ must impose the HOME-ARP rental requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanisms approved by HUD. The chart providing minimum affordability periods based on rental housing activity that is contained in 24 CFR 92.252(e) does not apply. The enforceable restriction must provide that units assisted with HOME-ARP comply with the requirements of this Notice throughout the minimum 15-year compliance period, including:

    a. Units restricted for qualifying populations must be occupied by households that met the definition of a qualifying population at the time of initial occupancy. The household's contribution toward rent during this period must be affordable in accordance with Section VI.B.14 of this Notice. The rents for these units must comply with the rent limitations established in this Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income and whose contribution to rent complies with the requirements in Section VI.B.15.

    b. Units available for low-income households must be continuously occupied by households who are income eligible. The rents for these units must comply with the rent

limitations established in this Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income.

c. The units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504.

d. Each household that occupies a HOME-ARP unit has an executed lease that complies with the tenant protections required in Section VI.B.19 of this Notice.

19. **Tenant Protections**: PJs must verify that each household that occupies a HOME-ARP assisted unit has an executed lease that complies with the tenant protection requirements of this Notice. The lease must be either be between the project owner and the household or between the project owner and a HOME-ARP sponsor with a sublease between the qualifying household and HOME-ARP sponsor. A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. PJs may permit a HOME-ARP sponsor to lease a HOME-ARP unit from an owner or execute a master lease with the owner of a HOME-ARP project for HOME-ARP units restricted for occupancy by qualifying households. The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to the qualifying household. The sublease between the HOME-ARP sponsor and the qualifying household must comply with the rent limitations and tenant protection requirements of this Notice.

a. *Lease Requirement*: There must be a lease between the qualifying household or the low-income household and the owner of the HOME-ARP-assisted project in accordance with 24 CFR 92.253(a), except that a sublease is permitted if a HOME-ARP sponsor has executed a master lease or lease with the project owner for the leasing of the units restricted for occupancy by qualifying households.

b. *Prohibited Lease Terms*: The lease between the low-income household, qualifying household, or HOME-ARP sponsor and the HOME-ARP project owner or the sublease between the HOME-ARP sponsor and a qualifying household may not contain any of the prohibited lease terms specified in 24 CFR 92.253(b).

c. *Termination of tenancy*: An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a HOME-ARP unit or of a HOME-ARP sponsor with a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws; or for other good cause. Similarly, a HOME-ARP sponsor may not refuse to renew a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the sublease; for violation of applicable Federal, State, or local laws; or for

other good cause. An increase in the tenant's or sublessee's income does not constitute good cause.

In addition, if HOME-ARP funds were or are used to capitalize an operating cost assistance reserve or there is a current contract for the PJ to provide operating cost assistance to the project, an owner may not terminate the tenancy or refuse to renew the lease of a qualifying household because of the household's inability to pay rent during the minimum compliance period. A qualifying household's inability to pay rent shall mean that the qualifying household cannot pay more than 30 percent of the qualifying household's income toward rent, based on an income determination made by the PJ in the last 30 days.

Where there is no capitalized operating reserve or other operating cost assistance to cover the operating deficit for a HOME-ARP unit occupied by a qualifying household, the PJ may assist the qualifying household with HOME-ARP TBRA or supportive services in accordance with the requirements of this Notice.

The above tenant protections are necessary as HOME-ARP requires the PJ to perform underwriting that reviews the operating feasibility of units occupied by qualifying households for the 15-year compliance period to determine how HOME-ARP funds may address the potential for qualifying households to have little to no income to contribute toward rent.

To terminate or refuse to renew tenancy for any household occupying a HOME-ARP unit, the owner must serve written notice upon the tenant (and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor) at least 30 days before termination of tenancy, specifying the grounds for the action. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the PJ, must notify the PJ in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

20. **Coordinated Entry and Project-Specific Waitlists:** In accordance with Section IV.C of this Notice, PJs must determine whether an owner may use a CoC's CE, a CoC's CE and other referral sources, or a project-specific waitlist, to select qualifying households for HOME-ARP units restricted for occupancy by qualifying populations. PJs will make this determination on a project-by-project basis. Regardless of which method is selected, in all cases, the PJ must use a project-specific waitlist when selecting households to occupy units restricted for occupancy by low-income households. Any preferences among qualifying households must be disclosed in the HOME-ARP allocation plan through the PJ's public participation process in accordance with Section V.C. of this Notice. The written agreement between the PJ and the project owner must specify the method the owner must use for selecting qualifying households for admission to HOME-ARP units.

    a. The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that:

i. Limits eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements; Preferences for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's preferences and the PJ's policies and procedures for applying those preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.

ii. Do not exclude an applicant with a voucher under the section 8 Housing Choice Voucher Program (24 CFR 982), or an applicant participating in HOME, HOME-ARP or other Federal, state or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document;

iii. Limits eligibility or gives a preference to a particular qualifying population or segment of the qualifying population if permitted in its written agreement with the participating jurisdiction (and only if the limitation or preference is described in the participating jurisdiction's HOME-ARP allocation plan). A preference for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's determined preference(s) and the PJ's policies and procedures for applying the preference(s), if any;

iv. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350. If the PJ requires the use of a project-specific waitlist to select qualifying households and/or low-income households for occupancy of HOME-ARP units, provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable;

v. Gives prompt written notification to any rejected applicant of the grounds for any rejection; and,

vi. Complies with the VAWA requirements as described in 24 CFR 92.359.

b. *Project-Specific Waitlist – Low-Income Households*: A project owner must use a project-specific waitlist to select households to occupy units restricted for occupancy by low-income households in accordance with the tenant selection requirements of 24 CFR 92.253(d).

21. **Project Completion and Occupancy**: HOME-ARP rental projects must meet the definition of project completion at 24 CFR 92.2. If the PJ fails to complete a project within 4 years of project commitment, it must comply with the terminated project requirements at 24 CFR 92.205(e)(2). If the HOME-ARP units are not occupied by eligible qualifying households or low-income households within six months following project completion, the PJ, as applicable, must submit to HUD information on its efforts to coordinate with a CoC, homeless service providers, social service, and other public agencies to fill units for qualifying households or must submit marketing information and, if appropriate, a marketing plan to fill units for low-income households. The PJ must repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households within 12 months of project completion.

22. **Penalties for Noncompliance**: The PJ must repay HOME-ARP funds invested in rental housing that is terminated before completion or otherwise does not comply with initial or ongoing requirements of this Notice during the compliance period, as follows:

a. If the noncompliance or termination occurs within the first 10 years of the compliance period, the PJ must repay the entire amount of HOME-ARP funds invested in the project.

b. If the noncompliance or termination occurs in years 11 through 15, the repayment amount will be reduced by 20 percent for each year beyond the initial 10-years during which time the project was compliant.

Repayment of the HOME-ARP funds is not required if the project owner sells or transfers, either voluntarily or involuntarily, the HOME-ARP project during the compliance period if (1) the HOME-ARP restrictions remain, (2) the project and new project owner continues to comply with all HOME-ARP requirements, and (3) any HOME-ARP funds remaining in a project's operating cost assistance reserve or reserve for replacement remain with the project and convey upon sale or transfer of the project as a restricted operating cost assistance reserve or reserve for replacement subject to HOME-ARP Notice requirements.

23. **Operating Cost Assistance Reserve - Management and Oversight**: The PJ must require that any HOME-ARP funds expended for project operating cost assistance reserves are held by the project owner in a separate interest-bearing account. The PJ must require the project owner to request written approval from the PJ prior to disbursing funds from the project operating cost assistance reserve. The PJ must review each requested distribution from the operating cost assistance reserve, including supporting documentation, to determine that the distribution is reasonable and necessary to cover the operating deficit associated with HOME-ARP units occupied by qualifying households. The PJ must, no less than annually, review the operating cost assistance reserve account to determine that the account is appropriately sized based on the projected operating deficits of HOME-ARP units restricted for occupancy by qualifying households. The PJ may require the project owner to enter into a deposit account control agreement for the operating cost assistance reserve where the PJ must approve disbursements from the account.

24. **End of Compliance Period and Return of Operating Cost Assistance Reserve**: Any unexpended operating cost assistance reserve remaining at the end of the compliance period must be returned as follows:

a. If the HOME-ARP rental project will continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the HOME-ARP 15-year compliance period as demonstrated by enforceable restrictions imposed by the PJ, the project can retain the operating cost assistance reserve amount to address any operating deficits associated with the HOME-ARP units occupied by qualifying households.

b. If the HOME-ARP project will not continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the 15-year HOME-ARP compliance period and the HOME-ARP grant has expired or is closed out, the remaining operating cost assistance reserve funds must be deposited in the PJ's local HOME

account and recorded as HOME program income receipt in the Integrated Disbursement and Information System (IDIS) and used for eligible costs under 24 CFR part 92.

C. Tenant-Based Rental Assistance (TBRA)

HOME-ARP funds may be used to provide tenant-based rental assistance to qualifying households ("**HOME-ARP TBRA**"). In HOME-ARP TBRA, the PJ assists a qualifying household with payments to cover the entire or insufficient amounts that the qualifying household cannot pay for housing and housing-related costs, such as rental assistance, security deposits, and utility deposits. HOME-ARP TBRA assisted households may choose to rent a unit in a HOME-ARP rental project or any other eligible rental unit. HOME-ARP TBRA is a form of rental assistance that is attached to the household and not a particular rental unit. Therefore, the HOME-ARP TBRA assisted household may choose to move to another unit with continued HOME-ARP TBRA as long as the new unit meets the applicable property standards of this Notice. If a HOME-ARP TBRA assisted household chooses to move, the rental assistance contract terminates and a new rental assistance contract for the new unit will be executed according to HOME-ARP TBRA requirements. The HOME-ARP TBRA assisted household must notify the PJ before moving in order to receive continued HOME-ARP TBRA.

1. **Tenant Selection**: Only individuals and families in the qualifying populations are eligible to receive HOME-ARP TBRA assistance. PJs must perform tenant selection in accordance with Section IV.C of this Notice. The PJ must select qualifying households for HOME-ARP TBRA in accordance with written tenant selection policies and criteria that are based on local housing needs established in the HOME-ARP allocation plan. The PJ must follow written tenant selection policies and criteria that:
   a. Limit eligibility to households that meet one of the HOME-ARP qualifying populations definitions in accordance with HOME-ARP requirements. Preferences for households in one or more of the HOME-ARP qualifying populations, if any, must comply with the preferences and/or method of prioritization in the PJ's HOME-ARP allocation plan and the PJ's policies and procedures for applying such preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
   b. If the PJ selects HOME-ARP TBRA applicants off a waiting list, it must provide for the selection of qualifying households from a written waiting list in accordance with the PJ's preferences or method of prioritization in the chronological order of their application, insofar as is practicable.
   c. Give prompt written notification to any rejected applicant of the grounds for any rejection, and
   d. Comply with the VAWA requirements as described in 24 CFR 92.359.

   Finally, the PJ may offer, in conjunction with HOME-ARP TBRA assistance, a simultaneous award of services in accordance with Section VI.D of this Notice, and also provide particular types of other nonmandatory services that may be most appropriate for persons with a special need or a particular disability. Any provision of supportive services must comply with all requirements of Section VI.D of the Notice and the PJ's policies and procedures.

2. **Tenant Protections**: PJs must require and verify that there is an executed lease between the qualifying household that receives HOME-ARP TBRA and the owner of the rental unit or between the owner of the rental unit and a HOME-ARP sponsor with a sublease between the qualifying households and the HOME-ARP sponsor, in accordance with 24 CFR 92.253(a). A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. PJs may permit a HOME-ARP sponsor, as defined in Section VI.B.19, to execute a lease or master lease with a project owner. The HOME-ARP sponsor must then sublease a unit to a qualifying household. The lease between the qualifying household and the rental unit owner or the sublease between the HOME-ARP sponsor and the qualifying household cannot contain any of the prohibited lease terms specified in 24 CFR 92.253(b).

3. **Eligible Costs:** Eligible costs under HOME-ARP TBRA include rental assistance, security deposit payments, and utility deposit assistance to qualifying households. HOME-ARP funds may be used to pay for up to 100% of these eligible costs. A PJ may use HOME-ARP TBRA funds to provide loans or grants to qualifying households for security deposits for rental units regardless of whether the PJ provides any other HOME-ARP TBRA assistance. The amount of funds that may be provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Utility deposit assistance is an eligible cost only if rental assistance or a security deposit payment is provided. Costs of inspecting the housing are also eligible as costs of HOME-ARP TBRA. Administration of HOME-ARP TBRA is an eligible cost only if executed in accordance with general management oversight and coordination at 24 CFR 92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible project costs under HOME-ARP TBRA.

4. **Ineligible Costs:** HOME-ARP TBRA may not be used to pay for the homebuyer program as defined at 24 CFR 92.209(c)(2)(iv).

5. **Portability of Assistance:** A PJ may require the HOME-ARP TBRA assisted household to use HOME-ARP TBRA within the PJ's boundaries or may permit the household to use the assistance outside its boundaries pursuant to 24 CFR 92.209(d).

6. **Term of Rental Assistance Contract:** The requirements at 24 CFR 92.209(e) defining the term of the rental assistance contract for providing assistance with HOME funds are waived for HOME-ARP TBRA. The PJ must determine the maximum term of the rental assistance contract. The rental assistance contract continues until the end of the rental assistance contract term, as determined by the PJ, or until the lease or sublease is terminated, whichever occurs first. The term of the rental assistance contract may be renewed, subject to the availability of HOME-ARP funds. The term of the rental assistance contract must begin on the first day of the term of the lease or sublease. HOME-ARP TBRA funds cannot be used after the end of the budget period.

7. **Maximum Subsidy:** The PJ must establish policies for the allowable maximum subsidy, which may differ from the maximum subsidy requirements at 24 CFR 92.209(h). PJs may

provide up to 100 percent subsidy for rent, security deposit payments, and utility bills. The PJ must also establish policies for determining any household contribution to rent based on a determination of the qualifying household's income.

8. **Rent Standard:** Consistent with 24 CFR 92.209(h)(3), PJs must also establish a rent standard for HOME-ARP TBRA by unit size that is based upon local market conditions or the section 8 Housing Choice Voucher program under 24 CFR part 982. The PJ must determine whether the rent for a HOME-ARP TBRA household complies with the rent standard established by the PJ for the HOME-ARP program and must disapprove a lease if the rent does not meet the PJ's rent standard for HOME-ARP TBRA.

9. **Housing Quality Standards:** Housing occupied by a household receiving HOME-ARP TBRA must comply with all housing quality standards required in 24 CFR 982.401 (or successor inspection standards issued by HUD) unless the tenant is residing in a HOME or HOME-ARP unit, in which case the PJ may defer to initial and ongoing inspection standards.

10. **Program Operation:** The PJ may operate HOME-ARP TBRA itself or may contract with a PHA or other entity with the capacity to operate a rental assistance program. In either case, the PJ or entity operating the program must approve the lease. HOME-ARP TBRA may be provided through an assistance contract with (1) an owner that leases a unit to a qualifying household; (2) the qualifying household, or (3) an owner and the qualifying household in a tri-party contract. In the case of HOME-ARP TBRA provided in coordination with a HOME-ARP sponsor, as described below, the PJ may require that payments be made directly to the HOME-ARP sponsor that will make rental payments to the owner on behalf of the qualifying household or require payments directly to the owner of the unit.

11. **HOME-ARP TBRA with a HOME-ARP Sponsor:** HOME-ARP TBRA may be provided in coordination with a HOME-ARP sponsor. As defined in Section VI.B.19, a HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. A HOME-ARP sponsor may make rental subsidy payments and a security deposit payment on behalf of a qualifying household. Under HOME-ARP TBRA, a qualifying household may reside in housing leased by a HOME-ARP sponsor if there is a sublease that complies with HOME-ARP lease requirements between the HOME-ARP sponsor and the qualifying household.

    a. *Rental Assistance Contract*: There must be a rental assistance contract between the PJ and at least one of the following:
        - HOME-ARP sponsor;
        - Qualifying household; or
        - Owner of the housing.

    Rental subsidy payments are made on behalf of the HOME-ARP TBRA household pursuant to a rental assistance contract. The rental assistance contract continues until the

lease is terminated or the term of the rental assistance contract expires (and is not renewed). Regardless of the role of the HOME-ARP sponsor, the HOME-ARP TBRA household has the right to continued HOME-ARP TBRA assistance if the household chooses to move from the unit. HOME-ARP TBRA funds cannot be used beyond the end of the HOME-ARP budget period.

The HOME-ARP sponsor may only receive the TBRA subsidy directly from the PJ on behalf of the qualifying household if the rental assistance contract is between the HOME-ARP sponsor and the PJ or the HOME-ARP sponsor and the PJ have entered into a written agreement as outlined below. The HOME-ARP sponsor must make rental subsidy payments to the owner on behalf of the qualifying household per the terms and conditions of the HOME-ARP TBRA contract or written agreement with the PJ. When the HOME-ARP TBRA assisted household moves to a new unit, the HOME-ARP sponsor is not required to continue its sponsor relationship with the HOME-ARP TBRA assisted household for the new rental unit but may do so with the consent of the HOME-ARP TBRA household.

The PJ must establish policies and procedures regarding termination of HOME-ARP TBRA assistance for qualifying households who are absent from the rental unit for a minimum of 60 days and where a HOME-ARP sponsor is leasing the rental unit and subleasing to the qualifying household or providing HOME-ARP TBRA rental subsidy payments on behalf of the household.

b. *Lease and Sublease*: PJs must require and verify that each household that receives HOME-ARP TBRA assistance has an executed lease that complies with the tenant protection requirements of this Notice. The lease agreement may be between the project owner and the HOME-ARP TBRA household, or PJs may permit a HOME-ARP sponsor to execute a lease with an owner for an individual unit or a master lease for more than one unit restricted for occupancy by HOME-ARP TBRA households. If the lease agreement is between the HOME-ARP sponsor and owner, the HOME-ARP sponsor must execute a sublease agreement with a HOME-ARP TBRA household. The sublease between the HOME-ARP sponsor and the HOME-ARP TBRA household must meet the tenant protection requirements of this Notice.

c. *Written Agreement with HOME-ARP Sponsor*: The PJ must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will receive the HOME-ARP TBRA subsidy directly from the PJ. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the HOME-ARP TBRA subsidy on behalf of the qualifying household and the HOME-ARP sponsor's obligation to provide the HOME-ARP TBRA payment to the owner for the unit's required rent.

12. Project Completion: Project completion for a HOME-ARP TBRA project means the final drawdown has been disbursed for the project.

D. Supportive Services

HOME-ARP funds may be used to provide a broad range of supportive services to qualifying individuals or families as a separate activity or in combination with other HOME-ARP activities. Supportive services include: a) services listed in section 401(29) of the McKinney-Vento Homeless Assistance Act ("**McKinney-Vento Supportive Services**")[1] (42 U.S.C. 11360(29)); b) homelessness prevention services , as described in Section VI.D.3. and D.4 below; and c) housing counseling services.

1. **Eligible Program Participants**: Supportive services may be provided to individuals and families who meet the definition of a qualifying population under Section IV.A of this Notice and who are not already receiving these services through another program. Program participants in other HOME-ARP activities are eligible for supportive services under this Notice in accordance with policies and procedures developed by the PJ. These policies and procedures should identify the length of time that program participants may be served by HOME-ARP TBRA and/or HOME ARP rental housing before they will no longer be eligible as a qualifying population for purposes of this section.

2. **Client Selection**: HOME-ARP funds may only be used to provide supportive services to individuals or families that meet the definition of a qualifying population in Section IV.A of this Notice. PJs must develop policies and procedures for the selection of program participants for services under this section of the Notice that comply with Section IV.C and this section of this Notice.

3. **Eligible Supportive Services under HOME-ARP**: There are three categories specifically included as supportive services under HOME-ARP:

    a. *McKinney-Vento Supportive Services*: McKinney-Vento Supportive Services under HOME-ARP are adapted from the services listed in section 401(29) of McKinney-Vento.

    b. *Homelessness Prevention Services*: HOME-ARP Homelessness Prevention Services are adapted from eligible homelessness prevention services under the regulations at 24 CFR 576.102, 24 CFR 576.103, 24 CFR 576.105, and 24 CFR 576.106, and are revised, supplemented, and streamlined in Section VI.D.4.c.i below.

    c. *Housing Counseling Services*: Housing counseling services under HOME-ARP are those consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111, respectively, except where otherwise noted. The requirements at 24 CFR 5.111 state that any housing counseling, as defined in 24 CFR 5.100, required under or provided in connection with any program administered by HUD shall be provided only by organizations and counselors certified by the Secretary under 24 CFR part 214 to provide housing counseling, consistent with 12 U.S.C. 1701x.

[1] The Consolidated Appropriations Act, 2021 (P.L. 116-260) enacted changes that renumbered section 401(27) to (29) of McKinney-Vento.

HUD-approved Housing Counseling Agencies can be found on HUD's website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hcc.

Program requirements and administration under 24 CFR part 214 apply to the provision of HOME-ARP Housing Counseling supportive services except those provisions related to current homeowners do not apply. Eligible HOME-ARP topics under Housing Counseling include but are not limited to the following examples:

Rental Housing Counseling Topics (24 CFR 214.300(e)(4))	**Pre-Purchase Homebuying Topics** (24 CFR 214.300(e)(1))	**Homeless Services Topics** (24 CFR 214.300(e)(5))
HUD rental and rent subsidy programs	Advice regarding readiness and preparation	Homeless assistance information regarding emergency shelter
Other federal, state, or local assistance	Federal Housing Administration insured financing	Other emergency services
Fair housing	Housing selection and mobility	Transitional housing
Rental search assistance	Housing search assistance	Referral to local, state, and federal resources (24 CFR 214.300(b)(2))
Landlord tenant laws	Fair housing and predatory lending	
Lease terms	Budgeting and credit	
Rent delinquency	Loan product comparison	
Referrals to local, state, and federal resources	Purchase procedures and closing costs	
	Referrals to local, state, and federal resources	

Housing Counseling surrounding the following topics are **ineligible** under HOME-ARP:

- Resolving or preventing mortgage delinquency, including, but not limited to default and foreclosure, loss mitigation, budgeting, and credit;
- Home maintenance and financial management for homeowners, including, but not limited to: Escrow funds, budgeting, refinancing, home equity, home improvement, utility costs, energy efficiency, rights and responsibilities of homeowners, and reverse mortgages.

In accordance with 24 CFR 214.300(a)(2), housing counselors must establish an action plan for each participating qualifying individual or family. Additionally, as per 24 CFR

214.300(c), housing counselors must also make reasonable efforts to have follow-up communications with participating qualifying individuals, when possible, to assure that the individual or family is progressing toward the housing goal established in the plan, to modify or terminate housing counseling, and to learn and report outcomes.

4. **Eligible Costs of Supportive Services for Qualifying Individuals and Families**: HOME-ARP funds may be used to pay eligible costs associated with the HOME-ARP supportive services activity in accordance with the requirements in this Notice. Eligible costs that may be paid using HOME-ARP funds are limited to only those identified in Section VI.D.4.c below. Any ineligible costs paid using HOME-ARP funds must be repaid in accordance with the requirements of this Notice.

   HUD has used its discretion in ARP to include eligible costs for supportive services that are necessary to assist the qualifying populations, prevent homelessness, or to enable qualifying households to obtain and maintain housing. The list of eligible costs associated with McKinney-Vento Supportive Services and Homelessness Prevention Services is in Section VI.D.4.c.i of this Notice.

   While all qualifying households are eligible to receive supportive services under this activity, the PJ must establish requirements for documenting eligible costs for an individual or family in a qualifying population (as defined in Section IV.A of this Notice) as McKinney-Vento supportive services, homelessness prevention services, or Housing Counseling.

   If a person is homeless, then the person is eligible to be provided the supportive services as McKinney-Vento supportive services for the costs allowable in Section VI.D.4.c below. If a person is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing then the person is eligible for homelessness prevention services for the costs allowable in Section VI.D.4.c.i below. Housing Counseling services may be provided regardless of whether a person is homeless or currently housed.

   PJs must document in their files which types of supportive services they wish to offer program participants. If PJs are using a supportive services provider, PJs must document in their written agreements with supportive service providers whether they are authorizing McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three. Only the supportive services that are authorized in the written agreement with the supportive service provider may be provided to program participants by that supportive service provider and only program participants that are eligible for those supportive services may be served. As such, supportive services providers must demonstrate through their documentation that the individuals served were eligible to receive the supportive services that were authorized under the written agreement in order for those costs to be eligible.

Consistent with the requirements in this section, the PJ may set a maximum dollar amount that a program participant may receive for each type of service described in Section VI.D.4.c. below and may also set a maximum period for which a program participant may receive any of the types of assistance or services.

a. *Oversight of Eligible Costs*: All supportive service costs paid for by HOME-ARP must comply with the requirements of this Notice, including requirements in 2 CFR part 200, subpart E, Cost Principles that require costs be necessary and reasonable. If a qualifying household is already receiving the same eligible supportive service or has been approved to receive the same service through another program or provider, the program participant does not have a need for the HOME-ARP service and the costs related to the service do not comply with the Cost Principles. The PJ is responsible for establishing requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services. This may include the use of systems such as Homeless Management Information Systems in coordination with local supportive service providers, CoCs, and other nonprofit organizations.

b. *Direct provision of services*: PJs contracting with service providers engaged directly in the provision of services under the HOME-ARP eligible supportive services categories, shall have written agreements or contracts that comply with the requirements of this Notice and, to the extent practicable, enter into agreements or contracts in amounts that cover the actual total program costs and administrative overhead to provide the services contracted.

   If the services outlined in paragraph c. below are being directly delivered by the PJ or a subrecipient, the following costs are eligible project delivery costs for those services:

   - the costs of labor or supplies and materials incurred by the PJ or subrecipient in directly providing supportive services to program participants.
   - the salary and benefit packages of the PJ and subrecipient staff who directly deliver the services.

   These project delivery costs must be attributable to the identifiable objective of the service delivered, otherwise they are administrative costs of the PJ or subrecipient.

c. *Eligible Costs:*

   i. *Eligible Costs for McKinney Vento Supportive Services and Homelessness Prevention Services*: Eligible costs for supportive services under either of these two categories include costs associated with the following services:

      (A) Child care: The costs of child care for program participants, including providing meals and snacks, and comprehensive and coordinated developmental activities, are eligible. The child care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible. The following conditions also apply:

- Children must be under the age of 13 unless the children have a disability.
- Children with a disability must be under the age of 18.

(B) Education services: The costs of improving knowledge and basic educational skills are eligible costs including:

- Instruction or training in consumer education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED).
- Screening, assessment, and testing; individual or group instruction; tutoring; provision of books, supplies, and instructional material; counseling; and referral to community resources.

(C) Employment assistance and job training: The costs of establishing and/or operating employment assistance and job training programs are eligible, including classroom, online and/or computer instruction, on-the-job instruction, services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is also an eligible cost.

- Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates.
- Services that assist individuals in securing employment consist of:
  - Employment screening, assessment, or testing;
  - Structured job skills and job-seeking skills;
  - Special training and tutoring, including literacy training and pre-vocational training;
  - Books and instructional material;
  - Counseling or job coaching; and
  - Referral to community resources.

(D) Food: The cost of providing meals or groceries to program participants is eligible.

(E) Housing search and counseling services: Costs of assisting eligible program participants to locate, obtain, and retain suitable housing are eligible. Services are:

- Development of an action plan for locating housing;
- Housing search;
- Tenant counseling;
- Securing utilities;
- Making moving arrangements;
- Outreach to and negotiation with owners;
- Assistance submitting rental applications and understanding leases;
- Assessment of housing for compliance with HOME-ARP requirements for TBRA assistance in Section VI.C of this Notice and financial

assistance for short-term and medium-term rental payments provided under Section VI.D.4.c.i.(R) below;

- Assistance obtaining utilities; and
- Tenant counseling;
- Mediation with property owners and landlords on behalf of eligible program participants;
- Credit counseling, accessing a free personal credit report, and resolving personal credit issues; and
- Payment of rental application fees;
- Other Housing counseling costs, as defined in 24 CFR 5.100, funded with or provided in connection with grant funds must be carried out in accordance with 24 CFR 5.111.

Please Note: When PJs or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of Housing counseling, as defined in 24 CFR 5.100, and therefore are not required to be carried out in accordance with the certification requirements of 24 CFR 5.111.

(F) Legal services: Eligible costs are the fees charged by licensed attorneys and by person(s) under the supervision of licensed attorneys, for advice and representation in matters that interfere with a qualifying individual or family's ability to obtain and retain housing.

- Eligible subject matters are child support; guardianship; paternity; emancipation; legal separation; orders of protection and other legal remedies for victims of domestic violence, dating violence, sexual assault, human trafficking, and stalking; appeal of veterans and public benefit claim denials; landlord-tenant disputes; and the resolution of outstanding criminal warrants; landlord/tenant matters, provided that the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.
- Legal services for immigration and citizenship matters and for issues related to mortgages and homeownership are ineligible. Retainer fee arrangements and contingency fee arrangements are prohibited.
- Services may include client intake, receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.
- Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.

(G) Life skills training: The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, dating violence, sexual assault, stalking, human trafficking, substance abuse, and homelessness are eligible. These services must be necessary to assist the program participant to function independently in the community. Life skills training includes:

- the budgeting of resources and money management, household management, conflict management, shopping for food and other needed items, nutrition, the use of public transportation, and parent training.

(H) Mental health services: Eligible costs are the direct outpatient treatment of mental health conditions that are provided by licensed professionals.

- Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances. Problem areas may include family and marital relationships, parent-child problems, or symptom management.
- Services are crisis interventions; counseling; individual, family, or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.

(I) Outpatient health services: Eligible costs are the direct outpatient treatment of medical conditions when provided by licensed medical professionals including:

- Providing an analysis or assessment of a program participant's health problems and the development of a treatment plan;
- Assisting program participants to understand their health needs;
- Providing directly or assisting program participants to obtain and utilize appropriate medical treatment;
- Preventive medical care and health maintenance services, including in-home health services and emergency medical services;
- Provision of appropriate medication;
- Providing follow-up services; and
- Preventive and non-cosmetic dental care.

(J) Outreach services: The costs of activities to engage qualified populations for the purpose of providing immediate support and intervention, as well as identifying potential program participants, are eligible.

- Eligible costs include the outreach worker's transportation costs and a cell phone to be used by the individual performing the outreach.
- Costs associated with the following services are eligible: initial assessment; crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; actively connecting and providing people with information and referrals to homeless and

mainstream programs; and publicizing the availability of the housing and/or services provided within the PJ's geographic area.

(K) Substance abuse treatment services: Eligible substance abuse treatment services are designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors and are provided by licensed or certified professionals. The costs include:

- Program participant intake and assessment;
- Outpatient treatment;
- Group and individual counseling
- Drug testing;
- Inpatient detoxification and other inpatient drug or alcohol treatment are ineligible.

(L) Transportation: Eligible costs are:

- The costs of program participant's travel on public transportation or in a vehicle provided by the PJ or subrecipient to and from medical care, employment, childcare, or other services eligible under this Notice;
- Mileage allowance for service workers to visit program participants and to carry out housing inspections;
- The cost of purchasing or leasing a vehicle in which staff transports program participants and/or staff serving program participants;
- The cost of gas, insurance, taxes, and maintenance for the vehicle;
- The costs of PJ or subrecipient staff to accompany or assist program participants to utilize public transportation; and
- If public transportation options are not sufficient within the area, the PJ may make a one-time payment on behalf of a program participant needing car repairs or maintenance required to operate a personal vehicle, subject to the following:
  - Payments for car repairs or maintenance on behalf of the program participant may not exceed 10 percent of the Blue Book value of the vehicle (Blue Book refers to the guidebook that compiles and quotes prices for new and used automobiles and other vehicles of all makes, models, and types);
  - Payments for car repairs or maintenance must be paid by the PJ or subrecipient directly to the third party that repairs or maintains the car; and
  - PJs or subrecipients may require program participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.
- The PJ must establish policies and procedures surrounding payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance described above, and maintenance for vehicles of program participants. Such costs must be limited to program participants with the inability to pay for such costs and who, without such assistance, would not be able to participate in eligible services under this Section VI.D.4.c.i.

(M) Case management: The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant(s) are eligible costs. PJs and subrecipients providing these supportive services must have written standards for providing the assistance. Eligible costs are those associated with the following services and activities:

- Conducting the initial evaluation, including verifying and documenting eligibility, for individuals and families applying for supportive services;
- Counseling;
- Developing, securing, and coordinating services;
- Using a centralized or coordinated assessment system that complies with the requirements of Section IV.C of the Notice;
- Obtaining federal, State, and local benefits;
- Monitoring and evaluating program participant progress;
- Providing information and referrals to other providers;
- Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking;
- Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
- Conducting re-evaluations of the program participant's eligibility and the types and amounts of assistance the program participant needs.

(N) Mediation: HOME-ARP funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

(O) Credit repair: HOME-ARP funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.

(P) Landlord/Tenant Liaison: Costs of liaison services between property managers/owners and program participants are eligible HOME-ARP costs and may include:

- Landlord outreach;
- Physical inspections and rent reasonable studies as needed to secure units;
- Rental application fees and security deposits for clients, in accordance with the financial assistance costs requirements in (R);
- Mediation services in (N) for housing issues that may arise between owner, property manager, or other residents and clients;

- Coordination or assistance with the provision of other HOME-ARP eligible services to assist clients to maintain permanent housing.

(Q) Services for special populations: HOME-ARP funds may be used to provide services for special populations, such as victim services, so long as the costs of providing these services are eligible under this section. The term victim services means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, stalking, or human trafficking.

(R) Financial assistance costs: HOME-ARP funds may be used to pay housing owners, utility companies, and other third parties for the following costs, as applicable:

- Rental application fees: Rental housing application fee that is charged by the owner to all applicants.
- Security deposits: A security deposit that is equal to no more than 2 months' rent. This assistance is separate and distinct from the provision of financial assistance for First and Last Month's rent provided under this section and cannot be used to duplicate those costs.
- Utility deposits: HOME-ARP funds may pay for a standard utility deposit or initiation fee required by the utility company or owner (if owner-paid utilities are provided) for all program participants for the following utilities:
  - Gas
  - Electric
  - Water
  - Sewer
- Utility payments: HOME-ARP funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.
- Moving costs: HOME-ARP funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under this section of the Notice and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.

- First and Last month's rent: If necessary to obtain housing for a program participant, HOME-ARP funds may be used to make a pre-payment of the first and last month's rent under a new lease to the owner at the time the owner is paid the security deposit for the program participant's tenancy in the housing. This assistance must not exceed two month's rent and must be tracked for purposes of determining the total short- and medium-term financial assistance for rent that the program participant may receive. This assistance is separate and distinct from financial assistance for Security Deposits provided under this section and cannot be used to duplicate those costs.
- Payment of rental arrears: HOME-ARP funds may be used for a one-time payment for up to 6 months of rent in arrears, including any late fees or charges on those arrears, if necessary for the household to maintain their existing housing or, for those without housing, if necessary to remove a demonstrated barrier to obtaining housing.

(S) Short-term and medium-term financial assistance for rent: Subject to the following conditions, a PJ may provide a program participant with short-term or medium-term financial assistance for rent, provided that the total financial assistance provided, including any pre-payment of first and last month's rent as described above, does not exceed 24 months of rental payments over any 3-year period.

- Short-term means up to 3 months.
- Medium-term means more than 3 months but not more than 24 months.
- The PJ may make rental payments only to an owner with whom the PJ has entered into a financial assistance agreement for rental payment. The financial assistance agreement must set forth the terms under which rental payments will be provided, including the requirements that apply under this Notice. The financial assistance agreement must provide that, during the term of the agreement, the owner must give the PJ a copy of any notice to the program participant to vacate the housing unit or any complaint used under State or local law to commence an eviction action against the program participant. The owner must serve written notice upon the program participant at least 30 days before termination of tenancy specifying the grounds for the action. Each financial assistance agreement that is executed or renewed must comply with the requirements in 24 CFR 92.359.
- The PJ must make timely payments to each owner in accordance with the financial assistance agreement. The financial assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The PJ is solely responsible for paying late payment penalties that it incurs with non-HOME-ARP funds.
  - Rental payments cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD, as provided under 24 CFR

part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

- Each program participant receiving financial assistance for rental payments must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the financial assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. New leases must have an initial term of 1 year unless a shorter period is agreed upon by the program participant and owner. The lease requirements in 24 CFR 92.359 apply to this financial assistance.
- PJs must establish requirements to prevent the provision of short- or medium-term financial assistance for rent for the same period for which a program participant is receiving rental assistance or living in housing provided with ongoing assistance (such as project-based rental assistance or operating subsidies).
- If a program participant receiving financial assistance for short- or medium-term rental payments under this section meets the conditions for an emergency transfer under 24 CFR 5.2005(e), HOME-ARP funds may be used to pay amounts owed for breaking a lease to effectuate an emergency transfer. These costs are not subject to the 24-month limit on rental payments.

Ineligible costs - Financial assistance cannot be provided to a program participant who is receiving the same type of assistance through other public sources. Financial assistance also cannot be provided to a program participant who has been provided with replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC 4601 et seq.) and its implementing regulations at 49 CFR part 24, or Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d) and its implementing regulations at 24 CFR part 42, during the period of time covered by the replacement housing payments.

ii. *Eligible Costs Associated with Housing Counseling under 24 CFR 5.100 and 5.111*: Costs associated with housing counseling services as defined at 24 CFR 5.100 and 5.111 are eligible under HOME-ARP. As homeowner assistance and related services are not eligible HOME-ARP activities, costs for the provision of services related to mortgages and homeownership to existing homeowners are also not eligible under HOME-ARP. If a program participant is a candidate for homeownership, costs associated with pre-purchase homebuying counseling, education and outreach are eligible under HOME-ARP. Eligible costs are those costs associated with the services listed in 24 CFR part 214 and include, but are not limited to:

(A) Staff salaries and overhead costs of HUD-certified housing counseling agencies related to directly providing eligible housing counseling services to HOME-ARP program participants;
(B) Development of a housing counseling workplan;
(C) Marketing and outreach;
(D) Intake;
(E) Financial and housing affordability analysis;
(F) Action plans that outline what the housing counseling agency and the client will do to meet the client's housing goals and that address the client's housing problem(s);
(G) Follow-up communication with program participants.

5. **Termination of assistance to program participants**:

   a. *Termination of assistance*: The PJ may terminate assistance to a program participant who violates program requirements or conditions of occupancy or no longer needs the services as determined by the PJ. Termination under this section does not bar the PJ from providing further assistance at a later date to the same individual or family under this Notice.

   b. *Due process*: The PJ must establish policies and procedures for termination of assistance to program participants. In terminating assistance to a program participant, the PJ must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law. This process, at a minimum, must consist of:
      i. Providing the program participant with a written copy of the program rules and the termination process before the participant begins to receive assistance;
      ii. Written notice to the program participant containing a clear statement of the reasons for termination;
      iii. A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
      iv. Prompt written notice of the final decision to the program participant.

   During this process, the PJ must provide effective communication and accessibility for individuals with disabilities, including the provision of reasonable accommodations. Similarly, the PJ must provide meaningful access to persons with LEP.

6. **Commitment:** For supportive services, commitment means that before disbursing any HOME-ARP funds to any entity, the PJ executed a legally binding written agreement that complies with HOME-ARP requirements with the contractor or subrecipient providing the supportive service (that includes the date of the signature of each person signing the agreement).

7. **Policies and Procedures:** PJs must establish the following policies and procedures in compliance with this notice:

a. Tenant selection procedures in accordance with Section IV.C.2 and this section;

b. Eligibility of program participants in other HOME-ARP activities for supportive services under Section VI.D.4.c.i above including the length of time that program participants may be served by HOME-ARP TBRA and/or HOME ARP rental housing before they will no longer be eligible as a qualifying population for purposes of this section;

c. If the PJ chooses to set maximum amounts and/or maximum periods for assistance or services, the maximum dollar amount that a program participant may receive for each type of service described in Section VI.D.4.c.i above and/or maximum periods for which a program participant may receive any of the types of assistance or services under this section;

d. Documentation of eligible costs;

e. Requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services;

f. Payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance described above, and maintenance for vehicles of program participants;

g. Financial assistance for short-term and medium-term rental payments under this Notice, including requirements to prevent a duplication of rental or financial assistance provided to a program participant;

h. Housing stability case management; and

i. Termination of assistance to program participants.

8. **Project Completion**: Project completion for a HOME-ARP Supportive Services project means the final drawdown has been disbursed for the project.

E. Acquisition and Development of Non-Congregate Shelter

A non-congregate shelter (NCS) is one or more buildings that provide private units or rooms as temporary shelter to individuals and families and does not require occupants to sign a lease or occupancy agreement. HOME-ARP funds may be used to acquire and develop HOME-ARP NCS for individuals and families in qualifying populations. This activity may include but is not limited to the acquisition of land and construction of HOME-ARP NCS or acquisition and/or rehabilitation of existing structures such as motels, hotels, or other facilities to be used for HOME-ARP NCS. HOME-ARP funds may not be used to pay the operating costs of HOME-ARP NCS. Consequently, PJs must consider the availability of ongoing operating funds for the HOME-ARP NCS so that the HOME-ARP NCS can remain viable through the restricted use period specified in this Notice.

During the restricted use period, HOME-ARP NCS may:

- Remain as HOME-ARP NCS in compliance with the requirements of this Notice.
- Be used as a non-congregate emergency shelter under the Emergency Solutions Grants (ESG) program (Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act) (42 USC 11371 et seq.), in which case the non-congregate shelter must be operated in compliance with all requirements at 24 CFR part 576 that apply when ESG funds are provided for operating costs or essential services in the shelter. During any period for which ESG funds are provided, the applicable ESG requirements shall govern in the event of any conflict with HOME-ARP requirements.
- Be converted to permanent affordable housing according to the requirements established in Section VI.E.11 of this Notice.
- Be converted to permanent housing as defined in Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 USC 11381 et seq.) according to requirements of this Notice and 24 CFR part 578.

1. **Admission and Occupancy**: HOME-ARP NCS units may only be occupied by individuals or families that meet the criteria for one or more of the qualifying populations as defined in Section IV.A. of this Notice. Where applicable, occupancy of NCS units by qualifying populations must be in accordance with the requirements in Section IV.C of this Notice. The PJ must not allow qualifying populations to be charged occupancy fees or other charges to occupy a HOME-ARP NCS unit unless the PJ determines such fees and charges to be customary and reasonable and the charges comply with 24 CFR 578.77(b).

   To ensure that access to HOME-ARP NCS by qualifying populations is effectively integrated with other assistance and services, PJs are encouraged to incorporate each HOME-ARP NCS into the CE established by the CoC(s) for the area the NCS is funded to serve, provided that the CE is used in accordance with Section IV.C of this Notice. Whether or not packaged with NCS funding, HOME-ARP supportive services may also be provided as needed to qualifying individuals and families served by the HOME-ARP NCS in accordance with the requirements contained in Section VI.D of this Notice.

   No individual or family may be denied admission to or removed from a HOME-ARP NCS unit on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the individual or family meets the criteria of one of the qualifying populations.

2. **Eligible Activities**: HOME-ARP funds may be used to acquire and/or rehabilitate or construct HOME-ARP NCS units to serve qualifying populations. Acquisition of vacant land or demolition of existing structures may be undertaken only as part of a HOME-ARP NCS project. HOME-ARP NCS units acquired and/or developed with HOME-ARP funds must meet the requirements of this Notice, i.e., be used as HOME-ARP NCS or used as emergency shelter under ESG for the restricted use period established in Section VI.E.9 of this Notice.

3. **Eligible Costs**: HOME-ARP funds may be used for actual costs of acquiring NCS or developing HOME-ARP NCS as follows:

a. *Acquisition Costs*: Costs to acquire improved or unimproved real property.

b. *Demolition Costs*: Costs of demolishing existing structures for the purpose of developing HOME-ARP NCS.

c. *Development Hard Costs*: Costs identified in 24 CFR 92.206(a) to rehabilitate or construct HOME-ARP NCS units, except costs must be for meeting the physical standards established in Section VI.E.7 of this Notice.

d. *Site Improvements*: Costs to make improvements to the project site, including installation of utilities or utility connections, and the construction or rehabilitation of laundry, community facilities, on-site management, or supportive service offices.

e. *Related Soft Costs*: Reasonable and necessary costs incurred by the PJ and owner associated with the financing, acquisition, and development of HOME-ARP NCS projects, including costs identified in 24 CFR 92.206(d) with the following exceptions:

   i. Costs to provide information services such as affirmative marketing to prospective homeowners and tenants are not eligible.

   ii. Costs of funding an initial operating deficit reserve are not eligible.

   iii. Costs of project-specific assistance to community housing development organizations, including technical assistance and site control loans or seed money loans as specified in 24 CFR 92.301 are not eligible.

f. *Replacement Reserve*: Costs to capitalize a replacement reserve to pay the reasonable and necessary costs of replacing major systems and their components whose useful life will end during the restricted use period. Major systems include structural support, roofing, cladding, and weatherproofing, plumbing, electrical and HVAC. The costs of replacing major systems must be determined through a Capital Needs Assessment or documented in writing after an inspection by the PJ or PJ-selected contractor to assess the remaining useful life of major systems expected upon completion of the HOME-ARP NCS project. The costs of a replacement reserve must be included in the project budget in the written agreement along with a list of major systems to be replaced with the reserve and projected replacement schedule during the restricted use period (i.e., reserve for replacement analysis). Rehabilitation planned to be completed with HOME-ARP NCS reserve funds at a later date must be included in IDIS as a rehabilitation activity at initial commitment.

4. **Prohibited Costs**: HOME-ARP funds **may not** be used to:

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

   b. Provide additional HOME-ARP investment in a HOME-ARP NCS project during the restricted use period, except that additional HOME-ARP funds can be invested in the project up to one year after project completion in IDIS for eligible costs.

c. Pay costs of a conversion of HOME-ARP NCS as described in Section VI.E.11 of this Notice.

d. Provide non-Federal matching contributions required under any other Federal program.

e. Provide assistance for uses authorized under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (Public Housing Capital and Operating Funds).

f. Provide assistance to eligible low-income housing under 24 CFR part 248 (Prepayment of Low-Income Housing Mortgages).

g. Pay for the acquisition of property owned by the PJ, except for property acquired by the PJ with HOME-ARP NCS funds, or property acquired in anticipation of carrying out a HOME-ARP NCS project.

h. Pay delinquent taxes, fees, or charges on properties to be assisted with HOME-ARP NCS funds.

i. Pay for any cost that is not eligible under this Notice.

5. **Commitment**: PJs must commit HOME-ARP funds before disbursing funds for a HOME-ARP NCS project. HOME-ARP funds are committed to a HOME-ARP NCS project when the PJ executes a legally binding written agreement that meets the requirements in this Notice.

   If the project is an acquisition-only activity, the PJ may commit HOME-ARP funds if it reasonably expects the project will be operated as HOME-ARP NCS within 6 months of the date of acquisition. Acquisition-only HOME-ARP NCS projects may be performed when the PJ reasonably determines that the units acquired will not require rehabilitation to meet the property standards in Section VI.E.7 of this Notice. If the project is not in active use as HOME-ARP NCS within 6 months of the acquisition, HUD may require the PJ to submit a schedule for placing the project into operation within a period determined by HUD or may require the PJ to repay the funds to its HOME-ARP Treasury Account.

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

6. **Project Development Due Diligence**: HOME-ARP NCS projects must meet the requirements of this Notice for the restricted use period. Consequently, before awarding HOME-ARP funds to a HOME-ARP NCS project, PJs must determine that acquisition and/or development is financially feasible. The PJ is responsible for maintaining continued operation of the NCS in accordance with this Notice throughout the restricted use period. Therefore, the PJ must consider whether the HOME-ARP NCS project has secured or has a high likelihood of securing operating funding because operating costs cannot be paid with HOME-ARP.

PJs must assess HOME-ARP NCS projects, including a review of information from the owner and/or developer that demonstrates the project's financial feasibility throughout the restricted use period. Before awarding funds for HOME-ARP NCS, the PJ must:

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

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

7. **Property and Habitability Standards**: HOME-ARP NCS projects must meet the minimum HOME-ARP property standards prior to occupancy and the HOME-ARP NCS ongoing property standards throughout the restricted use period as described in this Notice. An "acquisition only" project must meet the HOME-ARP NCS minimum property standards described in paragraph a. below at the time of acquisition. If the project requires rehabilitation or repair to meet the minimum property standards, the project is considered acquisition and rehabilitation irrespective of the source of funds used for the rehabilitation or repair and must meet the NCS rehabilitation standards in paragraph b. below. In addition, PJs must meet the standards required in this Notice for rehabilitation or new construction, as applicable. The PJ must determine that construction contracts and documents describe the work to be completed in adequate detail to establish a basis for inspection to determine that all work was completed to contracted specifications and that the project met the HOME-ARP NCS property standards. Project classification as rehabilitation or new construction is determined by the PJs local code requirements based on specific work to be completed. PJs may also choose to adopt a standard that exceeds the minimum standards described here. The written agreement must impose the HOME-ARP NCS property standards or the PJ's locally developed standards and require that the PJ or its representatives have access to the property to perform inspections during development and throughout the restricted use period.

a. *Minimum HOME-ARP NCS Property Standards*: All HOME-ARP NCS units and common areas must meet all applicable State and local codes, ordinances, and requirements and the applicable provisions of HUD's Lead Safe Housing Rules at 24 CFR Part 35. In addition, all HOME-ARP NCS projects must meet the following minimum safety, sanitation, accessibility, and privacy standards:

   i. Must be structurally sound to protect occupants from the elements and not pose any threat to health and safety of the occupants.
   ii. Must be accessible in accordance with section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 *et seq.*) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 *et seq.*) and implementing regulations at 24 CFR part 35, all as applicable.
   iii. Must provide each individual or family with an acceptable, individual room to sleep which includes adequate space and security for themselves and their belongings.
   iv. Must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of occupants.
   v. Must have a water supply free of contamination.
   vi. Must have in-unit sanitary facilities that are in proper operating condition and are adequate for personal cleanliness and the disposal of human waste.
   vii. Must provide necessary heating/cooling facilities in proper operating condition.
   viii. Must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances.
   ix. Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
   x. Must provide one working smoke detector and one working carbon monoxide detector in each unit. All smoke and carbon monoxide detectors and alarm systems must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector and one carbon monoxide detector. There must also be a second means of exiting the building in the event of fire or other emergency.

Minimum HOME-ARP NCS Rehabilitation Standards: HOME-ARP NCS rehabilitation projects must meet all applicable State and local codes, ordinances, and requirements , or in the absence of such codes, International Residential Code or the International Building Code (as applicable), and must comply with the Lead Safe Housing Rule at 24 CFR Part 35. Additionally, PJs must consider the remaining useful life of major systems. PJs are encouraged to use a Capital Needs Assessment to determine the reasonable and necessary investment of HOME-ARP funding in rehabilitation projects and expected cost of ongoing replacement needs during the restricted use period. If HOME-ARP funding will capitalize a replacement reserve, the PJ must determine the remaining useful life of major systems through a Capital Needs Assessment or other PJ inspection documented in writing, in accordance with requirements for capitalized replacement reserve costs in VI.E.3.

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

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

8. **Project Completion**: Project Completion for HOME-ARP NCS means:

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

   All HOME-ARP NCS projects must be completed within 4 years of the date of commitment of the HOME-ARP funds based on the date of the last signature on the written agreement. If the PJ fails to complete a project within 4 years of project completion, it must comply with the terminated project requirements at 24 CFR 92.205(e)(2). HOME-ARP NCS rehabilitation and new construction projects must begin operating as active shelters within 6 months after the date of completion of the construction work. If the HOME-ARP NCS project is not in use within 6 months, HUD may require the PJ to submit a schedule for placing the project into operation as an active shelter within a period determined by HUD or may require the PJ to repay the HOME-ARP funds to its HOME-ARP Treasury Account.

9. **Restricted Use Period**: HOME-ARP NCS projects must comply with the requirements of this Notice for not less than the restricted use period specified in this Notice. PJs must impose the HOME-ARP NCS requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanism approved by HUD. The use restriction should not identify that the property is prioritized for victims of domestic violence, dating violence, sexual assault, stalking or human trafficking. This use restriction must require that the property is operated as HOME-ARP NCS or non-congregate emergency shelter under ESG for the required restricted use period except that HOME-ARP

NCS projects may be converted to permanent affordable housing or CoC permanent housing after being operated as HOME-ARP NCS for the applicable minimum use period prior to conversion as described in Section VI.E.11. If the HOME-ARP NCS is converted, the PJ must amend its use restriction to reflect the change in requirements for the remainder of the restricted use period.

The restricted use period begins at project completion as defined in Section VI.E.8 of this Notice and must be imposed for at least the following periods:

a. *New Construction*: Newly constructed HOME-ARP NCS units must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 15 years, regardless of the amount of HOME-ARP funds invested in the project.

b. *Rehabilitation*: HOME-ARP NCS units which receive any amount of HOME-ARP funds for rehabilitation but are not designated as new construction by the PJ's state or local building code requirements must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 10 years.

c. *Acquisition Only*: Units acquired for use as HOME-ARP NCS that do not require rehabilitation for occupancy must serve the qualifying populations for a restricted use period of 10 years.

d. PJs may impose longer restricted use periods but must require the project remain financially viable for the extended period.

10. **Return of Replacement Reserve**: HOME-ARP funds may capitalize a replacement reserve for HOME-ARP NCS projects performing rehabilitation as described in Section VI.E.3 of this Notice. Any unexpended HOME-ARP funds remaining in a project's replacement reserve at the completion of the restricted use period or upon conversion must be used or returned as follows:

a. If the HOME-ARP NCS project will continue to operate in accordance with the HOME-ARP NCS requirements and serve qualifying households beyond the HOME-ARP NCS restricted use period demonstrated by enforceable restrictions imposed by the PJ in accordance with Section VI.E.9, the project can retain the replacement reserve to pay reasonable and necessary costs of replacing major systems and their components.

b. If the HOME-ARP NCS project will not continue to operate in accordance with the HOME-ARP NCS requirements because the NCS is being converted to either CoC permanent housing or permanent affordable housing as described in Section VI.E.11 of this Notice and the HOME-ARP grant is still open, the remaining HOME-ARP funds in the replacement reserve must be returned to the PJ's HOME Investment Trust Fund Treasury account.

c. If the HOME-ARP NCS grant has expired or is closed out, any remaining HOME-ARP funds in the replacement reserve must be deposited in the PJ's local HOME account,

recorded as a program income receipt in IDIS and used for eligible costs under 24 CFR part 92.

11. **Conversion of Non-Congregate Shelter to Rental Housing**: The ARP authorizes the conversion of HOME-ARP NCS units into permanent housing under subtitle C of title IV of McKinney-Vento or permanent affordable housing as described in this section, during the restricted use period. No HOME-ARP funds may be used for conversion. The written agreement between the PJ and the owner of the HOME-ARP NCS project must describe conversion as a possible outcome of the HOME-ARP NCS project; specify the conditions under which conversion will be permitted; and require that the PJ approve any conversion in advance.

    a. *Minimum Use Period*: All HOME-ARP NCS projects must be operated as NCS for a minimum period of time prior to conversion. The minimum use period prior to conversion varies based on the original HOME-ARP NCS eligible activity undertaken and the amount of funds invested in the project. If the HOME-ARP NCS project involves rehabilitation, the minimum use period prior to conversion is based on the total cost of the rehabilitation as a percentage of the total appraised value of the improved property. A larger investment for rehabilitation will require operation as HOME-ARP NCS for a longer minimum use period prior to conversion.
        i. Acquisition Only: HOME-ARP NCS activities not requiring rehabilitation for occupancy must be operated as HOME-ARP NCS for no less than 3 years from project completion prior to conversion.
        ii. Moderate Rehabilitation: Occurs when an NCS HOME-ARP project requires rehabilitation and the total rehabilitation expenditure from all sources of less than 75 percent of the total appraised value of the improved property. HOME-ARP NCS projects that receive moderate rehabilitation must be operated as HOME-ARP NCS for no less than 5 years from project completion prior to conversion.
        iii. Substantial Rehabilitation: Occurs when an NCS HOME-ARP project requires rehabilitation and the total rehabilitation expenditure from all sources exceeds 75 percent of the total appraised value of the improved property. HOME-ARP NCS projects that receive substantial rehabilitation must be operated as HOME-ARP NCS for no less than 10 years from project completion before conversion.
        iv. New Construction: Any HOME-ARP NCS project defined by the PJ's state or local code requirements as new construction must be operated as HOME-ARP NCS for no less than 10 years from project completion prior to conversion.

    Requirements for conversions vary depending on the type of conversion, as follows:

    b. *Permanent Affordable Housing*: During the HOME-ARP NCS restricted use period but only after the HOME-ARP NCS minimum use period, a PJ may provide written approval to convert the project from HOME-ARP NCS to permanent affordable housing (e.g., affordable multifamily rental housing, transitional housing) in accordance with the requirements prescribed in the PJ's written agreement with the HOME-ARP NCS owner.

The converted permanent affordable housing project must meet the following requirements:

i. Additional HOME-ARP Investment: The PJ is prohibited from investing additional HOME-ARP funds to pay for the cost of converting the project from HOME-ARP NCS to permanent affordable housing or to pay for operating the project as permanent affordable housing. However, the PJ must determine that adequate financial resources are committed to the project to bring it into compliance with the property standards of Section VI.B.11 of this Notice and maintain the financial feasibility of the project to be operated as permanent affordable housing for the qualifying populations throughout the remaining restricted use period. If permitting conversion of HOME-ARP NCS into permanent affordable housing, a PJ must develop and evaluate the project in accordance with standardized underwriting guidelines for conversion. At minimum, the PJ's underwriting guidelines for conversion must include an examination of the sources and uses of funds for the conversion and a careful review of the project's operating budget, including the assumptions, projections, and reasonably expected increases in expenses throughout the minimum compliance period defined in the section below, to determine that the project will remain financially feasible to serve the qualifying populations for the remainder of the restricted use period.

   The PJ may assist households living in affordable rental housing units in converted projects by providing HOME-ARP TBRA in accordance with Section VI.C of this Notice or financial assistance services in accordance with Section VI.D.4.c.i.R.

ii. Minimum Compliance Period: The minimum compliance period for converted housing is the period that the housing must continue to comply with the requirements of this Notice and is equal to the balance of the HOME-ARP NCS restricted use period. A PJ may impose a longer compliance period but should plan for the project's financial feasibility for the longer period. The PJ may not use HOME-ARP funds to provide operating assistance, including a capitalized operating reserve, to cover deficits during the minimum or an extended compliance period.

   The PJ must amend the use restriction for HOME-ARP NCS to reflect the conversion to permanent affordable housing. The provisions for imposing affordability requirements at 24 CFR 92.252(e)(1) through (e)(4) apply to the amended use restriction. In addition, the amended use restriction for the permanent affordable housing must be enforceable to maintain compliance with the requirements of this Notice for the minimum compliance period, including the following:

   (1) The same number of units that were operated as HOME-ARP NCS for qualifying populations must be restricted for and must be occupied by households that meet the definition of a qualifying population at the time of initial occupancy of the permanent affordable housing. The household's contribution toward rent during this period must be affordable in accordance with Section VI.E.11 of this Notice.

(2) The units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the minimum compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504(d)(ii).
(3) Each household that occupies a HOME-ARP assisted rental unit must have an executed lease that complies with the tenant protections required in Section VI.B.18 of this Notice.

iii. Property Standards: For the remaining restricted use period, the PJ must require that project owners maintain the housing as decent, safe and sanitary housing in good repair in accordance with the ongoing property condition standards of 24 CFR 92.251(f) as demonstrated by an on-site inspection at least once every three years in accordance with 24 CFR 92.504(d)(ii).

iv. Tenant Contribution to Rent: The PJ must confirm that the qualifying household's contribution to rent is affordable to the household based on a determination of the household's income. If the household is receiving project-based or tenant-based rental assistance, it cannot contribute towards rent more than is permitted in accordance with the requirements of the applicable program. If a qualifying household cannot contribute to rent, or the contribution is insufficient to cover the unit rent, the PJ may provide HOME-ARP TBRA or supportive services to assist the qualifying household but may not provide operating cost assistance or fund an operating cost assistance reserve.

v. Tenant Protections: Following conversion, each qualifying household that occupies a permanent affordable housing unit must have an executed lease or sublease that complies with the tenant protections requirements of this Notice.

(1) *Lease Requirement*: There must be a lease between the qualifying household and the owner of the permanent affordable housing project or, if there is a sublease with a qualifying household, a lease between a HOME-ARP sponsor and the owner in accordance with 24 CFR 92.253(a).
(2) *Prohibited Lease Terms*: The lease between the qualifying household and the owner, lease between HOME-ARP sponsor and the owner, and sublease between a HOME-ARP sponsor and qualifying household may not contain any of the prohibited lease terms specified in 24 CFR 92.253(b).
(3) *Termination of tenancy*: An owner may not terminate the tenancy or refuse to renew the lease of a qualifying household (or of a HOME-ARP sponsor with a sublease with a qualifying household) in a permanent affordable housing unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws, or for other good cause. An increase in the qualifying household's income does not constitute good cause.

To terminate or refuse to renew tenancy, the owner must serve written notice upon the qualifying household and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor, specifying the grounds for the action at least 30 days before termination of tenancy. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the PJ, must notify the PJ in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

vi. Coordinated Entry and Project-Specific Waitlists: On a project-by-project basis, the PJ must use the method of tenant selection in Section VI.B.19 of this Notice to select qualifying households for occupancy of permanent affordable housing.

vii. Penalties for Noncompliance: The PJ must repay HOME-ARP funds invested in HOME-ARP NCS that was converted to permanent affordable housing if the permanent affordable housing does not comply with initial or ongoing requirements of this Notice during the compliance period.

c. *CoC Permanent Housing*: During the HOME-ARP NCS restricted use period but only after the HOME-ARP NCS minimum use period, a PJ may permit the conversion of a HOME-ARP NCS project to permanent housing or permanent supportive housing under 24 CFR 578.43 (acquisition) and/or 24 CFR 578.45 (rehabilitation) of the CoC program regulations. Conversions may only occur in accordance with the requirements prescribed in the PJ's written agreement with the HOME-ARP NCS owner. If conversion is approved by the PJ, the HOME-ARP NCS use restrictions must remain in place until the project is approved for CoC funding and the required CoC restrictions are imposed on the property.

Conversion to CoC permanent housing or permanent supportive housing may serve the following eligible households as defined in 24 CFR 578.3, subject to any further eligibility conditions that may apply to the use of CoC Program funds to provide rental assistance in the housing or otherwise support the project:

- Chronically homeless individuals
- Homeless individuals or families

PJs are prohibited from investing additional HOME-ARP funds to pay for the cost of converting the project to CoC permanent housing or permanent supportive housing. The CoC designates eligible applicants for grant funds under 24 CFR Part 578, which includes nonprofit organizations, States, local governments, and instrumentalities of State or local governments. For-profit entities are not eligible to apply for CoC grants or to be subrecipients of grant funds. Consequently, if a HOME-ARP NCS project owner intends to convert the project to CoC permanent housing or permanent supportive housing during the restricted use period, the PJ is encouraged to pursue partnership and leveraging opportunities with the CoC early in the planning stage of a HOME-ARP NCS

project. Additionally, PJs may provide supportive services or HOME-ARP TBRA to qualifying households that must move because of the conversion. (See Section VII.F.4.b for more information on relocations involving shelter occupants).

F. Nonprofit Operating and Capacity Building Assistance

A PJ may use up to 5 percent of its HOME-ARP allocation to pay operating expenses of CHDOs and other nonprofit organizations that will carry out activities with HOME-ARP funds. A PJ may also use up to an additional 5 percent of its allocation to pay eligible costs related to developing the capacity of eligible nonprofit organizations to successfully carry out HOME-ARP eligible activities.

PJs may award operating expense assistance or capacity building assistance to a nonprofit organization if it reasonably expects to provide HOME-ARP funds to the organization for any of the eligible HOME-ARP activities within 24 months of the award.

1. Eligible Costs

a. *Operating Expense Assistance*: Operating expenses are defined as reasonable and necessary costs of operating the nonprofit organization. These costs include employee salaries, wages and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment, materials, and supplies.

HOME-ARP funds used for operating expenses must be used for the "**general operating costs**" of the nonprofit organization. These operating costs must not have a particular final cost objective, such as a project or activity, or must not be directly assignable to a HOME-ARP activity or project. For example, HOME-ARP funds for operating expenses may ***not*** be used for staffing costs to provide supportive services or develop HOME-ARP-rental housing (as operating costs to develop HOME-ARP rental housing are paid for by a developer fee which is a project delivery or soft cost). Because ARP does not permit any HOME-ARP funds to be used to operate a shelter, all costs related to operating a non-congregate shelter (e.g., allocable overhead and staffing costs, insurance, utilities) also cannot be paid with HOME-ARP funds.

The actual costs of implementing a specific activity or project, including staff costs to deliver supportive services or administer HOME-ARP TBRA, are considered HOME-ARP project delivery costs or project soft costs and are not eligible costs under Nonprofit Operating and Capacity Building Assistance. HOME-ARP project delivery costs are those allowable costs incurred for implementing and carrying out eligible HOME-ARP projects or activities, such as supportive services. All project delivery costs are allocable to a HOME-ARP project, including direct project and related delivery costs integral to developing the project or providing the activity. HOME-ARP project delivery costs may be paid, if eligible, by HOME-ARP funds provided under a written agreement for the activity or project and must not be paid with nonprofit operating expense or capacity building assistance.

b. *Capacity Building Assistance*: Capacity building expenses are defined as reasonable and necessary general operating costs that will result in expansion or improvement of an organization's ability to successfully carry out eligible HOME-ARP activities. Eligible costs include salaries for new hires including wages and other employee compensation and benefits; costs related to employee training or other staff development that enhances an employee's skill set and expertise; equipment (e.g., computer software or programs that improve organizational processes), upgrades to materials and equipment, and supplies; and contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations.

2. **Limitations on Assistance**: NAHA and the HOME regulations limit the amount of operating expense assistance that an organization can receive annually. ARP extends this limitation to the capacity building assistance paid with HOME-ARP funds.

   In any fiscal year, operating assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, for that fiscal year or $50,000.

   In any fiscal year, capacity building assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, or $50,000.

   If an organization receives both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or $75,000.

   To implement the above limitations on assistance, HUD has established separate fund types in IDIS for operating expense assistance and capacity building assistance. This will facilitate accurate tracking and ensure that PJs do not exceed the limits established in NAHA and ARP.

3. **Commitment of Operating Expense and Capacity Building Assistance**: A PJ commits operating expense assistance or capacity building assistance when it enters into a legally binding agreement with the nonprofit organization to provide the assistance.

VII. OTHER FEDERAL REQUIREMENTS

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

A. Other Federal Requirements and Nondiscrimination

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

B. Affirmative Marketing and Minority Outreach

The requirements in 24 CFR 92.351 apply to HOME-ARP activities.

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

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

No funds may be committed to a HOME-ARP activity or project before the completion of the environmental review and approval of the RROF/C, as applicable. Neither a HOME-ARP recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance on an activity or project until the environmental review has been completed and HUD or the state has approved the recipient's RROF/C from the RE as applicable. In addition, until the RROF/C have been approved, neither a HOME-ARP recipient nor any participant in the development process may commit non-HUD funds on or undertake a HOME-ARP activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. Therefore, it is important for REs to begin and complete any required environmental reviews as soon as possible.

1. HOME-ARP TBRA and Supportive Services

HOME-ARP TBRA and supportive services as defined at 24 CFR 58.35(b) are categorically excluded, not subject to the Federal laws and authorities at 24 CFR 58.5 (CENST) or exempt from review under NEPA. A RE may complete a single CENST review categorized under 24 CFR 58.35(b) for their supportive services program or their HOME-ARP TBRA program where participants choose their own unit and are not restricted to units within a pre-determined specific project site or sites. There is no need to complete reviews for every unit selected by participants.

2. HOME-ARP Rental Housing

Acquisition of a structure to be used as HOME-ARP rental housing is categorically excluded, subject to the Federal laws and authorities referenced at 24 CFR 58.5 (CEST) under 24 CFR 58.35(a)(5) (with the possibility of converting to exempt under 24 CFR 58.34(a)(12)) if the structure acquired will be retained for the same use (e.g., residential). Rehabilitation of buildings for residential use with one to four units for HOME-ARP rental housing is CEST under 24 CFR 58.35(a)(3)(i), if the density is not increased beyond four units, and the land use is not changed. Rehabilitation of buildings for use as HOME-ARP multifamily rental housing is CEST under 24 CFR 58.35(a)(3)(ii) only if:

1. the unit density is not changed more than 20 percent;
2. the project does not involve changes in land use from residential to non-residential; and
3. the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

Rehabilitation for HOME-ARP rental housing that does not meet the thresholds for multifamily residential buildings listed above requires completion of an Environmental Assessment in accordance with 24 CFR Part 58, Subpart E. An Environmental Assessment is also required for new construction, demolition, acquisition of vacant land for new construction, and acquisition of non-residential structures for demolition and new construction.

3. HOME-ARP NCS

HOME-ARP NCS activities are subject to environmental review by the RE under 24 CFR part 58. Acquisition of a structure to be used as HOME-ARP NCS is CEST under 24 CFR 58.35(a)(5) (with the possibility of converting to exempt under 24 CFR 58.34(a)(12)) if the structure acquired will be retained for the same use (e.g., residential). Rehabilitation of a structure for HOME-ARP NCS is CEST if the project meets the thresholds listed at 24 CFR 58.35(a)(3)(i) or (ii). Rehabilitation that does not meet these thresholds requires completion of an Environmental Assessment pursuant to 24 CFR part 58, subpart E. An Environmental Assessment is also required for new construction, demolition, acquisition of vacant land for new construction, and acquisition of non-residential structures for demolition and new construction.

HOME-ARP NCS projects which may convert to emergency shelter or permanent housing pursuant to Sec. 3204(a)(4)(B) or (C) of the ARP may complete a single environmental review that covers all proposed HUD funding sources and project activities. Conversion to a program using project-based rental assistance is CEST and requires completion of an environmental review. If conversion or other additional HUD funding sources are proposed after the

environmental review has been completed, a CENST review for supplemental assistance under 24 CFR 58.35(b)(7) can be performed if the review is completed by the same RE that conducted the original review and if re-evaluation is not required by 24 CFR 58.47.

The PJ or subrecipient, or any contractor of the PJ or subrecipient, may not acquire, rehabilitate, convert, repair, dispose of, demolish, or construct property for a HOME-ARP NCS project, or commit or expend HUD or non-HUD funds for NCS under HOME-ARP, until the RE has completed an environmental review under 24 CFR part 58 and received HUD or state approval of the RROF/C, as applicable.

D. Labor Standards

The requirements in 24 CFR 92.354 apply to HOME-ARP activities.

E. Lead Hazard Control Requirements

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 24 CFR Part 35, subparts A, B, J, K, M, and R apply to HOME-ARP-assisted activities.

For HOME-ARP NCS, a project must comply with 24 CFR part 35, Subpart K when the HOME-ARP activity is acquisition only. HOME-ARP NCS projects that involve rehabilitation of pre-1978 facilities, whether the rehabilitation is funded with HOME-ARP or other funds, must comply with the requirements of 24 CFR part 35, Subpart J.

F. Uniform Relocation Assistance and Real Property Acquisition Policies Act, Section 104(d), and HOME-ARP Displacement, Relocation and Acquisition Program Requirements

HOME-ARP funding is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and section 104(d) of the Housing and Community Development Act of 1974, in addition to the Displacement, Relocation and Acquisition regulatory requirements of 24 CFR 92.353. This Notice also includes HOME-ARP program specific relocation requirements applicable to HOME-ARP-assisted projects. PJs must comply with all applicable requirements, as described in this section.

1. **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**: Costs incurred to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. § 4601 *et seq.*) (URA) are eligible HOME-ARP project costs pursuant to this Notice and 24 CFR 92.206(f). The URA establishes minimum requirements for the acquisition of real property and the displacement of persons from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for federally-assisted programs and projects. The URA implementing regulations at 49 CFR part 24 establish:

- Requirements for the provision of replacement housing assistance, advisory services, and moving costs to persons displaced as a result of a program or project that receives federal financial assistance;
- Requirements for acquisitions, including the payment of just compensation pursuant to 49 CFR part 24, subpart B, and provisions for voluntary acquisitions set forth in 49 CFR 24.101.
- Minimum requirements for temporary relocation of persons, businesses, or farms as a result of a project or program that receives federal financial assistance. These requirements are found in Appendix A, Section 24.2(a)(9)(ii)(D).

Additional HUD URA policy and guidance is available in HUD Handbook 1378.

2. **Section 104(d) of the Housing and Community Development Act of 1974**: HOME-ARP is HOME funding and subject to the requirements in section 104(d) of the Housing and Community Development Act of 1974, as amended, (42 USC § 5304(d)), ("section 104(d)") unless waived, as described in this section and Appendix. Costs incurred to comply with section 104(d) requirements are eligible HOME-ARP project costs under 24 CFR 92.206(f). section 104(d) applies to the demolition or conversion, as defined in 24 CFR 42.305, of a lower-income dwelling unit in connection with a HOME or Community Development Block Grant Program (CDBG) assisted activity. section 104(d) includes the following requirements:

   - A PJ must have a residential anti-displacement and relocation assistance plan (RARAP);
   - A PJ must provide relocation assistance to displaced lower-income persons; and
   - A PJ must perform one-for-one replacement of lower-income dwellings demolished or converted to a use other than a lower-income dwelling unit. A lower-income dwelling unit is defined in 24 CFR 42.305 as a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing, as defined by HUD.

   Section 104(d) implementing federal regulations can be found at 24 CFR part 42 Subpart C.

   HOME-ARP Section 104(d) Waiver / One-for-One Replacement Housing.
   For purposes of , the one-for-one replacement housing requirements of section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (ii) and 42 U.S.C. 5304(d)(3)) and 24 CFR 42.375, lower-income dwelling units shall not include single-room occupancy (SRO) units or residential hotel or motel units in jurisdictions where those units are considered dwelling units under state or local law. All other section 104(d) requirements, including but not limited to the requirement that the PJ have and follow a RARAP, remain in effect. (See 24 CFR 92.353(e) and 24 CFR part 42, subpart C).

3. **HOME Program Displacement, Relocation and Acquisition Regulations**: In addition to the URA and section 104(d) requirement described above, the HOME program's Displacement, Relocation and Acquisition regulations at 24 CFR 92.353 also apply to projects funded with HOME-ARP funds. Some of these requirements differ from those

of the URA and section 104(d), including but not limited to the expanded temporary relocation protections at 24 CFR 92.353(b) and (c); optional relocation assistance policies in 24 CFR 92.353(d); and the right to return to a building or complex, if feasible, upon completion of a HOME project, in accordance with 24 CFR 92.353(a). PJs must follow these program-specific requirements in HOME-ARP assisted projects.

PJs are encouraged to develop optional relocation policies to address individuals that may not be eligible for URA or section 104(d) assistance due to their length of occupancy in a unit, ineligibility of their dwelling unit, or other factors beyond their control. Such policies must be in writing, applied consistently, and must not violate any other federal law or regulation. Costs incurred to comply with 24 CFR 92.353, including optional relocation policies, are eligible HOME-ARP project costs under 24 CFR 92.206(f).

4. **Additional HOME-ARP Program Relocation Related Requirements**: The following additional HOME-ARP program relocation requirements apply:

   a. *Acquisition and/or rehabilitation of hotels, motels and other non-residential property*: In states where hotels and motels are not considered dwelling units or residential property, the acquisition of non-residential property such as hotels and motels for the production of HOME-ARP NCS units or HOME-ARP rental housing will not make a person occupying those properties eligible for relocation assistance under the URA, section 104(d) or 24 CFR 92.353. HOME PJs may provide HOME-ARP assistance, as defined by this Notice, including the provision of HOME-ARP supportive services, HOME-ARP TBRA, the ability to stay in HOME-ARP NCS units, or the ability to rent a HOME-ARP rental unit, if the individuals or families can demonstrate that–

      i. they have been in continuous residence at the property for 30 or more calendar days, and
      ii. they are a qualifying household, as defined by this Notice.

      Any assistance provided pursuant to this section may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to this Notice. For purposes of HOME-ARP, costs associated with activities under this provision of the Notice may be charged as either project delivery costs or relocation costs eligible under 24 CFR 92.206(f).

   b. *Conversion of HOME-ARP NCS*: If HOME-ARP NCS units are occupied and converted to either permanent housing under CoC or permanent affordable housing as described in Section VI.E.11 of this Notice, persons occupying the shelter would not normally be eligible for relocation assistance under the URA, section 104(d) or 24 CFR 92.353 because they are not displaced from a dwelling unit. However, since the individuals or families occupying such shelter units are already qualifying households under HOME-ARP, HOME PJs may immediately provide such occupants with HOME-ARP assistance, as defined by this Notice, including the provision of HOME-ARP supportive services, HOME-ARP TBRA, the ability to stay in other HOME-ARP

NCS units, or the ability to rent a HOME-ARP rental unit. Additionally, the PJ may provide the occupants with assistance for moving costs or advisory services, as appropriate, as HOME-ARP administrative costs or under the HOME-ARP supportive services activity in Section VI.D of this Notice. Any assistance provided pursuant to this section may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to this Notice, as the persons occupying the NCS units were already determined to be qualifying households under the HOME-ARP.

5. **Persons Ineligible for HOME-ARP Assistance and Ineligible for URA, Section 104(d), or assistance pursuant to 24 CFR 92.353**: If a person is required to move as a direct result of a HOME-ARP project and is determined ineligible for HOME-ARP housing assistance under the preceding Section VII.F.4 and also determined ineligible as a displaced person under the URA, section 104(d) or HOME program rules, the PJ may provide such persons advisory services as an eligible HOME-ARP administrative cost, as the PJ determines to be reasonable and necessary.

G. Section 3 Economic Opportunities for Low- and Very Low-Income Persons

Section 3 requirements established at 24 CFR Part 75 apply to HOME-ARP-assisted projects.

H. Conflicts of Interest

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

1. **Conflicts of Interest**: PJs, State recipients, and subrecipients engaging in any of the activities defined this Notice shall be subject to the conflicts of interest provisions at 24 CFR 92.356, including but not limited to the conflicts of interest exception process defined in 24 CFR 92.356(d)-(e). Owners and developers of HOME-ARP NCS and HOME-ARP rental housing shall be subject to 24 CFR 92.356(f).

2. **Organizational Conflicts of Interest**: The provision of any type or amount of HOME-ARP TBRA or supportive services may not be conditioned on an individual's or family's acceptance or occupancy of a shelter or housing unit owned by the PJ; State recipients; the subrecipient; or a parent, affiliate, or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent, affiliate, or subsidiary of the subrecipient, administer financial assistance that includes rental payments, utility deposits, security deposits, or first and last month's rent provided pursuant to this Notice. All contractors of the PJ, State recipients, or subrecipient must comply with the same requirements that apply to subrecipients under this section.

3. **Written Standards of Conduct**: PJs, State recipients, and subrecipients must maintain written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under this Notice and 2 CFR 200.318. The written standards of conduct must also provide for internal controls and procedures to require a fair and open selection process for awarding HOME-ARP funds pursuant to this Notice. These standards

must include provisions on if and how Continuum of Care board members may participate in and/or influence discussions or resulting decisions concerning the competition or selection of an award or other financial benefits made pursuant to the HOME-ARP Notice, including internal controls on when funds may be awarded to the organization that the member represents.

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

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

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

   c. 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
   d. Whether undue hardship will result to the PJ, State recipient, subrecipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
   e. Whether conditioning approval on changes to the PJ, State recipient, or subrecipient's policies or procedures can adequately address the organizational conflict of interest; and
   f. Any other factors relevant to HUD's determination, including the timing of the requested exception.

VIII. PROGRAM ADMINISTRATION

A. PJ Responsibilities

The PJ is responsible for managing the day-to-day operations of its HOME-ARP program, ensuring that HOME-ARP funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the PJ of this responsibility.

B. Written Agreement Requirements

Before disbursing any HOME-ARP funds to any entity, the PJ must enter into a written agreement with that entity pursuant to 24 CFR 92.504. Similarly, before disbursing any HOME

funds to a State recipient, subrecipient, or contractor which is administering all or a part of the HOME-ARP program on behalf of the PJ, the PJ must also enter into a written agreement with that entity that complies with 24 CFR 92.504 and the requirements described below. A written agreement cannot commit to providing HOME-ARP funds after the end of the HOME-ARP budget period.

The written agreement must require compliance with the requirements of this Notice. The content of the written agreement will vary depending upon the role the entity is asked to assume or the type of project undertaken.

This section details basic requirements by activity and the minimum provisions, in addition to those at 24 CFR 92.504 that must be included in a written agreement. The written agreement provisions in 24 CFR 92.504 that reference the requirements of 24 CFR 92.350, 24 CFR 92.351, and 24 CFR 92.359 are not waived and apply for all HOME-ARP written agreements.

1. **Rental Housing:** The PJ must execute a written agreement with the project owner/developer prior to the expenditure of HOME-ARP funds. The written agreement must comply with 24 CFR 92.504 and contain the following additional provisions:

   a. *Use of HOME-ARP funds for Rental Housing*: The agreement between the owner/developer must describe the address of the project or legal description of the property if a street address has not be assigned to the property, the use of the HOME-ARP funds and other funds for the project, including the tasks to be performed for the project, a schedule for completing the tasks and the project, and a complete budget, including any HOME-ARP funds used to capitalize an operating cost reserve for qualified HOME-ARP units. These items must be in sufficient detail to provide a sound basis for the PJ to effectively monitor performance under the agreement to achieve project completion and compliance with HOME-ARP requirements.

   b. *Operating Cost Assistance*: If the PJ will provide HOME-ARP funds for operating cost assistance, the agreement must specify whether the PJ will provide assistance through periodic payments or capitalize the operating cost assistance reserve based on the operating deficit projected for the 15-year compliance period. If the PJ is providing ongoing assistance, the amount of assistance must be based on the actual operating deficit associated with the HOME-ARP units restricted for occupancy by qualifying households. The written agreement must specify the frequency of operating assistance payments made to the owner (e.g., monthly, quarterly, etc.) and state that the amount of assistance will be equal to the deficit demonstrated and/or incurred. The written agreement may only provide for HOME-ARP funds to be used for operating assistance payments during the budget period defined in Section VIII.C.4 below. If operating cost assistance will be required beyond the budget period, the PJ should capitalize an operating reserve before the expiration of the budget period for HOME-ARP funds in accordance with Section VI.B.23. If the PJ is capitalizing the operating reserve for the 15-year HOME-ARP compliance period, the amount of assistance must be based on the project's underwriting and the total anticipated operating deficit associated with the HOME-ARP units restricted for occupancy by qualifying households. The written

agreement must specify the amount of the capitalized reserve and the restrictions on its use during the minimum compliance period in Section VI.B.18. Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.

c. *Sublease/Master Lease of HOME-ARP Units*: If the PJ will permit a project owner to execute a sublease or master lease with a nonprofit organization for HOME-ARP units restricted for occupancy by qualifying households, the agreement must specify the duration of the sublease or master lease, applicable rents, lease requirements and tenant protections.

d. *On-going compliance*: The agreement must require rental housing assisted with HOME-ARP funds to comply with the on-going requirements of Section VI.B of this Notice or require repayment in accordance with Section VI.B.22.

e. *Property Standards*: The agreement must require the housing to meet the property standards required in 24 CFR 92.251 paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing and (f) on-going property condition standards.

f. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements. The owner/developer of rental housing must annually provide the PJ with information on rents and occupancy of HOME-ARP assisted units to demonstrate compliance with this Notice. If the rental project has floating HOME-ARP units, the project owner/developer must provide the PJ with information regarding unit substitution and filling vacancies so that the project remains in compliance with the HOME-ARP occupancy requirements. The agreement must specify the reporting requirements, (including copies of financial statements) to enable the PJ to determine the financial condition and continued financial viability of the project.

g. *Enforcement of the agreement*: The agreement must provide for a means for the PJ to enforce compliance with HOME-ARP requirements. This means of enforcement may include liens, deed restrictions, covenants running with the land, use restriction, or other mechanism approved by HUD under which the PJ has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

h. *Request for disbursement of funds*: The agreement must specify that the owner/developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The owner/developer may request capitalization of a project operating cost assistance reserve for the qualifying units once all necessary title transfer requirements and construction work have been performed. The amount of each request must be limited to eligible costs in the amount needed, as described in Section VI.B.5.g.

i. *Duration of the agreement*: The agreement must be in effect for at least the 15-year HOME-ARP minimum compliance period.

j. *On-site Inspections and Financial Oversight*: The PJ must comply with the on-site inspections and financial oversight requirements of 24 CFR 92.504(d)(1) and (2). In addition, if the PJ will permit the capitalization of a project operating cost assistance reserve, the PJ must, no less than annually, oversee the administration of the operating cost assistance reserve account to verify that the account is appropriately sized and draws from the account are used to cover any deficits associated with units occupied by qualifying households.

k. *Tenant Selection*: The written agreement must contain provisions explaining the method of tenant selection to be used in accordance with the requirements of Section IV.C and VI.B.20 of this Notice. This section must be in sufficient detail to determine which method of tenant selection is being used for the qualifying population (i.e., use of CE, use of CE with other referral methods, or project-specific waiting list), the method of tenant selection for low-income households (See Section VI.B.20.b and 24 CFR 92.253(d)), and any required policies and procedures around the use of a CE or project-specific waiting list. This section must also be in sufficient detail to determine compliance with the PJ's preferences and/or method of prioritization, if any, as well as all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a).

2. **TBRA (subrecipient or contractor):** The requirements at 24 CFR 92.504, apply to the use of HOME-ARP funds for TBRA. The written agreement provisions in 24 CFR 92.504 that reference the requirements of 24 CFR 92.350, 24 CFR 92.351, and 24 CFR 92.359 are not waived and still apply for HOME-ARP written agreements. The written agreement must contain the following provisions:

   a. *Use of HOME ARP funds*: At a minimum, the written agreement must describe the amount and use of the HOME-ARP funds, the tasks to be performed, or services to be provided. HOME-ARP funds cannot be provided after the end of the HOME-ARP budget period.

   b. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements.

   c. *Duration of agreement and disbursement of funds*: The agreement must specify the duration of the agreement and state that disbursement of funds under the agreement may not be requested until the funds are needed.

   d. *Compliance with HOME-ARP program requirements*: The written agreement must require compliance with HOME-ARP program requirements for the HOME-ARP TBRA activity as outlined in Section VI.C of this Notice.

e. *Rental assistance contract*: There must be a rental assistance contract between the PJ and either the HOME-ARP sponsor, the HOME-ARP TBRA assisted household, or the property owner. The PJ must determine the terms of the rental assistance contract. The rental assistance contract continues until the lease is terminated. If the rental assistance is being provided through a HOME-ARP sponsor, the PJ must determine the term of the rental assistance contract between the PJ and HOME-ARP sponsor.

   If HOME-ARP TBRA is provided in coordination with a HOME-ARP sponsor, the PJ must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will be receiving the HOME-ARP TBRA subsidy directly from the PJ. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the TBRA subsidy on behalf of the HOME-ARP TBRA household and the HOME-ARP sponsor's obligation to use the HOME-ARP TBRA payment to pay rent for the unit to the property owner or management agent. If HOME-ARP TBRA is provided in coordination with a HOME-ARP sponsor, the sponsor must enter into a sublease with the HOME-ARP TBRA assisted household that must specify the duration of the sublease, applicable rents, lease requirements and tenant protections, all in accordance with the requirements of this Notice.

f. *Tenant Selection*: The written agreement must require the owner to comply with the method of tenant selection determined by the PJ and applicable requirements of Section IV.C and VI.C.1 of this Notice. The written agreement must include a description of the required method of tenant selection for the qualifying populations (i.e., use of CE, use of CE with other referral methods, project-specific waiting list), the method of tenant selection for low-income households (See Section VI.B.20.b and 24 CFR 92.253(d)), and any required policies and procedures around the use of a CE or project-specific waiting list. This section of the written agreement must be in sufficient detail to determine compliance with the PJ's preferences and/or method of prioritization, if any, as well as all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a).

3. **Supportive Services (subrecipient or contractor)**: The requirements at 24 CFR 92.504, apply to the use of HOME-ARP funds for supportive services. The provisions of the written agreement will depend on the role the entity is asked to assume. At a minimum, the written agreement must contain the following provisions:

   a. *Use of HOME funds*: The written agreement must describe the amount and uses of the HOME-ARP funds, the tasks to be performed, the services to be provided, and include a budget. The written agreement cannot agree to provide HOME-ARP funds after the end of the HOME-ARP budget period.

   b. *Records and Reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the PJ in meeting its recordkeeping and reporting requirements as required under Section VIII.F of this Notice.

c. *Duration of the agreement and Disbursement of Funds*: The agreement must specify the duration of the agreement, and state that disbursement of funds under the agreement may not be requested until the funds are needed.

d. *Compliance with HOME-ARP Program Requirements*: The written agreement must also require compliance with HOME-ARP program requirements for the HOME-ARP supportive services activity as described in Section VI.D of this Notice.

4. **HOME-ARP Non-Congregate Shelter (owner/developer)**: Written agreements must be executed between the PJ and the owner for all HOME-ARP NCS projects. A legally binding HOME-ARP NCS written agreement must include the date of the signature of each person signing the agreement. PJs are responsible for entering into written agreements before disbursing HOME-ARP funding. Contents of written agreements can vary based on specific needs of the PJ, the owner, and the project. Agreements for the acquisition, development, and rehabilitation of HOME-ARP NCS units must contain the following provisions:

   a. *Use of HOME-ARP funds*: The agreement between the PJ and owner must include the address of the project or legal description of the property if a street address has not been assigned to the property, the use of the HOME-ARP NCS funds and other funds for the project, including the tasks to be performed for the project, a schedule for completing the tasks and the project, and a complete budget. These items must be in sufficient detail to provide a sound basis for the PJ to effectively monitor performance under the agreement to achieve project completion and compliance with HOME-ARP requirements. The written agreement cannot agree to provide HOME-ARP funds after the end of the HOME-ARP budget period.

   b. *Habitability and Property Standards*: The agreement must require the HOME-ARP NCS project to meet the habitability and property standards as described in Section VI.E.7 of this Notice based on the type of project completed.

   c. *Project Requirements*: The agreement must require the HOME-ARP NCS project to meet the project requirements as described in this Notice.

   d. *Other program requirements*: The agreement must require the PJ and owner to carry out the project in compliance with the other Federal requirements of 24 CFR 92 subpart H and 24 CFR 92.505.

   e. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements.

   f. *Restricted Use Period*: The agreement must require the project to meet the Restricted Use Period as described in Section VI.E.9 of this Notice based on project type.

   g. *Enforcement of the agreement*: The agreement must provide for a means for the PJ to enforce compliance with HOME-ARP requirements. This means of enforcement may include liens, deed restrictions, covenants running with the land, use restriction, or other

mechanism approved by HUD under which the PJ has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

h. *Plan of Conversion*: PJs that intend to allow conversion of HOME-ARP NCS projects to other permanent affordable housing as permitted in this Notice must describe conversion as a possible outcome of the HOME-ARP NCS project; specify the conditions under which conversion will be permitted; and require that the PJ approve the terms and conditions of any conversion before the conversion occurs.

i. *Additional PJ Conditions and Requirements*: PJs may include additional program and project requirements as determined necessary.

5. **Non-Profit Operating and Capacity Building:** The requirements at 24 CFR 92.504(c)(6), apply to the use of HOME-ARP funds for non-profit operating and capacity building assistance. The written agreement must describe the amounts and uses of HOME-ARP funds for operating expenses or capacity building. If the non-profit organization is not also receiving HOME-ARP funds to carry out a HOME-ARP project, the agreement must provide that the organization is expected to receive funds for a HOME-ARP project within 24 months of the date of receiving the funds for operating or capacity building expenses and must specify the terms and conditions upon which this expectation is based and the consequences of failure to receive funding for a project.

   When a PJ provides both operating assistance and capacity building assistance to an organization, it must enter into either one written agreement for both types of assistance or separate written agreements for operating expense assistance and capacity building assistance. If a PJ chooses to enter into one written agreement, the PJ must separately identify the scope of assistance, eligible uses and costs, and a budget for each type of funds.

C. Grants Management

1. **HOME-ARP Grant Agreement:** HUD will make HOME-ARP funds available to the PJ pursuant to a HOME-ARP Grant Agreement, consistent with Section VIII.C.2 below. Subject to the provisions of the grant agreement and requirements in this Notice, HUD will obligate HOME-ARP funds to the PJ upon execution of the agreement by both parties. In the grant agreement, the PJ agrees that funds invested in affordable housing under this Notice are repayable if the housing no longer meets the requirements of this Notice during the compliance period or the NCS no longer meets the requirements of this Notice during the restricted use period. The PJ also agrees to assume all responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58. The PJ agrees to comply with 24 CFR 92.505 and applicable Uniform Administrative Requirements at 2 CFR part 200, as amended. The PJ agrees to comply with requirements established by the Office of Management and Budget (OMB) concerning the unique entity identifier and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, as amended, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170. The PJ

agrees to comply with the federal nondiscrimination and equal opportunity requirements at 24 CFR 92.350 and affirmative marketing requirements in 24 CFR 92.351 and the VAWA requirements set forth in 24 CFR 92.359. The HOME-ARP grant is obligated when the HUD Authorized Official signs the memorandum obligating HOME-ARP grants. The HOME-ARP Grant Agreement must be signed by the CPD Field Office Director and counter-signed by the PJ's authorized signatory. Once the CPD division in the local field office receives the fully executed HOME-ARP Grant Agreement, it will send the agreement to HUD's CFO Accounting Office for processing. As described in Section VIII.C.2 of this Notice, funds will become available to the PJ in IDIS once HUD's CFO Accounting Office processes the grant.

2. **Access to Administrative Set-aside Funds**: Upon issuance of this Notice, HUD will obligate all HOME-ARP grants to PJs through the signing of the HOME-ARP obligating memorandum, after which each HOME-ARP Grant Agreement must be signed by both parties. After obligation, HUD will permit the PJ to use 5 percent of its award for eligible administrative and planning costs under Section VI.A of this Notice. **The PJ may not expend any funds for non-administrative and planning costs before the HOME-ARP allocation plan is accepted by HUD as described in Section V.D.2 and 3 of this Notice.** HUD will make the remaining HOME-ARP grant funds available to the PJ once HUD accepts the HOME-ARP allocation plan. If the PJ does not submit a HOME-ARP allocation plan or if the PJ's plan is not accepted within a reasonable period of time, as determined by HUD, any costs incurred or HOME-ARP funds expended by the PJ will be considered ineligible costs and must be repaid with non-Federal funds in accordance with guidance from HUD.

3. **HOME-ARP Grant Number:** The PJ's HOME-ARP grant number is similar to its HOME grant number with the exception of the source type code. All HOME-ARP grants have the program identifier "M" and the source year of the grant "21." The different source type codes are identified in the table below.

Source Type Description	HOME Source Type Code	HOME-ARP Source Type Code
HOME Consortium	DC	DP
Metropolitan City	MC	MP
State	SG	SP
Insular Area	ST	IP
Urban County	UC	UP

The unique grantee identifier portion of the grant number will be the same for HOME-ARP grants as it is for HOME grants. See examples of HOME-ARP grant numbers with the different source type codes in the table below.

Participating Jurisdiction	HOME Grant Number	HOME-ARP Grant Number
Maryland	M21SG240100	M21SP240100
Baltimore	M21MC240200	M21MP240200

4. **Budget Period**: The budget period for HOME-ARP grants begins on the Federal Award Date, which is the date of the HUD Authorized Official's signature specified on the HOME-ARP Grant Agreement. The budget period for HOME-ARP grants ends on September 30, 2030. The PJ may not expend any HOME-ARP funds after September 30, 2030. After September 30, 2030, any HOME-ARP funds remaining in the PJ's HOME Investment Trust Fund Treasury account will be cancelled and not available for obligation or expenditure for any purpose (per 31 U.S.C. 1552).

5. **Period of Performance**: The period of performance for HOME-ARP grants begins on the Federal Award Date, which is the date of the HUD Authorized Official's signature specified on the HOME-ARP Grant Agreement. The period of performance for HOME-ARP grants ends on September 30, 2030.

6. **Audit**: Audits of the PJ, State recipients, and subrecipients must be conducted in accordance with 2 CFR part 200, subpart F.

7. **Closeout**: HOME-ARP funds will be closed out in accordance with 2 CFR part 200, subpart D. The PJ will use HUD's data system to closeout HOME-ARP grants once all HOME-ARP funds have been expended, all HOME-ARP activities are completed in accordance with the requirements of this Notice, and the proper beneficiary data has been entered. In order to closeout its HOME-ARP grants, the PJ must not have any open CPD monitoring findings or audits related the HOME-ARP funds. HUD will provide closeout guidance and instructions at a later date.

D. Applicability of Uniform Administrative Requirements.

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

Where regulations in 24 CFR part 92 refer to specific regulations of 2 CFR part 200 that were or are renumbered or revised by amendments to 2 CFR part 200, the requirements that apply to the

use of HOME-ARP funds are the applicable requirements in 2 CFR part 200, as amended, notwithstanding the renumbered regulatory reference.

E. Financial Management

1. **The HOME Investment Trust Fund**: HUD will establish a HOME-ARP Investment Trust Fund Treasury account (Treasury account) for a PJ's HOME-ARP funds. The Treasury account includes all HOME-ARP funds allocated to the PJ by formula and any HOME-ARP funds repaid by the PJ.

   The PJ must establish a HOME-ARP Investment Trust Fund local account (local account) as described in 24 CFR 92.500. The PJ may use either a separate local account or, a subsidiary account within its general fund (or other appropriate fund) as the local account. The PJ may not use the same local account for HOME-ARP that it uses for its HOME local account. The local account includes deposits of HOME-ARP funds disbursed from the Treasury account. The local account must be interest-bearing.

   HUD will reduce or recapture any HOME-ARP funds that are in the Treasury account that are not expended (drawn down) by September 30, 2030. Due to end-of-year financial system closeouts that begin before this date and prevent electronic access to the payment system, requests to draw down the funds must be made at least 7 full business days before this date so that the funds still can be drawn from the Treasury account through IDIS.

2. **Program Income**: Program Income means gross income received by the PJ generated from the use of HOME-ARP funds during the grant period of performance. This includes, but is not limited to, principal and interest payments from a loan made with HOME-ARP funds, or other income or fees received from project owners in connection with HOME-ARP funds, and interest earned by the PJ on program income before its disposition.

   Program income earned as a result of the use of HOME-ARP funds is HOME program income and must be used in accordance with the requirements of 24 CFR part 92. All program income must be recorded in IDIS. Program income must be deposited in the PJ's HOME-ARP local account (unless the PJ allows a State recipient or subrecipient to retain the program income for additional HOME projects pursuant to such terms and conditions in the written agreement and this Notice). The PJ must enter HOME-ARP program income retained by the State recipient or subrecipient as a HOME program income receipt in IDIS and subgrant the program income to the State recipient or subrecipient that retained the program income. The PJ is responsible to report on the use of its program income in IDIS, including program income it allowed a State recipient or subrecipient to retain.

3. **Repayments**: Any HOME-ARP funds used for costs that are not eligible under this Notice, funds invested in a project that is terminated before completion, either voluntarily or otherwise, or funds invested in HOME-ARP rental housing and NCS that does not meet the requirements in this Notice for the applicable period specified in this Notice must be repaid by the PJ to its Treasury account. If the funds are repaid after September 30, 2030, they will be recaptured by the U.S. Department of Treasury and the PJ will not be able to re-use the

funds for eligible HOME-ARP activities. HOME-ARP funds may not be repaid to the PJ's local account.

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

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

   In accordance with this Notice, a HOME-ARP written agreement providing HOME-ARP funds to a project or the CHDO/nonprofit must be signed and dated by:

   a. the PJ and project owner for HOME-ARP rental and HOME-ARP NCS;

   b. the PJ and service provider for HOME-ARP supportive services;

   c. the PJ and landlord, tenant, and/or HOME-ARP sponsor, as applicable, for HOME-ARP TBRA; and,

   d. the PJ and CHDO/nonprofit organization for HOME-ARP Operating Expenses and Capacity Building Assistance.

   This must occur before any HOME-ARP funds are disbursed. Federal funds cannot be drawn from the Treasury account in advance of the need to pay an eligible cost. Consequently, HOME-ARP funds cannot be drawn from the U.S. Treasury and placed in escrow or advanced in lump sums to State recipients, subrecipients, project owners, service providers, or landlords or tenants, except funds drawn down for a HOME-ARP rental project for an operating cost assistance reserve or reserve for replacement pursuant to Section VI.B.5.g. of this Notice or a HOME-ARP NCS project for a replacement reserve pursuant to Section VI.E.

   Once funds are drawn from the PJ's Treasury account, they must be expended for an eligible HOME-ARP cost within 15 days. Any interest earned within the 15-day period may be retained by the PJ as HOME program income and recorded in IDIS as a program income receipt. Any funds that are drawn down and not expended for eligible costs within 15 days of the disbursement must be returned to HUD for deposit in the PJ's Treasury account. Interest earned after 15 days belongs to the United States and must be remitted to the United States as provided in 2 CFR 200.305(b)(9), except interest amounts up to $500 per year may be retained for the PJ's administrative expenses.

   Additional HOME-ARP funds may be committed to a project up to one year after project completion.

HUD will govern access to IDIS by other entities participating in the HOME program (e.g., State recipients). Only PJs and State recipients (if permitted by the State) may request disbursement.

F. Recordkeeping

Each PJ must establish and maintain sufficient records to enable HUD to determine whether the PJ has met the requirements of this Notice. At a minimum, the following records are needed:

1. **Program Records**:

   a. Records evidencing that all HOME-ARP funds used by a PJ for TBRA, supportive services, and acquisition and development of non-congregate shelter units benefit individuals and families in qualifying populations.

   b. Records evidencing that not less than 70 percent of affordable rental housing units acquired, rehabilitated, and/or constructed with HOME funds by a PJ are restricted for occupancy by households in the qualifying populations.

   c. Records documenting compliance with the 15 percent limitation on administrative and planning costs.

   d. Records documenting compliance with the 5 percent limitation on CHDO and non-profit operating and capacity building costs.

   e. The underwriting and subsidy layering guidelines adopted in accordance with Section VI.B.10 of this Notice that support the PJ's HOME-ARP allocation plan certification.

   f. If existing debt is refinanced for multifamily rehabilitation projects, the HOME-ARP refinancing guidelines established in the HOME-ARP in the HOME-ARP Allocation Plan.

   g. If HOME-ARP funds are used for TBRA, records supporting the PJ's written selection policies and criteria; supporting documentation for preferences for specific categories of qualifying individuals; and records supporting the rent standard and minimum tenant contribution established in accordance with Section VI.C.7 and 8 of this Notice.

   h. Confidentiality.

      i. The PJ's written policies and procedures for maintaining confidentiality of qualifying households as individuals or families fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with Section VIII.H.

      ii. The PJ's written policies and procedures for maintaining confidentiality in compliance with the VAWA protections contained in 24 CFR Part 5, Subpart L.

2. **Project Records**: PJs are required to retain the following records for HOME-ARP-assisted projects, as specified by activity type.

   a. A full description of each project assisted with HOME-ARP funds, including the location (address of project), form of HOME-ARP assistance, and the units, families, or qualifying households assisted with HOME-ARP funds, subject to confidentiality requirements in this Notice.

   b. The source and application of funds for each project, including supporting documentation in accordance with 2 CFR 200.302; and records to document the eligibility and permissibility of the project costs, including the documentation of the actual HOME-ARP-eligible development costs of each HOME-ARP-assisted unit as defined in this Notice.

   c. Records (i.e., written agreements) demonstrating compliance with the written agreement requirements in Section VIII.B of this Notice.

   d. Records (e.g., inspection reports) demonstrating that each HOME-ARP rental project meets the property standards in Section VI.B.11 of this Notice at project completion and through the applicable minimum compliance period. In addition, during a HOME-ARP rental project's minimum compliance period, records demonstrating compliance with the property standards and financial oversight pursuant to 24 CFR 92.504(d) and the operating cost assistance reserve management and oversight required by Section VI.B.23 of this Notice.

   e. Records (e.g., inspection reports) demonstrating that each unit occupied by a qualifying household receiving HOME-ARP TBRA, meets the housing quality standards of Section VI.C.9 of this Notice at initial occupancy and throughout the household's term of assistance.

   f. Records (e.g., inspection reports) demonstrating that each NCS project meets the property and habitability standards of Section VI.E.7 of this Notice at project completion and throughout the applicable restricted use period.

   g. Records demonstrating that each qualifying household is eligible for HOME-ARP assistance based on the requirements of the ARP and Section IV of this Notice.

   h. Records demonstrating that each household qualifying as homeless, records that meet the requirements in 24 CFR 576.500(b)(1), (2), (3), or (4), as applicable (except that youth aged 24 and under must not be required to provide third-party documentation to show they are homeless to receive any shelter, housing, or services for which ESG or CoC Program funds may be used to supplement the HOME-ARP assistance).

   i. Records demonstrating that each household qualifying as "at risk of homelessness," records that meet the requirements in 24 CFR 576.500(c)(1) or (2), as applicable, and include the following documentation of annual income:

i. Income evaluation form containing the minimum requirements specified by HUD and completed by the recipient or subrecipient; and

ii. Source documents for the assets held by the household and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);

iii. To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the household received over the most recent period for which representative data is available; or

iv. To the extent that source documents and third-party verification are unobtainable, the written certification by the household of the amount of income the household received for the most recent period representative of the income that the household is reasonably expected to receive over the 3-month period following the evaluation.

j. Records demonstrating compliance with the household income requirements in accordance with Section VI.B.12 of this Notice for each HOME-ARP rental project.

k. Records demonstrating that each HOME-ARP rental and NCS project meets the minimum compliance period or restricted use period described in Sections VI.B.18 and VI.E.9 respectively, of this Notice.

l. Records demonstrating that for each HOME-ARP rental housing unit or for each household receiving HOME-ARP TBRA, compliance with the tenant protection requirements of Sections VI.B.19 and VI.C.2, respectively, of this Notice. For HOME-ARP TBRA or rental projects under a master lease, the PJ must retain records demonstrating that a master lease for housing leased by a HOME-ARP sponsor and each sublease between a qualifying household and HOME-ARP sponsor complies with the tenant and participant protections of 24 CFR 92.253 and this Notice. Records must be kept for each household.

m. Records demonstrating compliance with the return of the HOME-ARP rental capitalized operating cost assistance reserve and/or the NCS replacement reserve at the end of the compliance or restricted use period in accordance with Sections VI.B.24 and VI.E.10 respectively, of this Notice.

n. Records demonstrating that each HOME-ARP rental and each NCS project meets the underwriting and subsidy layering or due diligence requirements of Section VI.B.10 or VI.E.6 of this Notice.

o. Records demonstrating that each HOME-ARP rental housing project meets the rent limitations of Sections VI.B.13 and VI.B.15 of this Notice for the 15-year minimum compliance period. Records must be kept for each household assisted.

p. Records demonstrating that each multifamily HOME-ARP rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with 24 CFR 92.206(b).

q. Records demonstrating that a site and neighborhood standards review was conducted for each HOME-ARP rental housing project involving new construction under Section VI.B of this Notice to determine that the site meets the requirements of 24 CFR 983.57(e)(2) and (e)(3), in accordance with 24 CFR 92.202.

r. Records demonstrating that any conversion of HOME-ARP NCS complies with the requirements established by Section VI.E of this Notice, including that conversion of NCS only occurred after the end of the applicable minimum use period defined in Section VI.E.11.

s. For all HOME-ARP NCS projects the following documents must be maintained, as applicable:

    i. Purchase contract, closing documents, settlement statement and title work for acquisitions.

    ii. Appraisal or other estimation of value to justify acquisition expenditure.

    iii. Architectural and engineering contracts and completed designs, plans, and specifications for rehabilitation and new construction activities.

    iv. Invoices, pay requests, and proof of payment for all project expenditures.

    v. Proof of insurance.

    vi. Project and program audits.

t. For all HOME-ARP Supportive Services projects pursuant to McKinney-Vento or Homelessness Prevention Supportive Services:

    i. Records, where applicable, demonstrating compliance with the termination of assistance requirement as described in Section VI.D.5 of this Notice.

    ii. Records of all solicitations of and agreements with subrecipients and contractors, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable including any findings and corrective actions required.

    iii. Records of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR part 200, subpart D, as revised by Section VIII.D of this Notice.

    iv. Records evidencing the use of the written procedures required under Section VI.D.2 and records evidencing compliance with Section IV.C.2 of this Notice.

v. Records of all leases, subleases, and financial assistance agreements for the provision of rental payments, documentation of payments made by the PJ to owners, HOME-ARP sponsor, or qualifying households for the provision of financial assistance for rental payments, and supporting documentation for these payments, including dates of occupancy by qualifying individuals and families.

vi. Records that document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

vii. Records of the types of services provided under the PJ's program and the amounts spent on these services.

viii. Records demonstrating subrecipient compliance with the recordkeeping requirements in Section VIII.F of this Notice.

u. For all HOME-ARP Housing Counseling Services projects as defined in 24 CFR part 5, each participating housing counseling agency must maintain a recordkeeping and reporting system in accordance with 24 CFR 214.315 and 24 CFR 214.317. The system must permit HUD to easily access all information needed for a performance review.

v. For all HOME-ARP-assisted nonprofit operating expense and capacity building assistance activities:

i. Records concerning the use of funds for nonprofit operating expense and capacity building assistance must be maintained to enable HUD to determine whether the PJ has met the requirements of Section VI.F of this Notice.

ii. Written agreements between the PJ and the nonprofit organization providing nonprofit operating expense assistance or capacity building assistance must be retained for five years after the agreement terminates.

3. **Financial records:**

a. Records, in accordance with 2 CFR 200.302, identifying the source and application of HOME-ARP funds. Identification must include, as applicable, the Assistance Listing program title and number (formerly Catalogue of Federal Domestic Assistance), Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

b. Records concerning the HOME-ARP Investment Trust Fund Treasury account and local account required to be established and maintained by this Notice, including deposits, disbursements, balances, supporting documentation and any other information required by IDIS.

c. Records identifying the source and application of program income and repayments.

d. Records demonstrating adequate budget control and other records required by 2 CFR 200.302, including evidence of periodic account reconciliations.

4. **Program administration records:**

   a. Records demonstrating compliance with the written agreements required by Section VIII.B of this Notice.

   b. Records demonstrating compliance with the applicable uniform administrative requirements required by Section VIII.D of this Notice.

   c. Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.

5. **Records concerning other Federal requirements:**

   a. Equal opportunity and fair housing records.

      i. Data on the extent to which each racial and ethnic group, and single-headed households by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME-ARP funds.

      ii. Documentation that the PJ submitted a certification that it will affirmatively further fair housing consistent with HUD's Interim Final Rule entitled Restoring Affirmatively Furthering Fair Housing Definitions and Certifications (86 FR 30779, June 10, 2021) (codified at 24 CFR 5.151 and 5.152;), available at https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications.

      iii. Records demonstrating compliance with the nondiscrimination and equal opportunity requirements of 24 CFR 92, Subpart H.

   b. Affirmative marketing and MBE/WBE records.

      i. Records demonstrating compliance with the affirmative marketing procedures and requirements of 24 CFR 92.351 and this Notice.

      ii. Documentation and data on the steps taken to implement the jurisdiction's outreach programs to minority-owned (MBE) and female-owned (WBE) businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of $25,000 or more paid, or to be paid, with HOME-ARP funds; the amount of the contract or subcontract, and documentation of participating jurisdiction's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services.

   c. Records demonstrating compliance with the environmental review requirements of 24 CFR 92.352, 24 CFR part 58, and this Notice including flood insurance requirements.

d. Records demonstrating compliance with the requirements of 24 CFR 92.353 and the provisions of Section VII.F of this Notice regarding displacement, relocation, and real property acquisition, including but not limited to:

   i. project occupancy lists identifying the name and address of all persons occupying the real property on the date described in 24 CFR 92.353(c)(2)(i)(A), moving into the property on or after the date described in 24 CFR 92.353(c)(2)(i)(A), and occupying the property upon completion of the project;

   ii. lists of all individuals or families occupying hotels and motels and other nonresidential properties acquired, rehabilitated, and/or demolished and newly constructed to become HOME-ARP NCS or HOME-ARP rental housing that qualify for assistance under this Notice as members of a qualifying population, as well as records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the closure of the nonresidential properties because of HOME-ARP activities

   iii. lists of all individuals or families occupying HOME-ARP NCS that were converted during the required use period that qualify for assistance under this Notice, as well as records indicating whether moving costs or advisory services were provided as part of HOME-ARP administrative costs or under the HOME-ARP supportive services activity in Section VI.D of this Notice, and records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the conversion of the HOME-ARP NCS units.

   iv. Documentation that the PJ has and followed a RARAP in accordance with 24 CFR 92.353 and 24 CFR 42.325.

e. Records demonstrating compliance with the labor requirements of 24 CFR 92.354, including contract provisions and payroll records.

f. Records demonstrating compliance with the lead-based paint requirements of 24 CFR part 35, subparts A, B, J, K, M and R, as applicable.

g. Records supporting compliance with conflict of interest requirements in 24 CFR 92.356, as revised by Section VII.H of this Notice, as well as documentation of any exceptions granted by HUD or a state PJ, as applicable, to the conflict of interest provisions in 24 CFR 92.356, as revised by Section VII.H of this Notice.

h. Records demonstrating compliance with debarment and suspension requirements in 2 CFR part 2424.

i. Records concerning intergovernmental review, as required by 24 CFR 92.357.

j. Records of emergency transfers requested under 24 CFR 5.2005(e) and 24 CFR 92.359 pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of those requests.

k. Documentation of actions undertaken to meet the requirements of 24 CFR part 75 which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).

6. **State Recipients and Subrecipients:** A PJ that distributes HOME-ARP funds to State recipients or subrecipients must require the State recipients or subrecipients to keep the records required by paragraphs 1. program records, 2. project records, 3. financial records, 4. program administration records, and 5. records concerning other federal requirements of Section VIII.F of this Notice, and such other records as the PJ determines to be necessary to enable the PJ to carry out its responsibilities under this Notice. The PJ need not duplicate the records kept by the State recipients or subrecipients. The PJ must keep records concerning its annual review of the performance and compliance of each State recipient and subrecipient as required under 24 CFR 92.504(a).

7. **Period of record retention:** All records pertaining to HOME-ARP funds must be retained for five years, except as provided below.

   a. For HOME-ARP rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates.

   b. For HOME-ARP TBRA projects, records must be retained for five years after the period of rental assistance terminates.

   c. Written agreements must be retained for five years after the agreement terminates.

   d. Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.

   e. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

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

   The PJ, subrecipient, contractor, or owner may create a program participant identifier code or number that can be used on a file and maintained internally, in such a way that the number itself does not inadvertently identify the program participant, (i.e., no use of initials, date of birth, or other pieces of information that might suggest the identity of the program participant). The "key" or "cypher" for the program participant identifier code would itself be confidential and would not leave the provider. In the circumstance of HUD programs, the

Unique Personal Identification Number which is generated within the comparable database could be used with auditors to identify records of services to distinct individuals, subject to the below requirement.

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

G. Reporting and Performance Reports.

The PJ must submit reports in a format and at such time as prescribed by HUD. In addition, HUD and Office of the Inspector General (OIG) staff must be given access, upon reasonable notice, to all information related to the selection, award, and use of HOME-ARP funds.

Each PJ must enter the required HOME-ARP data elements timely in IDIS.

1. For HOME-ARP rental activities under Section VI.B of this Notice, the PJ must enter complete project completion information when it completes the activity in IDIS, except the assisted units can be marked vacant until they are occupied by eligible households.

2. For HOME-ARP NCS activities under Section VI.E of this Notice, the PJ must enter complete project completion information when it completes the activity in IDIS. In addition, the PJ must report the disposition of any HOME-ARP-assisted NCS activity that is converted to another eligible use at the time of conversion.

3. For HOME-ARP TBRA activities under Section VI.C of this Notice, the PJ must report beneficiary information in IDIS at the time assistance is provided.

4. For HOME-ARP Supportive Services activities under Section VI.D of this Notice, the PJ must report in IDIS quarterly, by the 30th day after the end of each calendar quarter, on the number of homeless and not homeless households assisted with supportive services and housing counseling, including the race and ethnicity, household size, and household type of the households assisted.

HUD will issue guidance about reporting on HOME-ARP activities in the PJ's consolidated annual performance and evaluation report (CAPER) required under 24 CFR 91.520, at a later date.

H. Confidentiality Requirements

1. All entities assisted by HOME-ARP funds must develop, implement, and maintain written procedures to require that –

a. All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential;

b. The address or location of any NCS or HOME-ARP rental housing exclusively for individuals fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as necessary where making the address or location public does not identify occupancy of the NCS or HOME-ARP rental housing, when necessary to record use restrictions or restrictive covenants in accordance with Section VI.B or VI.E, or with written authorization of the person or entity responsible for the operation of the NCS or HOME-ARP rental housing; and

c. The address or location of any program participant that is a fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as provided under a privacy policy of the PJ consistent with state and local laws and any other grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

2. Documenting status of a qualifying population that is fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault, or human trafficking:

a. If an individual or family qualifies because the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking then acceptable evidence includes an oral or written statement by the qualifying individual or head of household seeking assistance that they are fleeing that situation. An oral statement may be documented by either –

i. a written certification by the individual or head of household; or
ii. a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance.

The written documentation need only include the minimum amount of information indicating that the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking and need not include any additional details about the conditions that prompted the individual or family to seek assistance.

IX. PERFORMANCE REVIEWS

HUD will review the performance of each PJ in carrying out its responsibilities for the use of HOME-ARP funds and its compliance with the requirements of this Notice. Such reviews may take the form of remote or on-site monitoring, review of IDIS data or reports, assessment of documents requested from the PJ, subrecipient, or other entity carrying out HOME-ARP activities, and inquiries resulting from external audit reports, media reports, citizen complaints,

or other sources of relevant information. HUD may also review a PJ's timely use of HOME-ARP funds for eligible activities, including the progress of expenditures for individual projects or activities, the requirement to place a project in service in accordance with requirements in this Notice, and compliance of HOME-ARP rental housing and NCS with the 4-year deadline for completing projects.

If HUD preliminarily determines that a PJ has not met a requirement of this Notice or an applicable requirement of the HOME regulations at 24 CFR Part 92, HUD will communicate its determination in writing and provide the PJ with the opportunity to demonstrate, based on substantial facts, documentation, and data, that it has done so. HUD may extend any time period it provided to the PJ to demonstrate its compliance if upon request of the PJ, HUD determines that is it infeasible for the PJ to provide a full response within the prescribed period.

If the PJ fails to demonstrate to HUD's satisfaction that it has met the requirement, HUD will take corrective or remedial action in accordance with this section or 24 CFR 92.552.

A. Corrective and Remedial Actions

Corrective or remedial actions for a performance deficiency (e.g., failure to meet a provision of this Notice or an applicable provision of 24 CFR Part 92) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence. HUD may impose corrective or remedial actions including but not limited to the following:

1. HUD may instruct the PJ to submit and comply with proposals for action to correct, mitigate and prevent a performance deficiency, including:

    a. Preparing and following a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;

    b. Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;

    c. Canceling or revising activities likely to be affected by the performance deficiency, before expending HOME-ARP funds for the activities;

    d. Reprogramming HOME-ARP funds that have not yet been expended from affected activities to other eligible activities;

    e. Reimbursing its HOME-ARP grant in any amount not used in accordance with the requirements of this Notice;

    f. Suspending disbursement of HOME-ARP funds for affected activities; and

    g. Establishing procedures to ensure compliance with HOME-ARP requirements.

2. HUD may also:

   a. Change the method of payment from an advance to a reimbursement basis and may require supporting documentation to be submitted for HUD review for each payment request before payment is made;

   b. Determine the PJ to be high risk and impose special conditions or restrictions on the use of HOME-ARP funds in accordance with 2 CFR 200.208; and

   c. Take other remedies that may be legally available, including remedies under 2 CFR 200.339 and 200.340.

B. Sanctions

The requirements at 24 CFR 92.552 apply to HOME-ARP funds, except that the provision at 24 CFR 92.552(a)(2)(iv) related to failure to comply with matching contribution requirements shall not apply.

X. FINDING OF NO SIGNIFICANT IMPACT

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funding Opportunities web page at: https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps.

APPENDIX WAIVERS AND ALTERNATIVE REQUIREMENT FOR IMPLEMENTATION OF THE HOME-ARP PROGRAM: APPENDIX D

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All Community Planning and Development Directors

FROM: James Arthur Jemison, II, Principal Deputy Assistant Secretary, D

JAMES JEMISON Digitally signed by JAMES JEMISON Date: 2021.09.08 20:02:00 -04'00'

SUBJECT: Waivers and Alternative Requirements For Implementation of the HOME American Rescue Plan (HOME-ARP) Program

I. SUMMARY

Section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) ("**ARP**") authorizes the Secretary of HUD to waive or specify alternative requirements for any provision of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) ("**NAHA**") or regulation for the administration of $5 billion in funds appropriated to the HOME Investment Partnerships Program ("**HOME-ARP**"), other than requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of HOME-ARP funds.

Title II of NAHA is the authorizing statute for the HOME Investment Partnerships Program (HOME) and applicable HOME regulations are at 24 CFR part 92. Consolidated plan requirements for the use of HOME funds are in title I of NAHA with applicable regulations in 24 CFR part 91.

This Appendix describes waivers and alternative requirements, consistent with ARP, imposed on all HOME-ARP awards by the CPD Notice entitled "Requirement for the Use of Funds in the HOME-American Rescue Plan Program", (the "**HOME-ARP Notice**"). The Secretary has determined that each waiver and alternative requirement described in this HOME-ARP Notice is necessary to expedite or facilitate the use of HOME-ARP funds. A participating jurisdiction may request additional waivers and alternative requirements from HUD to address specific needs related to its use of HOME-ARP funds. References to "HOME-ARP Notice" in this Appendix mean all sections of the HOME-ARP Notice and this Appendix.

Pursuant to the Secretary's HOME-ARP statutory authority, the Secretary is waiving the following provisions of NAHA and HOME regulations and imposing the alternative requirements as described below.

II. OVERALL REQUIREMENTS

A. Compliance with HOME-ARP Notice. The requirements in 24 CFR part 92, as revised by this Appendix apply to HOME-ARP. All references to compliance with requirements of or in "this part" in 24 CFR part 92 shall mean compliance with the

requirements in "24 CFR part 92, as revised by this Appendix to the HOME-ARP Notice," unless specifically stated otherwise in this Appendix.

B. **Substitution of "HOME-ARP" for "HOME."** All references to "HOME" throughout 24 CFR part 92 shall mean "HOME-ARP" for the use of HOME-ARP funds unless otherwise stated in the HOME-ARP Notice.

C. **Use of "the Act" and "title II of NAHA."** The definition of "Act" is not revised, however "title II of NAHA" and "Act" are used interchangeably throughout this Appendix and 24 CFR part 92 and means the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 *et seq.*

D. **Substitution of "nonprofit organization" for "community housing development organization."** All references to "community housing development organization" or "CHDO" in 24 CFR part 92, except the definition of CHDO in 24 CFR 92.2, are waived and revised to "nonprofit organization."

E. **Matching Contribution Requirements.** The requirements of 24 CFR 92.218 through 24 CFR 92.222 and any other requirements for matching contributions in 24 CFR part 92 shall not apply to HOME-ARP funds, as subsection (c)(1) of ARP states that the underlying statutory requirement at section 220 of NAHA (42 U.S.C. 12750) does not apply to HOME-ARP funds.

F. **Set-aside for Community Housing Development Organizations (CHDOs).** The requirements of 24 CFR 92.300, 92.301, 92.302, 92.303, 92.452, 92.504(c)(3)(x), and 92.504(c)(7) and any other requirements for amounts set-aside for CHDOs shall not apply to HOME-ARP funds as subsection (c)(1) of ARP states that the underlying statutory requirements at section 231 of NAHA (42 U.S.C. 12771) do not apply to HOME-ARP funds. In addition, the statutory requirements in sections 232, 233, and 234 of NAHA (42 U.S.C. 12772, 12773, and 12774(a)) for the use of set-aside funds for CHDOs are waived.

G. **Expiration of right to draw funds.** The requirements of 24 CFR 92.500(d) and any other requirements for the 24-month deadline for the commitment of funds shall not apply to HOME-ARP funds as subsection (c)(1) of ARP states that the underlying statutory requirement at section 218(g) of NAHA (42 U.S.C. 12748) does not apply to HOME-ARP funds.

H. **Homebuyer activities/Existing homeowner requirements**. All statutory requirements for homebuyer or existing homeowner activities in NAHA are waived for the use of HOME-ARP funds because homebuyer/existing homeowner assistance is not an eligible activity under HOME-ARP. Specifically, HUD waives the requirements in sections 212(a)(1), 215(b), 254 of NAHA (42 U.S.C. 12742(a)(1), 12745, 12804) for homeownership, homebuyer, and owner-occupied activities, including the development of affordable housing for homeownership and homeowner rehabilitation. Requirements in 24 CFR 92.205, 24 CFR 92.206, 24 CFR 92.207, 24 CFR 92.217, 24 CFR 92.251(c)(3), 24 CFR 92.254, 24 CFR 92.255, 24 CFR 92.258, and 92.504(c)(3)(ii)(B) applicable to homeownership activities shall not apply and are waived.

I. **Other Support for State and Local Housing Strategies and Specified Model Program**. The statutory requirements in section 213 (42 U.S.C. 12743), sections 241 to 245 of NAHA (42 U.S.C. U.S.C. 12781-12785), and sections 251 to 260 (42 U.S.C. 12801-12810) do not apply to HOME-ARP and are waived.

J. **References to the Appendix**: All references to "Appendix" shall mean "the Appendix of the HOME-ARP Notice, which may be amended from time to time by HUD" and is made part of the HOME-ARP Notice."

III. WAIVERS AND ALTERNATIVE REQUIREMENTS

A. SUBPART A - GENERAL

The definitions in 24 CFR 92.2 apply to the use of HOME-ARP funds except that HUD waives 24 CFR 92.2 and imposes the following revised definitions as alternative requirements:

Commitment means (1) The participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) that meets the minimum requirements for a written agreement in §92.504(c), as revised by this Appendix, and the HOME-ARP Notice. An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating jurisdiction (*e.g.*, an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment. Funds for administrative and planning costs of the HOME-ARP program are committed based on the amount in the program disbursement and information system for administration and planning. The written agreement must be:

(i) With a State recipient or a subrecipient to use a specific amount of HOME-ARP funds to produce affordable housing, acquire and develop non-congregate shelter, provide tenant-based rental assistance, or provide supportive services;

(ii) With a nonprofit organization carrying out HOME-ARP activities to provide funds for operating expenses, in accordance with the HOME-ARP Notice;

(iii) To develop the capacity of nonprofit organizations in the jurisdiction carrying out HOME-ARP activities, in accordance with the HOME-ARP Notice; or

(iv) To commit to a specific local project, as defined in paragraph (2) of this definition and HOME-ARP Notice.

(2) *Commit to a specific local project* means:

(i) *Rental Housing*. (A) If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner have executed a written legally binding agreement under which HOME-ARP assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date. If the project is owned by the participating jurisdiction or State recipient, the project

has been set up in the disbursement and information system established by HUD, and construction can reasonably be expected to start within twelve months of the project set-up date.

(B) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is acquiring the property with HOME-ARP funds, the participating jurisdiction (or State recipient or subrecipient) and the property owner have executed a legally binding contract for sale of an identifiable property and the property title will be transferred to the participating jurisdiction (or State recipient or subrecipient) within six months of the date of the contract.

(C) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is providing HOME-ARP funds to a purchaser to acquire rental housing, the participating jurisdiction (or State recipient or subrecipient) and the purchaser have executed a written agreement under which HOME-ARP assistance will be provided for the purchase of rental housing and the property title will be transferred to the purchaser within six months of the agreement date.

(ii) *Non-Congregate Shelter*. (A) If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner have executed a written legally binding agreement under which HOME-ARP assistance will be provided to the owner for an identifiable project for which development is reasonably expected to begin within 12 months of the date of commitment.

(B) If the project consists of acquisition (without rehabilitation or new construction) of a property and the participating jurisdiction (or State recipient or subrecipient) is either acquiring the property with HOME-ARP funds or providing HOME-ARP funds to a purchaser to acquire the property for use as a non-congregate shelter that is reasonably expected to operate within six months of the date the commitment, the participating jurisdiction (or State recipient or subrecipient) and the property owner or purchaser have executed a legally binding contract for sale of an identifiable property and the property title will be transferred from the property owner to the participating jurisdiction (or State recipient or subrecipient) or purchaser.

(iii) *Tenant-based rental assistance*. If the project consists of tenant-based rental assistance, the participating jurisdiction (or State recipient, or subrecipient) has entered into a rental assistance contract with the owner, the tenant, or the sponsor of the qualifying household in accordance with the provisions of the HOME-ARP Notice.

(iv) *Supportive Services*. If the project consists of providing supportive services, the participating jurisdiction (or State recipient, or subrecipient) has entered into a legally binding written agreement or contract with the contractor or subrecipient providing services to qualifying households in accordance with the HOME-ARP Notice.

HOME-ARP funds mean funds made available under Section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) through allocations.

Housing includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing does not include emergency shelters, congregate or non-congregate shelters (including shelters for disaster victims), or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

Program income. Program income means gross income received by the participating jurisdiction, State recipient, or a subrecipient directly generated from the use of HOME-ARP funds. When program income is generated by housing or shelter that is only partially assisted with HOME-ARP funds, the income shall be prorated to reflect the percentage of HOME-ARP funds used. Program income includes, but is not limited to, the following:

(1) Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME-ARP funds;

(2) Gross income from the use or rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME-ARP funds, less costs incidental to generation of the income (Program income does not include gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the participating jurisdiction, subrecipient or State recipient);

(3) Payments of principal and interest on loans made using HOME-ARP funds;

(4) Proceeds from the sale of loans made with HOME-ARP funds;

(5) Proceeds from the sale of obligations secured by loans made with HOME-ARP funds;

(6) Interest earned on program income pending its disposition;

(7) Any other interest or return on the investment of HOME-ARP funds permitted under §92.205(b) or the HOME-ARP Notice; and,

(8) Any operating cost assistance or replacement reserve funds returned to the participating jurisdiction after the required compliance or use period, in accordance with the HOME-ARP Notice.

Project means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME-ARP funds as a single undertaking under 24 CFR part 92 and the HOME-ARP Notice. The project includes all the activities associated with the site and building.

For HOME-ARP tenant-based rental assistance or supportive services, project means assistance to a qualifying individual or family.

Project completion means that all necessary title transfer requirements and construction work, if applicable, have been performed; the project complies with the requirements of the HOME-ARP Notice and applicable requirements of this part, as revised by this Appendix,(including the property standards); the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of 92.502(d), project completion occurs upon completion of construction and before occupancy.

For HOME-ARP tenant-based rental assistance or supportive services, project completion means the final drawdown has been disbursed for the project.

Subrecipient means a public agency or nonprofit organization selected by the participating jurisdiction to receive HOME-ARP funds to administer all or some of the participating jurisdiction's HOME-ARP programs. A public agency or nonprofit organization that receives HOME-ARP funds solely as a developer or owner of a housing project or non-congregate shelter is not a subrecipient. The participating jurisdiction's selection of a subrecipient is not subject to the procurement procedures and requirements.

All other definitions in 92.2 applicable to HOME-ARP remain unchanged.

B. SUBPART B - ALLOCATION FORMULA

1. **Formula Allocation**. ARP required the Secretary to allocate HOME-ARP funds pursuant to section 217 of NAHA (42 U.S.C. 12747) to grantees that received allocations in fiscal year (FY) 2021 pursuant to that same formula, within 30 days of enactment of ARP. Therefore, section 216(1) (42 U.S.C. 12746(1)) which requires the allocation of funds provided under title II of NAHA in 20 days from the date of enactment of the appropriation and sections 216(10) (42 U.S.C. 12746(10)) and 217(a)(4) (42 U.S.C. 12747(a)(4)) which provide for a threshold reduction do not apply. The requirements in 24 CFR 92.50 and 92.60 apply only to the extent that they do not conflict with this ARP statutory requirement. All regulatory requirements related to the participation threshold amount do not apply to HOME-ARP.

INSULAR AREAS

2. **Program description**. The requirements in 24 CFR 92.61 are waived to the extent they apply to HOME-ARP funds and HUD imposes the alternative requirement that insular areas must comply with the requirements for participating

jurisdictions for the HOME-ARP allocation plan in the HOME-ARP Notice, unless stated otherwise in the HOME-ARP Notice.

3. **Review of program description and certifications.** The requirements for the HOME-ARP allocation plan for participating jurisdictions in the HOME-ARP Notice apply to insular areas, therefore 24 CFR 92.62 is waived to the extent that it conflicts with the following alternative requirements:

   (a) Review of HOME-ARP allocation plan. The responsible HUD Field Office will review an insular area's HOME-ARP allocation plan and will approve the plan unless the insular area has submitted a substantially incomplete HOME-ARP allocation plan; has submitted a HOME-ARP allocation plan that is inconsistent with the purposes of ARP; has failed to submit information sufficient to allow HUD to make the necessary determinations that the HOME-ARP allocation plan complies with the requirements in the HOME-ARP Notice; or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs.

   An insular area's allocation plan is inconsistent with ARP if it allocates HOME-ARP funds for uses other than a HOME-ARP eligible activity, as described in the HOME-ARP Notice. An insular area's HOME-ARP allocation plan is substantially incomplete if the insular area does not complete the required public participation or consultation or fails to describe those efforts in the plan; if the insular area fails to include the required elements outlined in the HOME-ARP Notice, including the amount of HOME-ARP funds for each eligible HOME-ARP activity type; the insular area fails to identify and describe the responsibilities of the subrecipient or contractor administering all of its HOME-ARP award, if applicable; or HUD rejects the insular area's certifications as inaccurate.

   If the insular area has not submitted information in its HOME-ARP allocation plan that is satisfactory to HUD to demonstrate compliance with HOME-ARP allocation plan requirements; or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, the insular area may be required to furnish such further information or assurances as HUD may consider necessary to find the HOME-ARP allocation plan and certifications satisfactory. The HUD Field Office shall work with the insular area to achieve a complete and satisfactory plan.

(b) Review period. Within thirty days of receipt of the HOME-ARP allocation plan, the HUD Field Office will notify the insular area if determinations cannot be made based on the information submitted that the HOME-ARP allocation plan complies with HOME-ARP allocation plan requirements, or if the proposed projects or activities are beyond currently demonstrated capability as demonstrated by past performance in housing and community development programs. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information or to revise the proposed projects or activities in its HOME-ARP allocation plan.

(c) HOME Investment Partnership Agreement. Upon issuance of the HOME-ARP Notice, HUD will obligate all HOME-ARP grants to insular areas through the signing of the HOME-ARP Grant Agreements by both parties. After obligation, HUD will permit the insular area to use 5 percent of its award for eligible administrative and planning costs in accordance with the HOME-ARP Notice. After submission and acceptance of the insular area's HOME-ARP allocation plan, the remainder of the HOME-ARP funds will be made available to the insular area for expenditure.

4. **Amendments to program description.** HUD waives 24 CFR 92.63 and imposes the following alternative requirement for insular areas:

Insular areas must make a substantial amendment to its HOME-ARP allocation plan for a change in the method of distributing funds; to carry out an activity not previously described in the plan; to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan; a change in the guidelines that apply to HOME-ARP funds for other forms of investment (24 CFR 92.61(b)(6)), minority and women business outreach program (24 CFR 92.61(b)(7)), or refinancing (24 CFR 92.61(b)(8)); or a change in the tenure type of the project or activities; or a funding increase to a project or activity of $100,000 or 50% (whichever is greater). Participating jurisdictions must make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission. Upon completion, participating jurisdictions must submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan as described in Section V.D.

The HUD Field Office will notify the insular area if its HOME-ARP allocation plan, as amended, does not permit a determination that the HOME-ARP allocation plan complies with the requirements in the HOME-ARP Notice, or if the level of proposed projects or eligible

activities is not within the management capability demonstrated by past performance in housing and community development programs, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information to revise the proposed projects or activities in its HOME-ARP allocation plan.

5. **Applicability of HOME-ARP requirements to insular areas**. The requirements in 24 CFR 92.64 are revised to impose the alternative requirement that insular areas are subject to the same HOME-ARP requirements in the HOME-ARP Notice as participating jurisdictions, and applicable regulatory requirements for insular areas that are not revised by the HOME-ARP Notice. The following exceptions in 24 CFR 92.64, as revised, still apply to insular areas.
   (1) Subpart K (Program Administration): References to HOME Investment Trust Fund in 24 CFR 92.500(b), as revised by the HOME-ARP Notice shall be "HOME account" for insular areas. The requirements in 24 CFR 92.502(c) *Local Account* do not apply to insular areas, and instead insular areas must comply with Treasury Circular No. 1075 (31 CFR part 205) and 2 CFR 200.305.
   (2) Section 92.504 (Participating jurisdiction responsibilities; written agreements; on-site inspections) applies, except that the written agreement must require compliance with the requirements in the HOME-ARP Notice, including the Appendix.
   (3) Subpart L (Performance Reviews and Sanctions). Section 92.552 does not apply. Instead, 24 CFR 92.65 applies.

   Exceptions in 92.64(a)(1), (4), and (5) do not apply to HOME-ARP for insular areas and are waived. The requirements in 24 CFR 92.64(b), (c), and (d) for insular areas are not revised.

6. **Reallocation.** Section 217 of NAHA (42 U.S.C. 12747(d)) and the regulation at 24 CFR 92.66 for the reallocation of funds for insular areas are waived so that any HOME-ARP funds which are reduced or recaptured from an insular area's allocation will be reallocated by HUD in accordance with 24 CFR part 92, subpart J, as revised by this Appendix.

C. SUBPART C - CONSORTIA; DESIGNATION AND REVOCATION OF DESIGNATION AS A PARTICIPATING JURISDICTION

1. **Continuous designation as a participating jurisdiction.** 24 CFR 92.106 is waived and revised to the alternative requirement that once a State or unit of general local government is designated a participating jurisdiction for HOME-ARP, it must remain a HOME-ARP participating jurisdiction for its HOME-ARP period of performance and the requirements of 24 CFR 92.102 through 92.105 do not apply, unless HUD

revokes the designation in accordance with 24 CFR 92.107, as revised by this Appendix. Once allocated HOME-ARP funds, a HOME-ARP participating jurisdiction does not have to be a participating jurisdiction under the HOME program to remain a participating jurisdiction under the HOME-ARP program.

2. **Revocation of designation as a participating jurisdiction.** The requirements in 24 CFR 92.107(a) apply to HOME-ARP. The requirements in 92.107(b) and (c) are waived. Reallocation requirements in 92.107(c) are replaced with the alternative requirements for 24 CFR part 92, Subpart J, as revised by this Appendix.

D. SUBPART D - SUBMISSION REQUIREMENTS

1. **Submission requirements.** HUD waives requirements associated with a comprehensive housing affordability strategy in sections 105 (42 U.S.C. 12705), 106 (42 U.S.C. 12706), 107 (42 U.S.C. 12707), and 216 (42 U.S.C. 12746) of NAHA and 24 CFR 92.150 and imposes the following alternative requirement:

   After the date of the HOME-ARP Notice, the participating jurisdiction may execute the HOME-ARP grant agreement with HUD to obligate the participating jurisdiction's HOME-ARP allocation. After obligation and prior to acceptance of a participating jurisdiction's HOME-ARP allocation plan by HUD, the participation jurisdiction may incur eligible administrative and planning costs in accordance with 24 CFR 92.207, as revised by this Appendix and may expend up to 5 percent of its HOME-ARP funds for eligible administrative and planning costs.

   The participating jurisdiction must submit a HOME-ARP allocation plan and related documents in accordance with the HOME-ARP Notice, including the requirements for the content of the HOME-ARP allocation plan, the process of developing and submitting the plan, certifications, consultation, public participation, HUD review, identification of subrecipient or contractor administering all of a participating jurisdiction's HOME-ARP award and its responsibilities, if applicable, and amendments. After a participating jurisdiction's HOME-ARP allocation plan has been accepted by HUD, in accordance with the HOME-ARP Notice, a participating jurisdiction may use its HOME-ARP funds on all eligible costs, including eligible project costs.

   If the participating jurisdiction does not submit a HOME-ARP allocation plan or if the participating jurisdiction's plan is not accepted within a reasonable period of time, as determined by HUD, all HOME-ARP costs incurred by the participating jurisdiction (or its subrecipient or contractor) will be ineligible costs and any HOME-ARP funds expended by the participating jurisdiction must be repaid to the HOME Investment Trust Fund Treasury account, in accordance with guidance from HUD.

E. SUBPART E - PROGRAM REQUIREMENTS

1. **Distribution of assistance**. The requirements in section 222 of NAHA (42 U.S.C. 12752) and 24 CFR 92.201 are waived to the extent necessary to impose the following alternative requirements:
    a. *Local.* Each participating jurisdiction must, insofar as is feasible, distribute HOME-ARP funds geographically within its boundaries and among different categories of need of qualifying populations, according to the priorities identified in its approved HOME-ARP allocation plan. The participating jurisdiction may only invest its HOME-ARP funds in eligible projects within its boundaries, or in jointly funded projects within the boundaries of contiguous local jurisdictions which serve qualifying populations in both jurisdictions. For a HOME-ARP rental or non-congregate shelter project to be jointly funded, both jurisdictions must make a financial contribution to the project.

    b. *State.* Each State participating jurisdiction is responsible for distributing HOME-ARP funds throughout the State according to the State's assessment of the geographical distribution of the needs of the qualifying populations within the State, as identified in the State's approved HOME-ARP allocation plan. The State must distribute HOME-ARP funds to rural areas in amounts that take into account the non-metropolitan share of the State's total qualifying populations and objective measures of rural need, such as poverty and homelessness data, as set forth in the State's approved HOME-ARP allocation plan. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need. A State that uses State recipients to perform program functions shall require that the State recipients use HOME-ARP funds in accordance with the HOME-ARP Notice and other applicable laws. A State may fund projects on Indian reservations located within the State provided that the State includes Indian reservations in its consolidated plan and HOME-ARP allocation plan.

ELIGIBLE AND PROHIBITED ACTIVITIES

2. **New Eligible Activities**. In addition to the activities contained in 24 CFR 92.205 and the NAHA, subsection (a)(1) of ARP has defined the following new eligible activities:
    (1) Supportive services to qualifying households that are not already receiving supportive services, including supportive services activities listed in section 401(29) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(29)); housing counseling; and homeless prevention services; and
    (2) The acquisition and development of non-congregate shelter units.

    For purposes of implementing the new eligible activities under ARP, HUD has determined that the new eligible activities are not subject to the requirements in

section 212 of NAHA (42 U.S.C. 12742) and imposes the requirements for the new eligible activities in the HOME-ARP Notice. As such, the waivers and alternative requirements in this Appendix shall not apply to the above-activities unless specified in the HOME-ARP Notice.

3. **Eligible activities.** HUD is providing a waiver of the requirements of section 212(a)(1) and (3) of NAHA (42 U.S.C. 12742(a)(1) and (3)), section 215(b) of NAHA (42 U.S.C. 12745), 24 CFR 92.205(a)(1)-(4), (b)-(e), and 24 CFR 92.209 as follows:

   (1) *Ineligible activities.* Homeownership and owner-occupied activities, including assistance to homebuyers, development of affordable housing for homeownership, and homeowner rehabilitation, shall not be eligible activities in which HOME-ARP funds may be invested.

   (2) *Costs associated with eligible activities.* HUD is waiving and imposing an alternative requirement to 24 CFR 92.205(a)(1) because the regulation specifies that eligible costs are those set forth in 24 CFR 92.206 through 24 CFR 92.209. The alternative requirement is that eligible costs shall be those costs set forth in 24 CFR 92.206 through 24 CFR 92.209, as modified by the waivers and alternative requirements in this Appendix.

   (3) *Applicability of forms of assistance, minimum amount of assistance, multi-unit projects, and related limited waivers.* As homeownership activities are not eligible activities for HOME-ARP funds, 24 CFR 92.205(b)-(d) are waived to the extent that they applied to assisting homebuyers, homeowners, or the development of housing for homeownership purposes.

   (4) *Waiver and alternative requirement of regulations for terminated projects.* As participating jurisdictions are required to have a HOME-ARP Investment Trust Fund Treasury account instead of the local HOME Investment Trust Fund, HUD is providing a limited waiver and alternative requirement of the requirements of 24 CFR 92.205(e) to the extent that 24 CFR 92.252(e) specifies that funds must be paid into the participating jurisdiction's HOME Investment Trust Fund. HOME-ARP funds repaid pursuant to 24 CFR 92.252(e) and the HOME-ARP Notice shall be repaid to the participating jurisdiction's HOME-ARP Investment Trust Fund Treasury account.

4. **Eligible project costs**. HUD waives 24 CFR 92.206 to the extent that it conflicts with the eligible costs for eligible activities identified in the HOME-ARP Notice. In addition, HUD waives 24 CFR 92.206(d)(5) and imposes the following alternative requirement:

   For new construction or rehabilitation of HOME-ARP rental housing for qualifying populations, the cost of funding operating cost assistance during the

project's compliance period or a capitalized operating cost assistance reserve in accordance with requirements in section VI.B of the HOME-ARP Notice is an eligible cost.

For new construction or rehabilitation of HOME-ARP rental housing units for low-income households, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up for HOME-ARP units for low-income households (not to exceed 12 months), is an eligible cost. An initial operating deficit reserve may only be used to pay the share of operating expenses, scheduled payments to a replacement reserve, and debt service of the HOME-ARP rental housing units for low-income households. The initial operating deficit reserve must be included in the project's underwriting and the participating jurisdiction must review and approve the initial operating deficit reserve amount in accordance with the participating jurisdiction's standardized underwriting guidelines. The initial operating deficit reserve must be based on a participating jurisdiction's analysis of projected operating deficits attributable to the HOME-ARP units for low-income households during the period of project rent-up (not to exceed 12 months) and remaining after expected rental revenue and operating expenses are calculated according to the projected lease-up schedule. Any HOME-ARP funds placed in an initial operating deficit reserve that remain unexpended after the period of project rent-up may be retained for reserves for replacement for HOME-ARP units if permitted by the participating jurisdiction.

HUD also waives 92.206(d)(6) to impose the following alternative requirement:

Staff and overhead costs of the participating jurisdiction are those costs directly related to carrying out the project or activity, such as work specifications preparation, loan processing inspections, and other services related to assisting tenants and occupants. Although these project delivery costs may be charged as project costs, these costs cannot be charged to or paid by qualifying households or low-income families.

5. **Eligible administrative and planning costs**. Subsection (a)(2) of ARP provides that notwithstanding sections 212(c) and (d)(1) of NAHA (42 U.S.C. 12742(c) and (d)(1)), a participating jurisdiction or insular area may use up to fifteen percent of its HOME-ARP allocation for payment of administrative and planning costs of the HOME-ARP program. Therefore, HUD waives sections 212(c) and (d)(1) of NAHA (42 U.S.C. 12742(c) and (d)(1)) and the requirements in 24 CFR 92.207 to the extent it conflicts with the following alternative requirement:

A participating jurisdiction may incur and expend up to fifteen percent of its HOME-ARP allocation for eligible administrative and planning costs. From the obligation date of the participating jurisdiction's HOME-ARP award, as identified in the HOME-ARP Grant Agreement, until the date of HUD's acceptance of the

participating jurisdiction's HOME-ARP allocation plan, a participating jurisdiction may incur and expend up to five percent of its HOME-ARP allocation for eligible administrative and planning costs, in accordance with the requirements in the HOME-ARP Notice.

HOME-ARP funds for may not be used to pay costs attributable to the regular HOME Program, including administrative and planning costs..

A participating jurisdiction may provide all or a portion of its HOME-ARP administrative and planning funds to subrecipients and contractors that are administering activities on behalf of the participating jurisdiction (e.g., CoC entity, other non-Federal entity), in accordance with the requirements in the HOME-ARP Notice. However, from the obligation date of the HOME-ARP funds in the HOME-ARP Grant Agreement and prior to HUD's acceptance of the participating jurisdiction's HOME-ARP allocation plan, a subrecipient or contractor to the participating jurisdiction may only incur and expend HOME-ARP funds for eligible administrative and planning costs if the subrecipient or contractor is responsible for the participating jurisdiction's entire HOME-ARP award and has executed a HOME-ARP written agreement that complies with 24 CFR 92.504, as revised by this Appendix. A participating jurisdiction must identify subrecipient or contractor that is responsible for the use of the participating jurisdiction's entire HOME-ARP award and describe the subrecipient or contractor's responsibilities in its HOME-ARP allocation plan, in accordance with the HOME-ARP Notice.

All costs must comply with the Cost Principles contained in subpart E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200, as amended.

If the participating jurisdiction does not submit a HOME-ARP allocation plan or if the participating jurisdiction's plan is not accepted within a reasonable period of time, as determined by HUD, all HOME-ARP costs incurred by the participating jurisdiction will be ineligible costs and any HOME-ARP funds expended by the participating jurisdiction must be repaid to the participating jurisdiction's HOME Investment Trust Fund Treasury account, in accordance with 24 CFR 92.503, as revised by this Appendix. Moreover, if the participating jurisdiction's HOME-ARP allocation plan does not identify or include a description of the responsibilities of the subrecipient or contractor that is responsible for the participating jurisdiction's entire HOME-ARP award, if applicable, the administrative and planning costs incurred or expended by the subrecipient or contractor will also be ineligible and any HOME-ARP funds expended by the participating jurisdiction or the contractor or subrecipient must be repaid to the participating jurisdiction's HOME Investment Trust Fund Treasury account.

Reasonable administrative and planning costs for the HOME-ARP program include:

a. *General management, oversight, and coordination.* Reasonable costs of overall HOME-ARP program management, coordination, monitoring, and evaluation. Such HOME-ARP costs include, but are not limited to, necessary expenditures for the following:

1. Salaries, wages, and related costs of the participating jurisdiction's staff. If a participating jurisdiction charges costs to this category, the participating jurisdiction may either include the entire salary and related costs allocable to the HOME-ARP program of each person whose primary responsibilities with regard to the HOME-ARP program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes any HOME-ARP program administrative assignments. A participating jurisdiction may only use one of these two methods. HOME-ARP program administration includes:

i. Developing systems and schedules for complying with HOME-ARP program requirements, including systems to prevent a duplication of benefits among beneficiaries of HOME-ARP activities;

ii. Developing interagency agreements and agreements with entities receiving HOME-ARP funds;

iii. Monitoring HOME-ARP activities for progress and compliance with HOME-ARP program requirements;

iv. Preparing HOME-ARP reports and other documents related to the HOME-ARP program for submission to HUD;

v. Coordinating the resolution of audit and monitoring findings on any HOME-ARP activities;

vi. Evaluating HOME-ARP program results against stated objectives in the HOME-ARP allocation plan, and

vii. Managing or supervising persons whose primary responsibilities with regard to the HOME-ARP program include such assignments as those described above.

2. Travel costs incurred for official business in carrying out the HOME-ARP program.

3. HOME-ARP administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services.

4. Other costs for goods and services required for administering the HOME-ARP program, such as: rental or purchase of equipment,

insurance, information systems necessary to track and implement beneficiaries of HOME-ARP activities in accordance with the requirements of this Notice, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

5. Costs of administering HOME-ARP TBRA and HOME-ARP supportive services programs.

b. *Staff and overhead.* Staff and overhead costs of the participating jurisdiction related to administering a HOME-ARP project or activity, such as work specifications preparation, loan processing, inspections, lead-based paint evaluations (visual assessments, inspections, and risk assessments) and other services related to assisting potential owners, tenants; and staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship. These costs may be charged as administrative costs, at the discretion of the participating jurisdiction; however, these costs (except housing counseling) cannot be charged to or paid by qualifying or low-income individuals and families.

c. *Public information.* The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME-ARP funds.

d. *Fair Housing.* Activities to affirmatively further fair housing (AFFH) in accordance with 24 CFR 5.151 and the participating jurisdiction's certification in accordance with 24 CFR 5.152. (HUD's Interim Final Rule entitled, "Restoring Affirmatively Furthering Fair Housing Definitions and Certifications," (86 FR 30779, issued on Jun. 10, 2021) as amended, established the AFFH definition at 24 CFR 5.151 and the certification requirements in 24 CFR 5.152 and became effective on July 31, 2021. Available at https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications.

d. *Indirect costs.* Indirect costs may be charged to the HOME-ARP program under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E, as amended.

e. *Preparation of HOME-ARP allocation plan.* Preparation of the HOME-ARP allocation plan as required in the HOME-ARP Notice. Preparation includes the costs of public hearing, consultations, and publications.

f. *Other Federal requirements.* Costs of complying with the applicable Federal requirements in 24 CFR part 92, subpart H. HOME-ARP project-specific environmental review costs may be charged as administrative or project costs in

accordance with 24 CFR 92.206(d)(8) and is at the discretion of the participating jurisdiction.

6. **Eligible community housing development organization (CHDO) operating expense and capacity building costs**. Subsection (a)(3) of ARP provides that notwithstanding sections 212(a) and (g) of the Act (42 U.S.C. 12742(a) and (g)), a participating jurisdiction or insular area may use up to an additional five percent of its allocation for the payment of operating expenses of community housing development organizations and nonprofit organizations carrying out activities under the HOME-ARP Notice, but only if such funds are used to develop the capacity of the community housing development organization or nonprofit organization in the jurisdiction or insular area to carry out activities authorized under the HOME-ARP Notice; and the community housing development organization or nonprofit organization complies with the limitation on assistance in section 234(b) of NAHA (42 U.S.C. 12774(b)). Therefore, HUD waives sections 212(a) and (g) of the Act (42 U.S.C. 12742(a) and (g)) and 24 CFR 92.208 to the extent they conflict with ARP and the requirements in the HOME-ARP Notice for Nonprofit Operating and Capacity Building Assistance and imposes the following alternative requirements:

   A participating jurisdiction may use up to 5 percent of its HOME-ARP allocation to pay operating expenses of community housing development organizations and other nonprofit organizations that will carry out activities with HOME-ARP funds. A participating jurisdiction may also use up to an additional 5 percent of its allocation to pay eligible costs related to developing the capacity of eligible nonprofit organizations to successfully carry out HOME-ARP eligible activities. Participating jurisdictions may award operating expense assistance or capacity building assistance to a nonprofit organization if it reasonably expects to provide HOME-ARP funds to the organization for the eligible HOME-ARP activities of development and support of rental housing, tenant-based rental assistance, acquisition and development of non-congregate shelter, or supportive services within 24 months of the award.

   1. *Operating Expense Assistance*: Operating expenses are defined as reasonable and necessary costs of operating the nonprofit organization. These costs include employee salaries, wages and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment, materials, and supplies. HOME-ARP funds used for operating expenses must be used for the general operating costs of the nonprofit organization. These operating costs must not have a particular final cost objective, such as a project or activity, or must not be directly assignable to a HOME-ARP activity or project.

2. *Capacity Building Assistance*: Capacity building expenses are defined as reasonable and necessary general operating costs that will result in expansion or improvement of an organization's ability to successfully carry out for eligible HOME-ARP activities. Eligible costs include salaries for new hires including wages and other employee compensation and benefits; costs related to employee training or other staff development that enhances an employee's skill set and expertise; equipment (e.g., computer software or programs that improve organizational processes), upgrades to materials, and supplies; and contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations.

3. *Ineligible Costs:*
   (a) No costs related to operating a non-congregate shelter (e.g., allocable overhead and staffing costs, insurance, utilities, etc.) are eligible costs under the HOME-ARP program.
   (b) The actual costs of implementing a specific activity or project, including staff costs of the community housing development organization or nonprofit organization to deliver supportive services or administer HOME-ARP tenant-based rental assistance, are considered HOME-ARP project delivery costs or project soft costs and are not eligible operating expense and capacity building costs.

4. *Limitations on Assistance*: In any fiscal year, operating assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described in the HOME-ARP Notice, for that fiscal year or $50,000. Likewise, in any fiscal year, capacity building assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described in the HOME-ARP Notice for that fiscal year or $50,000. If an organization receives both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or $75,000.

7. **Troubled HOME-assisted rental housing projects**. HUD waives 24 CFR 92.210.

8. **Pre-award costs**. The requirements in 24 CFR 92.212 are waived and HUD imposes the alternative requirement that HOME-ARP funds cannot be used for pre-award costs.

9. **HOME Funds and Public Housing.** HUD is waiving 24 CFR 92.213(d) to the extent that it requires that HOME funds must be used in accordance with 24 CFR part 92 and the rent requirements in 24 CFR 92.252. Instead, as an alternative requirement, HOME funds must be used in accordance with 24 CFR part 92, as revised by this Appendix and the HOME-ARP Notice, including the rent requirements contained in each.

10. **HOME prohibited activities and fees.** HUD is waiving provisions in 24 CFR 92.214 and providing alternative requirements related to prohibited activities and fees, as follows:

    (1) *Operating Cost Assistance.* 24 CFR 92.214(a)(6) is waived, and 24 CFR 92.214(a)(1) is waived to the extent that it conflicts with the following alternative requirements:

        a. A participating jurisdiction may pay ongoing operating assistance or capitalize an operating cost assistance reserve for HOME-ARP-assisted units restricted for occupancy by qualifying populations in a project where the participating jurisdiction determines in its underwriting that the reserve is necessary to maintain the HOME-ARP units' long-term operational feasibility. However, HOME-ARP funds cannot be used for both a capitalized operating cost assistance reserve and ongoing payments for operating cost assistance during the minimum compliance period. The allowable amount of the reserve shall not exceed the amount determined by the participating jurisdiction to be necessary to provide operating cost assistance for HOME-ARP units restricted for occupancy by qualifying populations for the 15-year HOME-ARP minimum compliance period.

        b. The operating cost assistance reserve for HOME-ARP units for qualifying households must be held by the project owner in a separate interest-bearing account and sized, based on an analysis of projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units' share of operating costs. Funds in a capitalized operating cost assistance reserve can only be drawn to address operating deficits associated with HOME-ARP units restricted for occupancy by the qualifying populations. The participating jurisdiction must, no less than annually, review the operating cost assistance reserve account to determine that the account is appropriately sized based on the projected operating deficits of units restricted for occupancy by qualifying households. A participating jurisdiction must use the definition of operating costs in the HOME-ARP Notice in its calculation of operating deficits to determine the amount of HOME-ARP funds needed for an operating cost assistance reserve or when providing operating cost assistance. The participating jurisdiction may require the project owner to

enter into a deposit account control agreement for the operating cost assistance reserve where the participating jurisdiction must approve disbursements from the account.

c. The participating jurisdiction must require the project owner to request written approval from the participating jurisdiction prior to disbursing funds from the project operating cost assistance reserve. The participating jurisdiction must review each requested distribution from the operating cost assistance reserve, including supporting documentation, to determine that the distribution is reasonable and necessary to cover the operating deficit associated with units occupied by qualifying households.

d. A participating jurisdiction may provide operating cost assistance to a HOME-ARP rental project to cover an operating deficit associated with HOME-ARP units restricted for occupancy by qualifying households except for when an operating cost assistance reserve is already established for the project. Operating cost assistance reserve and operating cost assistance cannot be provided beyond the HOME-ARP budget period, as described in Section VIII.C.3 of the HOME-ARP Notice. Unexpended operating cost assistance reserve amounts remaining at the end of the minimum compliance period of the HOME-ARP units must be returned in accordance with Section VI.B.23 of the HOME-ARP Notice. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, a participating jurisdiction may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion

(2) *Eligible Costs for Operating Cost Assistance.* 24 CFR 92.206 and 24 CFR 92.214(a)(9) are waived to the extent that they conflict with the following alternative requirement.

a. For purposes of the operating cost assistance, operating costs include costs for administrative expenses, property management fees, insurance, utilities, property taxes, and maintenance of a unit that is designated as a HOME-ARP-assisted unit and required to be occupied by a qualifying household. Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project.

b. Project administrative expenses include payroll costs, which are gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits; employee education, training, and travel; advertising; and general administrative costs which are costs for goods and services required for administration of

the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance, and other administrative costs that are reasonable and customary for the general administration of a rental unit occupied by qualifying populations. HOME-ARP permits the pro-rated staffing costs of a Resident Services Coordinator to be included in the operating costs allocated to a HOME-ARP unit for low-income or qualifying households if such costs are not already paid by another source. Typically, the role of a Resident Services Coordinator is to arrange community activities for residents and link residents to outside service agencies as needed.

c. Property management fee includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. A management agent must cover its costs of supervising and overseeing operations of a HOME-ARP unit out of the fee they receive.

d. A reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a reserve for replacement of major systems included in the operating costs allocated to a HOME-ARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A reserve for replacement allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOME-ARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period.

Supportive services costs are not eligible operating costs of HOME-ARP units, however, qualifying households occupying HOME-ARP rental units may receive supportive services through the HOME-ARP supportive services eligible activity.

(3) *Prohibited fees.* 24 CFR 92.214(b) is waived only to the extent that it conflicts with the alternative requirement that a participating jurisdiction may allow such occupancy fees or charges that are customary and reasonable if such fees or charges comply with 24 CFR 578.77(b).

11. Alternative requirements for Tenant-based rental assistance. The requirements of section 212(a)(3) (42 U.S.C. 12742(a)(3)), 24 CFR 92.209, 24 CFR 92.252(d), and 24 CFR 92.504(c)(5) are waived. The following alternative requirements apply:

(1) *General Requirements.* HOME-ARP funds may be used to provide tenant-based rental assistance to qualifying households ("**HOME-ARP TBRA**").

HOME-ARP TBRA is a form of rental assistance that is attached to the household and not a particular rental unit. Therefore, the HOME-ARP TBRA assisted household may choose to move to another unit with continued HOME-ARP TBRA as long as it continues to meet the program eligibility requirements. If a HOME-ARP TBRA assisted household chooses to move, the rental assistance contract terminates and a new rental assistance contract for the new unit will be executed according to HOME-ARP TBRA requirements. The HOME-ARP TBRA assisted household must notify the participating jurisdiction before moving in order to receive continued HOME-ARP TBRA.

a. *Tenant Selection.* Only individuals and families in the qualifying populations are eligible to receive HOME-ARP TBRA assistance. Consistent with the alternative requirements listed below and Section IV.C of the HOME-ARP Notice, a participating jurisdiction may use a continuum of care's coordinated entry process, a coordinated entry process and other referral agencies, or a waitlist to select qualifying households for HOME-ARP TBRA. Participating jurisdictions may establish a system of preferences that includes a preference for one or more of the qualifying populations, such as homeless. Preferences for one or more of the qualifying populations must be disclosed in the HOME-ARP allocation plan, as provided in the HOME-ARP Notice and this Appendix. The participating jurisdiction must select qualifying households for HOME-ARP TBRA in accordance with written tenant selection policies and criteria that are based on local housing needs established in the HOME-ARP allocation plan. The participating jurisdiction must follow written tenant selection policies and criteria that:
b. Limit eligibility to households that meet one of the HOME-ARP qualifying populations definitions in accordance with HOME-ARP requirements. Preferences for households in one or more of the HOME-ARP qualifying populations, if any, must comply with the preferences and/or method of prioritization in the participating jurisdiction's HOME-ARP allocation plan and the participating jurisdiction's policies and procedures, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
c. If the participating jurisdiction selects TBRA applicants off a waiting list, it must provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable.
d. Give prompt written notification to any rejected applicant of the grounds for any rejection, and
e. Comply with the VAWA requirements as described in 24 CFR 92.359.

f. Finally, the participating jurisdiction may offer, in conjunction with HOME-ARP TBRA assistance, a simultaneous award of services in accordance with Section VI.D of the HOME-ARP Notice, as well as provide particular types of other nonmandatory services that may be most appropriate for persons with a special need or a particular disability.

(2) *Tenant Protections.* Participating jurisdictions must verify that there is an executed lease between the qualifying household that receives HOME-ARP TBRA and the owner of the rental unit or a between a qualifying household that receives HOME-ARP TBRA and a HOME-ARP sponsor with a sublease between the qualifying households and the HOME-ARP sponsor, in accordance with 24 CFR 92.253(a). A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitate the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP tenant-based rental assistance by a qualifying household. Participating jurisdictions may permit a HOME-ARP sponsor, as defined in Section VI.B.18 of the Notice, to execute a lease or master lease with a project owner. The HOME-ARP sponsor must then sublease a unit to a qualifying household. The lease between the qualifying household and the rental unit owner or the sublease between the HOME-ARP sponsor` and the qualifying household cannot contain any of the prohibited lease terms specified in 24 CFR 92.253(b).

(3) *Eligible Costs.* Eligible costs under HOME-ARP TBRA include rental assistance, security deposit payments, and utility deposit assistance to qualifying households. HOME-ARP funds may be used to pay for up to 100% of these eligible costs. A participating jurisdiction may use HOME-ARP TBRA funds to provide loans or grants to qualifying households for security deposits for rental units regardless of whether the participating jurisdiction provides any other HOME-ARP TBRA assistance. The amount of funds that may be provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Utility deposit assistance is an eligible cost only if rental assistance or a security deposit payment is provided with HOME-ARP TBRA. Costs of inspecting the housing are also eligible as costs of HOME-ARP TBRA. Administration of HOME-ARP TBRA is eligible only under general management oversight and coordination at 24 CFR 92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible project costs under HOME tenant-based rental assistance.

(4) *Ineligible Costs.* HOME-ARP TBRA may not be used to pay for the homebuyer program as defined at 24 CFR 92.209(c)(2)(iv).

(5) *Portability of Assistance.* A participating jurisdiction may require the HOME-ARP TBRA assisted household to use HOME-ARP TBRA within the

participating jurisdiction's boundaries or may permit the household to use the assistance outside its boundaries consistent with the requirements in 24 CFR 92.209(d).

(6) *Term of Rental Assistance Contract.* The participating jurisdiction must determine the maximum term of the rental assistance contract. The rental assistance contract continues until the end of the rental assistance contract term, as determined by the participating jurisdiction, or until the lease or sublease is terminated, whichever occurs first. The term of the rental assistance contract may be renewed, subject to the availability of HOME-ARP funds. The term of the rental assistance contract must begin on the first day of the term of the lease or sublease.

(7) *Maximum Subsidy.* The participating jurisdiction must establish policies for the allowable maximum subsidy, which may differ from the maximum subsidy requirements at 24 CFR 92.209(h). Participating jurisdictions may provide up to 100 percent subsidy for rent, security deposit payments, and utility bills. The participating jurisdiction must also establish policies for determining any household contribution to rent based on a determination of the qualifying household's income.

(8) *Rent Standard.* Consistent with 24 CFR 92.209(h)(3), participating jurisdictions must also establish a rent standard for HOME-ARP TBRA by unit size that is based upon local market conditions or the Section 8 Housing Choice Voucher program under 24 CFR part 982. The participating jurisdiction must determine whether the rent for a HOME-ARP TBRA household complies with the rent standard established by the participating jurisdiction for the HOME-ARP program and must disapprove a lease if the rent does not meet the participating jurisdiction's rent standard for HOME-ARP TBRA.

(9) *Housing Quality Standards.* Housing occupied by a household receiving HOME-ARP TBRA must comply with all housing quality standards required in 24 CFR 982.401 (or successor inspection standards issued by HUD) unless the tenant is residing in a HOME or HOME-ARP unit, in which case the participating jurisdiction may defer to initial and ongoing inspection standards.

(10) *Program Operation.* The participating jurisdiction may operate HOME-ARP TBRA itself or may contract with a PHA or other entity with the capacity to operate a rental assistance program. In either case, the participating jurisdiction or entity operating the program must approve the lease. HOME-ARP TBRA may be provided through an assistance contract with (1) an owner that leases a unit to a qualifying household; (2) the qualifying household, or (3) an owner and the qualifying household in a tri- party contract. In the case of HOME ARP TBRA provided in coordination with a HOME ARP sponsor, as described below, the participating jurisdiction may require that payments are made directly to the

HOME-ARP sponsor that will make rental payments to the owner on behalf of the qualifying household or require payments directly to the owner of the unit.

(11) *HOME ARP TBRA with a HOME ARP Sponsor.* HOME ARP-TBRA may be provided in coordination with a HOME-ARP TBRA sponsor. A HOME-ARP TBRA sponsor is a nonprofit organization that provides housing or services to HOME-ARP TBRA qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA on behalf of a qualifying household. A HOME-ARP sponsor may make rental subsidy payments and a security deposit payment on behalf of a qualifying household. Under HOME-ARP TBRA, a qualifying household may reside in housing leased by a HOME-ARP sponsor if there is a sublease that complies with HOME-ARP lease requirements between the HOME-ARP sponsor and the qualifying household.

(12) *Rental Assistance Contract.* There must be a rental assistance contract between the participating jurisdiction and at least one of the following.

i. HOME-ARP sponsor;
ii. Qualifying household; or
iii. Owner of the housing.

Rental subsidy payments are made on behalf of the HOME ARP-TBRA household pursuant to a rental assistance contract. The rental assistance contract continues until the lease is terminated. Regardless of the role of the sponsor, the household has the right to continued HOME-ARP TBRA assistance if it chooses to move from the unit.

The HOME-ARP sponsor may only receive the TBRA subsidy directly from the participating jurisdiction on behalf of the qualifying household if the rental assistance contract is between the HOME-ARP sponsor and the participating jurisdiction or the HOME-ARP sponsor and the participating jurisdiction have entered into a written agreement as outlined below. The HOME-ARP sponsor must make rental subsidy payments to the owner on behalf of the qualifying household per the terms and conditions of the HOME-ARP TBRA contract or written agreement with the participating jurisdiction. When the HOME-ARP TBRA qualifying household moves to a new rental unit, the HOME-ARP sponsor is not required to continue its sponsor relationship with the HOME-ARP TBRA assisted household for the new rental unit but may do so with the consent of the HOME-ARP TBRA household.

The participating jurisdiction must establish policies and procedures regarding termination of HOME-ARP TBRA assistance for qualifying households who are absent from the rental unit where a HOME-ARP sponsor is leasing the rental unit and subleasing to the qualifying household or providing HOME-ARP TBRA rental subsidy payments on behalf of the household.

(13) *Lease and Sublease.* Participating jurisdictions must verify that each household that receives HOME-ARP TBRA assistance has an executed lease that complies with the tenant protection requirements of the HOME-ARP Notice. The lease agreement may be between the project owner and the HOME-ARP TBRA household, or participating jurisdictions may permit a HOME-ARP sponsor to execute a lease for an individual unit or a master lease with an owner for more than one unit restricted for occupancy by HOME-ARP TBRA households. If the lease agreement is between the HOME-ARP sponsor and owner, the HOME-ARP sponsor must execute a sublease agreement with a HOME-ARP TBRA household. The sublease between the HOME-ARP sponsor and the HOME-ARP TBRA household must meet the tenant protection requirements of the HOME-ARP Notice.

(14) *Written Agreement with HOME-ARP Sponsor.* The participating jurisdiction must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will receive the HOME-ARP TBRA subsidy directly from the participating jurisdiction on behalf of the qualifying household. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the HOME-ARP TBRA subsidy on behalf of the qualifying household and the HOME-ARP sponsor's obligation to provide the HOME-ARP TBRA payment to the owner for the unit's required rent.

INCOME TARGETING

12. **Alternative requirement to HOME rental income targeting requirements.** HUD is waiving section 215(a)(1)(B) and (C) of NAHA (42 U.S.C. 12745(a)(1)(B) and (C)) and 24 CFR 92.216. For HOME-ARP rental units, the following alternative requirements shall apply:
    (1) *30% Requirement.* Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the participating jurisdiction may be restricted to households that are low-income as defined in 24 CFR 92.2. These units may only be located in projects containing HOME-ARP units restricted for occupancy by qualifying households. The remainder of the total HOME-ARP rental units assisted with HOME-ARP funds by the participating jurisdiction must be restricted for occupancy by qualifying households in accordance with the HOME-ARP Notice.
    (2) *Low-Income Households.* The HOME-ARP rental units occupied by low-income households must be occupied by low-income households and bear a rent no greater than the lesser of -
        a. the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or

b. a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit).

13. **HOME tenant-based rental assistance income targeting requirements.** HUD is waiving section 212(a)(3)(A)(ii) of NAHA (42 U.S.C. 12742(a)(3)(A)(ii)) and 24 CFR 92.216 requirements for income targeting of HOME tenant-based rental assistance and imposing an alternative requirement that all persons assisted with HOME-ARP TBRA must be qualifying households upon admission.

F. SUBPART F - PROJECT REQUIREMENTS

1. **Maximum per-unit subsidy amount and the waiver and alternative requirement for underwriting and subsidy layering.** The requirements of 24 CFR 92.250(a) shall not apply to HOME-ARP funds because subsection (c)(1) of ARP states that the underlying statutory requirements for cost limits in section 212(e) of NAHA (42 U.S.C. 12742(e)) do not apply to HOME-ARP funds. Additionally, the underwriting and subsidy layering requirements in 24 CFR 92.250(b) shall not apply to HOME-ARP rental project activities and are waived. Lastly, the requirements of section 212 of NAHA (42 U.S.C. 12742) and 24 CFR 92.214(a) are waived to the extent that they conflict with the alternative requirements below. HUD is specifying the following alternative requirements:

   (1) *Underwriting and Subsidy Layering Guidelines.* Participating jurisdictions must develop standardized underwriting guidelines for HOME-ARP rental projects. These guidelines must provide for underwriting that accommodates and is appropriate for different types of projects. All participating jurisdictions are required to develop and implement standardized underwriting guidelines for HOME-ARP that require the following:

   a. An examination of the sources and uses of funds for the project and a determination that costs are reasonable. In examining a project's proposed sources and uses, a participating jurisdiction must determine the amount of HOME-ARP development subsidy required to fill the gap between other committed funding sources and the cost to develop the project.

   b. An assessment of the current market demand for the proposed project. For HOME-ARP units for qualifying households, a market assessment is not required. Rather, the participating jurisdiction can demonstrate that there is unmet need among qualifying populations for the type of housing proposed through Continuum of Care data, public housing and affordable housing waiting lists, point-in-time surveys, housing inventory count, or other relevant data on the need for permanent housing for the qualifying populations. For projects containing units restricted for occupancy by low-income households

or market-rate households, the participating jurisdiction must conduct a market assessment in accordance with 24 CFR 92.250(b)(2). A third-party market assessment completed by the developer or another funder meets this requirement, but the participating jurisdiction must review the assessment and acknowledge in writing that it accepts the assessment's findings and conclusions. The market assessment and the participating jurisdiction's written acknowledgement must be retained for recordkeeping purposes.

c. Review of and determination that the developer's experience and financial capacity are satisfactory based on the size and complexity of the project. When assessing the developer, the participating jurisdiction must review, at minimum, prior experience with similar projects and the current capacity to develop the proposed project. When determining whether the developer has the financial capacity to undertake the project, the participating jurisdiction should examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.

d. Firm written financial commitments for the project.

e. A careful review of the project's operating budget, including the assumptions, projections of a project's net operating income, and reasonably expected increases in revenue and expenses during the minimum compliance period, to determine if any HOME-ARP-funded operating cost assistance is necessary and if applicable, an operating cost assistance reserve is sized appropriately. Operating income of the project must be sufficient to cover operating expenses through the minimum compliance period. For HOME-ARP units for qualifying households, the proforma or projections should include any anticipated ongoing operating cost assistance or draws from an operating cost assistance reserve, if applicable, that will offset operating deficits associated with those units to demonstrate sufficient operating support. If project-based vouchers or project-based rental assistance will be awarded, this analysis must include that rental assistance revenue because operating cost assistance cannot be used for units for qualifying households with project-based vouchers or project-based rental assistance. A participating jurisdiction's underwriting standards may permit projects to generate reasonable net operating income throughout the minimum compliance period. However, HOME-ARP operating cost assistance may only be used to offset operating deficits, in accordance with the requirements of the HOME-ARP Notice. Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.

f. An assessment of the project's overall viability through the minimum compliance period based on the households (i.e. qualifying households, low-income households, market-rate households) it will serve.

(2) *Developer Fee.* A developer fee is a permitted development cost under the HOME-ARP program, but the participating jurisdiction must review the fee and determine that it is reasonable. A participating jurisdiction may set limits on the developer fee and other fees (e.g., asset management fee, property management fee) to be paid by HOME-ARP funds that differ from other funding sources (e.g., Low-Income Housing Tax Credit underwriting standards).

(3) *Underwriting and Subsidy Layering Review Standards.* Before the HOME-ARP funds can be committed to a HOME-ARP rental project, participating jurisdictions must evaluate the project to determine the amount of HOME-ARP capital subsidy and operating cost assistance necessary to provide quality affordable housing that meets the requirements of the HOME-ARP Notice and is financially viable for the minimum 15-year HOME-ARP compliance period. The participating jurisdiction must evaluate the project in accordance with underwriting and subsidy layering guidelines it has developed for HOME-ARP projects.

(4) *Underwriting and Subsidy Layering Commitment Requirements.* The participating jurisdiction's project underwriting must include an in-depth review of underlying project assumptions, development sources and uses, and projected operating income and expenses, and the project's long-term financial viability to determine the project's need for HOME-ARP assistance while preventing over-subsidization of the project. Participating jurisdictions must take a holistic approach to underwriting that examines the overall feasibility of the entire project to determine that the property will be financially sustainable for the duration of the 15-year HOME-ARP compliance period.

For projects that will receive operating cost assistance through a capitalized operating cost assistance reserve or on-going operating cost assistance for a specific period, the on-going operating cost assistance or operating cost assistance reserve must be included in the underwriting. Unless placed into an operating cost assistance reserve, operating cost assistance committed to a project for a specific period cannot be provided beyond the budget period, as described in Section VIII.C.4 of the HOME-ARP Notice. HOME-ARP units that have commitments for project-based rental assistance must be underwritten with the projected rental assistance and not with operating cost assistance. An operating cost assistance reserve must be sized based on an analysis of projected operating deficits remaining after the expected payments toward rent by qualifying households are applied to the HOME-ARP unit's share of actual operating costs. However, the participating jurisdiction, through its underwriting, must also determine that the HOME-ARP capital and operating subsidies do not result in over-subsidization of the project.

2. **Property Standards**. The property standards in 24 CFR 92.251 shall apply to all HOME-ARP rental activities except that –
   The requirements in 24 CFR 92.251(c)(3) shall not apply and are waived because homeownership is not an eligible activity for HOME-ARP funds.

   HOME-ARP rental units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504(d)(1)(ii).

3. **Lease-up of HOME-ARP rental units.** The requirement in 24 CFR 92.252 that states that HUD will require the participating jurisdiction to repay HOME funds invested in any housing unit that has not been rented to eligible tenants 18 months after the date of project completion is waived. Instead, as an alternative requirement, if the HOME-ARP units are not occupied by eligible qualifying households or low-income households, in accordance with the unit restrictions, within six months following project completion, the participating jurisdiction, as applicable, must submit to HUD information on its efforts to coordinate with a CoC, homeless service providers, social service and other public agencies to fill units for qualifying households or must submit marketing information and, if appropriate, a marketing plan to fill units for low-income households. The participating jurisdiction must repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households within 12 months of project completion.

4. **Rent limitations, initial rent schedule, and utility allowances for HOME-ARP rental housing.** The requirements in 24 CFR 92.252(a)-(d) are waived and the following alternative requirements shall apply.
   (1) *Rent limitations for units restricted for occupancy by Qualifying Households.* In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis.

   Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a very low-income household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

The rent limits for HOME-ARP qualifying populations include the rent plus the utility allowance established pursuant to Section VI.B.13.d of the HOME-ARP Notice.

(2) *Rent limitations – low-income households.* HOME-ARP rental units occupied by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives assistance from a Federal tenant-based rental assistance (e.g. housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program). The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to Section VI.B.13.d of the HOME-ARP Notice.

(3) *Rent limitations – Single Room Occupancy (SRO) Units.* A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental activities, a SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's designation as a SRO cannot be inconsistent with the building's zoning and building code classification.

If the SRO units have both sanitary and food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established pursuant to Section VI.B.13.d of the HOME-ARP Notice.

(4) *Initial Rent Schedule and Utility Allowance.* The participating jurisdiction must establish maximum allowances for utilities and services and update the allowances annually. The participating jurisdiction may adopt the utility allowance schedule of the PHA.
The participating jurisdiction must review and approve the HOME-ARP rents proposed by the owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the participating jurisdiction must determine that the rent for the unit does not exceed the maximum rent minus the monthly allowance for utilities and services.

5. **Affordability requirements and limited waiver and alternative requirement to period of affordability requirements.** The requirement that affordability

restrictions must remain in place for the amount of time in the table specifying the minimum period of affordability in 24 CFR 92.252(e) is waived. HUD is specifying that as an alternative requirement, HOME-ARP-assisted rental units must comply with the requirements of the HOME-ARP Notice in serving the qualifying households and, to the extent applicable, low-income households, for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the development activity being undertaken. Additionally, HUD is specifying the following alternative requirements to the use restriction requirements in 24 CFR 92.252(e)(1):

(1) Units restricted for occupancy by qualifying populations must be occupied by households that meet the definition of a qualifying population at the time of initial occupancy. The household's contribution toward rent during this period must be affordable in accordance with the HOME-ARP Notice. The rents for these units must comply with the rent limitations established in the HOME-ARP Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income and whose contribution to rent complies with the requirements in Section VI.B.15 of the HOME-ARP Notice.

(2) Units available for low-income households must be continuously occupied by households who are income eligible. The rents for these units must comply with the rent limitations established in the HOME-ARP Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income.

(3) If a project-based rental assistance Housing Assistance Payments (HAP) contract is awarded to a HOME-ARP rental project, a participating jurisdiction must impose a minimum compliance period that is the greater of 15 years or the term of the HAP contract. Participating jurisdictions are also encouraged to extend restrictions for occupancy of the HOME-ARP units in accordance with the requirements in this section to match eligible HAP contract renewals.

6. **Adjustment of HOME rent limits for an existing project.** The requirements of 24 CFR 92.252(g) are waived.

7. **Tenant income restrictions and tenant rental contribution requirements for HOME-ARP rental projects and limited waiver and alternative requirements.** The requirements at 24 CFR 92.203 and 24 CFR 92.252(h) and (i) shall apply except that they are waived to the extent that they differ from the following alternative requirements:

(1) *Household income at Initial Occupancy – Qualifying Households.* The participating jurisdiction must require all HOME-ARP rental units be restricted for occupancy by eligible households throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP rental

units solely by meeting the definition of one of the qualifying populations (i.e. HOME-ARP does not impose income restrictions on units restricted for qualifying populations). If there is no income requirement in the qualifying population's definition, a participating jurisdiction is not required to perform an initial determination of household income except as necessary to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restrictions (e.g., LIHTC).

(2) *Household income in Subsequent Years – Qualifying Households.* Each year during the compliance period, starting 1 year after initial occupancy, the participating jurisdiction must use the definition of annual income as defined in 24 CFR 5.609 to examine the income of qualifying households to determine the household's contribution to rent. For low-income households, the participating jurisdiction must use the definition of annual income as defined in 24 CFR 5.609 to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution.

a. *Qualifying populations.* - For purposes of establishing the qualifying household's rental contribution after initial occupancy, a participating jurisdiction must examine a HOME-ARP qualifying household's income using 24 CFR 92.203(a)(1)(i) or (iii), starting 1 year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the participating jurisdiction. A project owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

b. *Over-income – Temporary noncompliance.* HOME-ARP-assisted units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.

c. *Changes in income – Qualifying households.* A household that met the definition of one of the HOME-ARP qualifying populations at initial

occupancy and whose annual income at the time of income re-certification is above 50 percent of median income for the area but at or below 80 percent of the median income for the area must pay the rent specified in 24 CFR 92.252(a).

d. *Changes in income – Low-income Households or Qualifying households.* A household that is not low-income at the time of income re-certification (i.e., whose income is above 80 percent of the median income for the area) must pay rent that complies with the over income regulatory requirements at 24 CFR 92.252(i)(2).

e. *Household income – Low-income Households.* In accordance with 24 CFR 92.252(h), the income of each low-income household must be determined initially in accordance with 24 CFR 92.203(a)(1)(i), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the participating jurisdiction. An owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

f. Alternative Requirement for Households Assisted by Other Programs. Notwithstanding the alternative requirements specified above or the provisions of 24 CFR 92.203, if a family is applying for or living in a HOME-ARP-assisted rental unit, and the unit is assisted by a Federal or State project based rental subsidy then a participating jurisdiction must accept the public housing agency, section 8 project owner, or Continuum of Care recipient or subrecipient's determination of the family's annual income and adjusted income under that program's and does not need to obtain source documentation in accordance with 24 CFR 92.203(a)(1) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP-assisted rental unit, and the family is assisted by a Federal tenant-based rental assistance program (e.g., housing choice vouchers, etc.) then a participating jurisdiction may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under 24 CFR 92.203(a)(1).

8. **Tenant selection in HOME-ARP rental housing projects.** Except for affirmative marketing requirements in 24 CFR 92.351 and VAWA requirements, the requirements in 24 CFR 92.252(k) and 24 CFR 92.253(d) are waived to the extent that they differ from the following alternative requirements.

   (1) *Use of Coordinated Entry System or Project-Specific Waitlists.* In accordance with Section IV.C of the HOME-ARP Notice, participating jurisdictions must determine whether an owner may use a Continuum of Care's Coordinated Entry System, a Continuum of Care's Coordinated Entry and other referral sources, or a project-specific waitlist to select qualifying households for HOME-ARP units restricted for occupancy by qualifying populations in accordance with the HOME-ARP Notice. The participating jurisdiction may also use a waiting list to receive referrals from a CoC CE and other referral agencies for a project or activity, where a CoC CE or other referral agency refers an applicant that is placed on the waiting list for that project or activity in chronological order. Participating jurisdictions will make this determination on a project-by-project basis. Regardless of which method is selected, in all cases, the participating jurisdiction must use a project-specific waitlist when selecting households to occupy units restricted for occupancy by low-income households. Any preferences among qualifying households must be disclosed in the HOME-ARP allocation plan through the participating jurisdiction's public participation process in accordance with Section V.C of the HOME-ARP Notice. The written agreement between the participating jurisdiction and the project owner must specify the method the owner must use for selecting qualifying households for admission to HOME-ARP units.

   The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that.

   a. Limit eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements. Preference for households must comply with the participating jurisdiction's preferences and the participating jurisdiction's policies and procedures for applying the preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.

   b. Do not exclude an applicant with a voucher under the Section 8 Housing Choice Voucher Program (24 CFR 982), or an applicant participating in a HOME, HOME-ARP or other Federal, state, or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document.

c. Limit eligibility or gives a preference to a particular qualifying population or segment of the qualifying population if permitted in its written agreement with the participating jurisdiction (and only if the limitation or preference is described in the participating jurisdiction's HOME-ARP allocation plan). A preference for households in one or more of the HOME-ARP qualifying populations must comply with the participating jurisdiction's determined preference(s) and the participating jurisdiction's policies and procedures for applying the preference(s), if any;

d. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350. If the participating jurisdiction requires the use of a project-specific waitlist to select qualifying households and/or low-income households for occupancy of HOME-ARP units, provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable.

e. Give prompt written notification to any rejected applicant of the grounds for any rejection, and

f. Complies with the VAWA requirements as described in 24 CFR 92.359.

(2) *Use of preferences for Qualifying Households.* Any preferences for qualifying households must be disclosed in the HOME-ARP allocation plan through the participating jurisdiction's public participation process. The written agreement between the participating jurisdiction and the project owner must specify the method the owner must use for prioritizing applicants for admission to HOME-ARP units.

9. **Tenant protections in HOME-ARP rental units.** The requirements of Section 225 of NAHA (42 U.S.C. 12755) and 24 CFR 92.253(a)-(c) shall apply to HOME-ARP rental projects except to the extent that they differ from the following alternative requirements:

(1) *Use of Master Leases.* Section 225 of NAHA (42 U.S.C. 12755) and 24 CFR 92.253(a) are waived to the extent that they are interpreted as barring an owner from leasing a unit to a nonprofit organization that would sublease that unit to a qualifying household or to the extent that it is interpreted as barring an owner of a HOME-ARP unit from executing a master lease with a nonprofit organization for HOME-ARP units restricted for occupancy by qualifying households. As an alternative requirement, an owner may execute a lease or master lease with a nonprofit organization, known as a HOME-ARP sponsor. A HOME-ARP

sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. Participating jurisdictions may permit a HOME-ARP sponsor to lease a HOME-ARP unit from an owner or execute a master lease with the owner of a HOME-ARP project for HOME-ARP units restricted for occupancy by qualifying households. The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to the qualifying household. The sublease between the HOME-ARP sponsor and the qualifying household must comply with the rent limitations and tenant protection requirements of this Notice

(2) *Termination of tenancy.* HUD is applying the requirements of 24 CFR 92.253(c) to termination of tenancy and, as an alternative requirement, also applying the protections of 24 CFR 92.253(c) to termination of Master Leases that effectuate the tenancy of qualifying households. HUD is also specifying the following alternative requirement for termination of tenancy for qualifying households in projects that capitalized operating cost assistance reserves or where there is a current contract for the participating jurisdiction to provide operating cost assistance to the project. In those cases, an owner may not terminate the tenancy or refuse to renew the lease of a qualifying household because of the household's inability to pay rent during the compliance period. A qualifying household's inability to pay rent shall mean that the qualifying household cannot pay more than 30 percent of the qualifying household's income toward rent, based on an income determination made by the participating jurisdiction in the last 30 days.

To terminate or refuse to renew tenancy for any household occupying a HOME-ARP unit, the owner must serve written notice upon the tenant (and the HOME-ARP sponsor if the lease is between an owner and sponsor), specifying the grounds for the action at least 30 days before termination of tenancy. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the participating jurisdiction, must notify the participating jurisdiction in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

(3) *Prohibited Lease Terms.* The requirements in 24 CFR 92.253(b) that prohibit owners from placing certain terms in their lease agreements shall continue to apply. HUD is also specifying an alternative requirement that the prohibited lease terms in 24 CFR 92.253(b) may not be placed into a sublease between a HOME-ARP sponsor and a qualifying household.

G. SUBPART G - COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

The requirements in sections 232, 233, 234(a) of NAHA (42 U.S.C. 12772, 12773, 12774(a)) and 24 CFR 92.300, 92.301, 92.302, and 92.303 are waived and do not apply to HOME-ARP.

H. .SUBPART H - OTHER FEDERAL REQUIREMENTS

1. **Nondiscrimination, affirmative marketing, and minority outreach program requirements.** The requirements of 24 CFR 92.350 and 24 CFR 92.351 shall apply to all HOME-ARP activities, including Non-Congregate Shelter and Supportive Services activities. Section 3205, subsection (d)(4) of the ARP states that the Secretary may not waive or specify alternative requirements for any provision or regulation related to fair housing or nondiscrimination.

2. **Environmental review requirements and labor standards.** The requirements of 24 CFR 92.352 and 24 CFR 92.354 shall apply to all eligible HOME-ARP activities, including Non-Congregate Shelter and Supportive Services activities. Subsection (d)(4) of ARP states that the Secretary may not waive or specify alternative requirements to labor standards and environment.

3. **Applicability of lead-based paint requirements.** 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 24 CFR Part 35, subparts A, B, J, K, M, and R apply to HOME-ARP-assisted activities.

   For the HOME-ARP Non-Congregate Shelter activity, a project must comply with 24 CFR part 35, Subpart K when the HOME-ARP activity is acquisition only. HOME-ARP NCS projects that involve rehabilitation of pre-1978 facilities, whether the rehabilitation is funded with HOME-ARP or other funds, must comply with the requirements of 24 CFR part 35, Subpart J.

4. **Conflicts of interest requirements.** The requirements of 24 CFR 92.356 shall apply to all participating jurisdictions, State recipients, and subrecipients engaging in any HOME-ARP activities. For purposes of implementing HOME-ARP provisions for Non-Congregate Shelters, owners and developers of HOME-ARP Non-Congregate Shelters shall be subject to 24 CFR 92.356(f). The following alternative requirements shall apply to all participating jurisdictions, State recipients, and subrecipients engaging in any HOME-ARP activities.

   (1) *Written Standards of Conduct.* Consistent with current regulations, participating jurisdictions, State recipients, and subrecipients must maintain written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under the HOME-ARP Notice and 2 CFR 200.318. In addition to current regulatory requirements, HUD is requiring that all participating jurisdictions, State recipients and subrecipients maintain written standards of conduct that also provide for internal controls and procedures to ensure a fair and open selection process for awarding HOME-ARP funds pursuant to the HOME-ARP Notice. These standards must include provisions on if and how Continuum of Care board members may participate in and/or influence discussions or resulting decisions concerning the competition or selection of an

award or other financial benefits made pursuant to the HOME-ARP Notice, including internal controls on when funds may be awarded to the organization that the member represents.

(2) *Organizational Conflicts of Interest.* The provision of any type or amount of HOME-ARP TBRA or supportive services may not be conditioned on an individual's or family's acceptance or occupancy of a shelter or housing unit owned by the participating jurisdiction; State recipients; the subrecipient; or a parent, affiliate, or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent, affiliate, or subsidiary of the subrecipient, administer financial assistance that includes rental payments, utility deposits, security deposits, and/or first and last month's rent pursuant to the HOME-ARP Notice. All contractors of the participating jurisdiction, State recipients, or subrecipient must comply with the same requirements that apply to subrecipients under this section.

(3) *Requesting Exceptions to Organizational Conflicts of Interest.* Any request for an exception to the organizational conflicts of interest provisions in the HOME-ARP Notice shall be in writing and shall be considered by HUD only after the participating jurisdiction or State recipient has provided the following:

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

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

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

5. **Applicability of displacement, relocation, and acquisition requirements and waiver of one-for-one replacement requirements.** The requirements of 24 CFR 92.353, which also implement the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, (42 U.S.C. 4201 et seq.) (URA), the URA's implementing requirements at 49 CFR part 24, and section 104(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5304) and its implementing regulations at 24 CFR part 42, shall apply to all projects receiving HOME-ARP funds except for the following waiver and alternative requirement.. For purposes of the one-for-one replacement housing requirements of section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (ii) and 42 U.S.C. 5304(d)(3)) and 24 CFR 42.375, lower-income dwelling units shall not include single-room occupancy (SRO) units or residential hotel or motel units in jurisdictions where those units are considered dwelling units under state or local law

6. **Regulations on consultant activities.** The requirements of 24 CFR 92.358 are not waived.

7. **Violence Against Women Act Requirements.** The requirements of 24 CFR 92.359 are not waived.

I. SUBPART I - TECHNICAL ASSISTANCE

Applicability of requirements on provision of Technical Assistance in support of HOME-ARP activities. The requirements of 24 CFR 92.400 are waived and shall not apply to the extent that they restrict the Department's ability to provide Technical Assistance funds allocated to the Department under subsection(d)(2) of ARP without competition, and to the extent that their application of Subpart C of NAHA (42 U.S.C. 12781 et seq.) would restrict capacity building to affordable housing activities rather than the broader set of eligible HOME-ARP activities.

J. SUBPART J - REALLOCATIONS

Reallocation of HOME-ARP Funds. The requirements of section 216 of NAHA (42 U.S.C. 12746), section 217 of NAHA (42 U.S.C. 12747), 24 CFR 92.66, 24 CFR 92.107, 24 CFR 92.450, 24 CFR 92.451(a), 24 CFR 92.452, 24 CFR 92.453 and 24 CFR 92.454 shall not apply to HOME-ARP funds and are waived to the extent they differ from the following alternative requirements for reallocations:

(1) *Participating Jurisdictions.* For any participating jurisdiction that refuses to accept its allocation of HOME-ARP funds, does not have its HOME-ARP allocation plan accepted by HUD, or has its designation revoked during the period of availability of HOME-ARP funds, HUD shall reallocate the participating jurisdiction's unspent HOME-ARP funds to the State jurisdiction in accordance with 24 CFR 92.451(b) and (c).

(2) *State Jurisdictions.* For any State jurisdiction that refuses to accept its allocation of HOME-ARP funds, does not have its HOME-ARP allocation plan accepted by HUD, or has its designation revoked during the period of availability of HOME-ARP funds, HUD shall reallocate the State jurisdiction's unspent HOME-ARP funds in

accordance with 24 CFR 92.451(b) and (c). *Insular areas*. For any insular area that refuses to accept its allocation of HOME-ARP funds, does not have its HOME-ARP allocation plan accepted by HUD, or has its designation revoked during the period of availability of HOME-ARP funds, HUD shall reallocate the insular area's unspent HOME-ARP funds proportionally to the remaining insular areas participating in the HOME-ARP program.

(3) *Annual Reallocation*. Reallocations of funds pursuant to the above waivers and alternative requirements shall be performed annually, if practicable.

K. SUBPART K - PROGRAM ADMINISTRATION

1. **The HOME Investment Trust Fund**. The requirements in 24 CFR 92.500 apply to HOME-ARP, except 92.500(b) is waived and the following alternative requirement is imposed:

   (b) *Treasury Account*. The United States Treasury account of the HOME Investment Trust Fund includes funds allocated to the participating jurisdiction under HOME-ARP and funds reallocated to the participating jurisdiction under subpart J of 24 CFR part 92.

   The requirements in section 218(c)(2) of NAHA (42 U.S.C. 12748(c)(2)), 24 CFR 92.500(c)(2), (d)(1)(i)-(iii), and (d)(2) are waived and do not apply to HOME-ARP.

2. **HOME Investment Partnership Agreement**. The requirements in 24 CFR 92.501 are waived and the following alternative requirements are imposed:

   Allocated and reallocated HOME-ARP funds will be made available pursuant to a HOME-ARP Grant Agreement. The agreement requires that HOME-ARP funds invested in HOME-ARP activities are repayable if the activity does not comply with the requirements in the HOME-ARP Notice and any subsequent amendments.

   After the date of the HOME-ARP Notice, the participating jurisdiction and HUD may enter into a HOME-ARP Grant Agreement for the use of its HOME-ARP allocation pursuant to the HOME-ARP Notice. After the obligation date identified in the HOME-ARP Grant Agreement, a participating jurisdiction may use up to 5 percent of its HOME-ARP award for eligible administrative and planning costs in 24 CFR 92.207. The participating jurisdiction may not incur any costs or expend any funds for costs other than administrative and planning costs before the HOME-ARP allocation plan is accepted by HUD as described in the HOME-ARP Notice.

   If the participating jurisdiction does not submit a HOME-ARP allocation plan, if the participating jurisdiction's plan is not accepted within a reasonable period of time, as determined by HUD, or if the subrecipient or contractor administering a participating jurisdiction's entire HOME-ARP award is not included in the

HOME-ARP allocation plan, in accordance with the HOME-ARP Notice, all HOME-ARP costs incurred by the participating jurisdiction (or its subrecipient or contractor) are ineligible costs and any HOME-ARP funds expended by the participating jurisdiction must be repaid to the participating jurisdiction's HOME Investment Trust Fund Treasury account, in accordance with guidance from HUD.

3. **Program disbursement and information system**. The requirements in 24 CFR 92.502(b) are waived to the extent they conflict with the alternative requirement that HOME-ARP investments for acquisition, new construction, or rehabilitation of housing or non-congregate shelter, the provision of tenant-based rental assistance, and the provision of supportive services must be set up as projects in the Integrated Disbursement and Information System. The requirements in 24 CFR 92.502(c)(3) are waived and do not apply to HOME-ARP.

4. **Program income and repayments.** A participating jurisdiction must comply with the requirements for program income and repayments in the HOME-ARP Notice. The requirements in 24 CFR 92.503 apply to the use of HOME-ARP funds, except that the requirements in 92.503(a)(2), (b)(3), (c)(3), (c)(4), and (d) are waived and the following alternative requirements apply:
   (1) *Program income.* If a jurisdiction is not a participating jurisdiction in HOME or HOME-ARP when the HOME-ARP program income is received, the funds must be remitted to HUD and reallocated, in accordance with 24 CFR 92.454 and the HOME-ARP Notice.
   (2) *Repayments*. A participating jurisdiction must repay HOME-ARP funds to the HOME Investment Trust Fund Treasury account. If the jurisdiction is not a participating jurisdiction for HOME or HOME-ARP at the time the repayment is made, the funds must be remitted to HUD and reallocated, in accordance with 24 CFR 92.454 and the HOME-ARP Notice.

5. **Participating jurisdiction responsibilities; written agreements; on-site inspection**. HUD waives 24 CFR 92.504, except for those provisions that reference the requirements of 24 CFR 92.350, 24 CFR 92.351, and 24 CFR 92.359, and imposes the following alternative requirements for 92.504:

   (a) *Responsibilities.* The participating jurisdiction is responsible for managing the day-to-day operations of its HOME-ARP-ARP program, ensuring that HOME-ARP funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the participating jurisdiction of this responsibility. The performance and compliance of each contractor, State recipient, and subrecipient must be reviewed at least annually. The participating jurisdiction must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and

projects and a system for monitoring entities consistent with HOME-ARP Notice, to ensure that the requirements of this part are met.

(b) *Executing a written agreement.* Before disbursing any HOME-ARP funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME-ARP funds to any entity, a State recipient, subrecipient, or contractor which is administering all or a part of the HOME-ARP program on behalf of the participating jurisdiction, must also enter into a written agreement with that entity. The written agreement must ensure compliance with the requirements of the HOME-ARP Notice.

(c) *Provisions in written agreements.* The contents of the agreement may vary depending upon the role the entity is asked to assume or the type of project undertaken. The written agreement must contain the applicable minimum provisions for a written agreement in the HOME-ARP Notice based on the project or activity (e.g., HOME-ARP rental housing, non-congregate shelter, tenant-based rental assistance, or supportive services) and the basic requirements and minimum provisions by role described in this section.

(1) *State recipient.* The provisions in the written agreement between the State and a State recipient will depend on the program functions that the State specifies the State recipient will carry out in accordance with 24 CFR 92.201(b). The written agreement must require the State recipient to comply with State's requirements, including underwriting, refinancing guidelines, and applicable requirements described in the HOME-ARP Notice.

(i) *Use of the HOME-ARP funds.* The agreement with a State recipient must describe the amount and use of the HOME-ARP funds to administer one or more HOME-ARP programs, including the type and number of projects to be funded, tasks to be performed, a schedule for completing the tasks, duration of the agreement, and a budget for each program. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction or State to effectively monitor performance under the agreement.

(ii) *Affordability.* The agreement must require projects assisted with HOME-ARP funds to meet the requirements of the HOME-ARP Notice, as applicable, and must require repayment of the funds if the project does not meet the requirements for the specified time period.

(iii) *Program income.* The agreement must state if program income is to be remitted to the State or to be retained by the State recipient for additional eligible activities.

(iv) *Uniform administrative requirements.* The agreement must require the State recipient or subrecipient to comply with applicable uniform

administrative requirements described in 24 CFR 92.505, as revised by this Appendix to the HOME-ARP-ARP Notice.

(v) *Project requirement.* The agreement must require compliance with requirements in the HOME-ARP Notice, in accordance with the type of project assisted. The agreement must state whether the State is permitting a preference for a qualifying population or segment of a qualifying population. The written agreement must contain provisions requiring the method of tenant selection to be used in accordance with the requirements of the HOME-ARP Notice.

(vi) *Other program requirements.* The agreement must require the State recipient to carry out each activity in compliance with the HOME-ARP Notice and all Federal laws and regulations described in subpart H of 24 CFR part 92, except that the State recipient does not assume the State's responsibilities for release of funds under 24 CFR 92.352 and the intergovernmental review process in 92.357 does not apply to the State recipient. If HOME-ARP funds are provided, the agreement must set forth all obligations the State imposes on the State recipient in order to meet the VAWA requirements under 24 CFR 92.359, including notice obligations and any obligations with respect to the emergency transfer plan (including whether the State recipient must develop its own plan or follow the State's plan).

(vii) *Affirmative marketing.* The agreement must specify the State recipient's affirmative marketing responsibilities in accordance with 24 CFR § 92.351.

(viii) *Requests for disbursement of funds.* The agreement must specify that the State recipient may not request disbursement of HOME-ARP funds under this agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the State recipient requests funds from the State.

(ix) *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the State in meeting its recordkeeping and reporting requirements.

(x) *Enforcement of the agreement.* The agreement must provide for a means of enforcement of affordable housing or non-congregate shelter requirements by the State or the intended beneficiaries, if the State recipient will be the owner at project completion of the affordable housing or non-congregate shelter. The means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The

applicable requirements as described in the HOME-ARP Notice must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the HOME-ARP requirements. The agreement must specify that, in accordance with 2 CFR 200.338, suspension or termination may occur if the State recipient materially fails to comply with any term of the agreement. The State may permit the agreement to be terminated in whole or in part in accordance with 2 CFR 200.339.

(xi) *Written agreement.* Before the State recipient provides funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, HOME-ARP owners, sponsors, or tenants (or landlords) receiving tenant-based rental assistance, or contractors who are providing services to the State recipient, the State recipient must have a written agreement with such entities that meets the requirements of this section and the HOME-ARP Notice.

(xii) *Duration of the agreement.* The duration of the agreement will depend on which functions the State recipient performs (e.g., whether the State recipient or the State has responsibility for monitoring rental projects for the period of affordability) and which activities are funded under the agreement. The duration of the agreement must comply with the requirements of the HOME-ARP Notice.

(xiii) *Fees.* The agreement must prohibit the State recipient and its subrecipients, community housing development organizations, and nonprofit organizations from charging servicing, origination, processing, inspection, or other fees for the costs of administering a HOME-ARP program, except as permitted by 24 CFR 92.214, as revised by the Appendix to the HOME-ARP Notice.

(2) *Subrecipient.* A subrecipient is a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME-ARP programs to produce affordable housing, non-congregate shelter, or provide tenant-based rental assistance or supportive services. The agreement must set forth and require the subrecipient to follow the participating jurisdiction's requirements, including requirements for underwriting, refinancing guidelines, and requirements described in the HOME-ARP Notice.

The agreement between the participating jurisdiction and the subrecipient must include:

(i) *Use of the HOME-ARP funds.* The agreement with a subrecipient must describe the amount and use of the HOME-ARP-ARP funds to administer one or more HOME-ARP-ARP programs, including the type and number of projects to be funded, tasks to be performed, a schedule for completing

the tasks, duration of the agreement, and a budget for each program. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction or State to effectively monitor performance under the agreement.

(ii) *Program income.* The agreement must state if program income is to be remitted to the participating jurisdiction or to be retained by the subrecipient for additional eligible activities.

(iii) *Uniform administrative requirements.* The agreement must require the State recipient or subrecipient to comply with applicable uniform administrative requirements described in 24 CFR 92.505 as revised by this Appendix.

(iv) *Other program requirements.* The agreement must require the subrecipient to carry out each activity in compliance with HOME-ARP Notice and all Federal laws and regulations described in subpart H of 24 CFR part 92, except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under 24 CFR 92.352 and the intergovernmental review process in 24 CFR 92.357 does not apply. The agreement must set forth the requirements the subrecipient must follow to enable the participating jurisdiction to carry environmental review responsibilities before HOME-ARP funds are committed to a project. If HOME-ARP funds are being provided, the agreement must set forth all obligations the participating jurisdiction imposes on the subrecipient in order to meet the VAWA requirements under 24 CFR 92.359, including notice obligations and obligations under the emergency transfer plan.

(v) *Affirmative marketing.* The agreement must specify the subrecipient's affirmative marketing responsibilities in accordance with 24 CFR 92.351.

(vi) *Requests for disbursement of funds.* The agreement must specify that the subrecipient may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the participating jurisdiction.

(vii) *Reversion of assets.* The agreement must specify that upon expiration of the agreement, the subrecipient must transfer to the participating jurisdiction any HOME-ARP funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME-ARP funds.

(viii) *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must

be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.

(ix) *Enforcement of the agreement.* The agreement must specify remedies for breach of the provisions of the agreement. The agreement must specify that, in accordance with 2 CFR 200.338, suspension or termination may occur if the subrecipient materially fails to comply with any term of the agreement. The participating jurisdiction may permit the agreement to be terminated in whole or in part in accordance with 2 CFR 200.339.

(x) *Written agreement.* Before the subrecipient provides HOME-ARP funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, HOME-ARP owners, sponsors, tenants (or landlords) receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement that meets the requirements of this section and the HOME-ARP Notice. The agreement must state if repayment of HOME-ARP funds or recaptured HOME-ARP funds must be remitted to the participating jurisdiction or retained by the subrecipient for additional eligible activities.

(xi) *Fees.* The agreement must prohibit the subrecipient and any community housing development organizations from charging servicing, origination, or other fees for the costs of administering the HOME-ARP program, except as permitted by 24 CFR 92.214, as revised by this Appendix.

(3) *For-profit or nonprofit housing owner, sponsor, or developer (other than single-family owner-occupant).* The participating jurisdiction may preliminarily award HOME-ARP funds for a proposed project, contingent on conditions such as obtaining other financing for the project. This preliminary award is not a commitment to a project. The written agreement committing the HOME-ARP funds to the project must meet the requirements of "commit to a specific local project" in the definition of "commitment" in 24 CFR 92.2, as revised by this Appendix and contain the following:

(i) *Use of the HOME-ARP funds.* The agreement between the participating jurisdiction and a for-profit or nonprofit housing owner, sponsor, or developer must describe the address of the project or the legal description of the property if a street address has not been assigned to the property, the use of the HOME-ARP funds and other funds for the project, including the tasks to be performed for the project, a schedule for completing the tasks and the project, and a complete budget. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement to achieve project completion and compliance with the HOME-ARP requirements.

(ii) *Affordability.* The agreement must require projects assisted with HOME-ARP funds to meet the requirements of the HOME-ARP Notice, as applicable, and must require repayment of the funds if the project does not meet the requirements for the specified time period.

(iii) *Project requirements.* The agreement must require compliance with requirements in the HOME-ARP Notice, in accordance with the type of project assisted. The agreement must state whether the State is permitting a preference for a qualifying population or segment of a qualifying population. The written agreement must contain provisions requiring the method of tenant selection to be used in accordance with the requirements of the HOME-ARP Notice.

(iv) *Property standards.* The agreement must require the housing or shelter to meet the property standards established in the HOME-ARP Notice upon project completion. The agreement must also require owners of rental housing or shelter assisted with HOME-ARP funds to maintain the project in compliance with the HOME-ARP Notice for the duration of the affordability period.

(v) *Other program requirements.* The agreement must require the owner or developer to carry out each project in compliance with the following requirements of the HOME-ARP Notice:

(A) The agreement must specify the owner or developer's affirmative marketing responsibilities as enumerated by the participating jurisdiction in accordance with 24 CFR 92.351.

(B) The federal requirements and nondiscrimination established in 24 CFR 92.350.

(C) Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with 24 CFR 92.353 and the HOME-ARP Notice.

(D) The labor requirements in 24 CFR 92.354.

(E) The conflicts of interest provisions prescribed in the HOME-ARP Notice.

(F) If HOME-ARP funds are being provided, the agreement must set forth all obligations the participating jurisdiction imposes on the owner in order to meet the VAWA requirements under 24 CFR 92.359, including the owner's notice obligations and owner obligations under the emergency transfer plan.

(vi) *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must

be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.

(vii) *Enforcement of the agreement.* The agreement must provide for a means of enforcement of the HOME-ARP rental housing or non-congregate shelter requirements by the participating jurisdiction and the intended beneficiaries. This means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The applicable requirements in the HOME-ARP Notice must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD under which the participating jurisdiction has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

(viii) *Requests for disbursement of funds.* The agreement must specify that the developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

(ix) omitted

(x) *Duration of the agreement.* The agreement must specify the duration of the agreement in accordance with the HOME-ARP Notice. If the project assisted under this agreement is rental housing, the agreement must be in effect through the compliance period required by the participating jurisdiction, but in no case less than the minimum compliance period in the HOME-ARP Notice.

(xi) *Fees.* The agreement must prohibit project owners from charging fees that are not customarily charged in rental housing such as laundry room access fees, and other fees. However, rental project owners may charge reasonable application fees to prospective tenants may charge parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and may charge fees for services such as bus transportation or meals, as long as such services are voluntary.

(4) *Contractor.* The participating jurisdiction selects a contractor through applicable procurement procedures and requirements. The contractor provides goods or services in accordance with a written agreement (the contract). For contractors who are administering all or some of the participating jurisdiction's HOME-ARP programs or specific services for one or more programs, the contract must include at a minimum the following provisions:

(i) *Use of the HOME-ARP funds.* The agreement must describe the use of the HOME-ARP funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the length of the agreement.

(ii) *Program requirements.* The agreement must provide that the contractor is subject to the requirements in 24 CFR part 92 and the HOME-ARP Notice that are applicable to the participating jurisdiction, except 24 CFR 92.505 and 92.506 do not apply, and the contractor cannot assume the participating jurisdiction responsibilities for environmental review, decision making, and action under 24 CFR 92.352. Where the contractor is administering only a portion of the program, the agreement must list the requirements applicable to the activities the contractor is administering. If applicable to the work under the contract, the agreement must set forth all obligations the participating jurisdiction imposes on the contractor in order to meet the VAWA requirements under 24 CFR 92.359, including any notice obligations and any obligations under the emergency transfer plan.

(iii) *Duration of agreement.* The agreement must specify the duration of the contract in accordance with the HOME-ARP Notice. Generally, the duration of a contract should not exceed two years.

(5) *HOME-ARP owner tenant receiving tenant-based rental or security deposit assistance.* When a participating jurisdiction provides assistance to a HOME-ARP owner, sponsor, or tenant, the written agreement, including the rental assistance contract or security deposit contract, must comply with the HOME-ARP Notice.

(6) *Community housing development organization or nonprofit organization receiving assistance for operating expenses.* The agreement must describe the use of HOME-ARP funds for operating expenses; e.g., salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; and materials and supplies. If the community housing development organization or nonprofit organization is not also receiving funds for a HOME-ARP project, the agreement must provide that the community housing development organization or nonprofit organization is expected to receive funds for a project within 24 months of the date of receiving the funds for operating expenses, and must specify the terms and conditions upon which this expectation is based and the consequences of failure to receive funding for a project.

(7) waived and omitted.

(8) *Technical assistance provider to develop the capacity of community housing development organizations or nonprofit organizations in the*

jurisdiction. The agreement must identify the specific nonprofit organization(s) to receive capacity building assistance. The agreement must describe the amount and use (scope of work) of the HOME-ARP funds, including a budget, a period of performance, and a schedule for completion.

(9) *Supportive Services Providers.* If participating jurisdictions are using a supportive services provider, participating jurisdictions must document in their written agreement with supportive service providers whether they are authorizing McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three. Only the supportive services that are authorized in the written agreement may be provided to program participants and only program participants that are eligible for those supportive services may be served. As such, supportive services providers must demonstrate through their documentation that the individuals served were eligible to receive the supportive services that were authorized under the written agreement in order for those costs to be eligible

While all qualifying households are eligible to receive supportive services under this activity, the participating jurisdiction must establish requirements for documenting eligible costs for an individual or family in a qualifying population (as defined in Section IV.A of this Notice) as McKinney-Vento supportive services, homelessness prevention services, or Housing Counseling.

If a person is homeless, then the person is eligible to be provided the supportive services as McKinney-Vento supportive services for the costs allowable in Section VI.D.4.c below. If a person is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing then the person is eligible for homelessness prevention services for the costs allowable in Section VI.D.4.c.i below. Housing Counseling services may be provided regardless of whether a person is homeless or currently housed.

(d) *On-site inspections and financial oversight.*

(1) *Inspections.* The participating jurisdiction must inspect each rental housing project at project completion and during the compliance period to determine that the project meets the property standards of 24 CFR 92.251. The participating jurisdiction must inspect each non-congregate shelter at project completion and as needed, during the restricted use period, to determine that the project meets the property standards, in accordance with the HOME-ARP Notice.

(i) *Completion inspections.* Before completing the project in the disbursement and information system established by HUD, the

participating jurisdiction must perform an on-site inspection of HOME-ARP rental housing or non-congregate shelter to determine that all contracted work has been completed and that the project complies with the property standards, as described in the HOME-ARP Notice.

(ii) *Ongoing periodic inspections of HOME-ARP-assisted rental housing.* During the period of affordability, the participating jurisdiction must perform on-site inspections of HOME-ARP assisted rental housing to determine compliance with the property standards of 24 CFR 92.251 and to verify the information submitted by the owners in accordance with the requirements of 24 CFR 92.252, as revised by this Appendix and the HOME-ARP Notice. The inspections must be in accordance with the inspection procedures that the participating jurisdiction establishes to meet the inspection requirements of 24 CFR 92.251.

(A) The on-site inspections must occur within 12 months after project completion and at least once every 3 years thereafter during the compliance period.

(B) If there are observed deficiencies for any of the inspectable items in the property standards established by the participating jurisdiction, in accordance with the inspection requirements of 24 CFR 92.251, a follow-up on-site inspection to verify that deficiencies are corrected must occur within 12 months. The participating jurisdiction may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re-inspection. Health and safety deficiencies must be corrected immediately, in accordance with 24 CFR 92.251. The participating jurisdiction must adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies.

(C) The property owner must annually certify to the participating jurisdiction that each building and all HOME-ARP- assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the participating jurisdiction to meet the requirements of 24 CFR 92.251.

(D) Inspections must be based on a statistically valid sample of units appropriate for the size of the HOME-ARP-assisted project, as set forth by HUD through notice. For projects with one-to-four HOME-ARP-assisted units, participating jurisdiction must inspect

100 percent of the HOME-ARP-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-ARP-assisted units.

(iii) *Annual inspections.* Tenant based rental assistance (TBRA). All housing occupied by tenants receiving HOME-ARP tenant-based rental assistance must meet the standards in 24 CFR 982.401 or the successor requirements as established by HUD. The participating jurisdiction must perform annual on-site inspections of rental housing occupied by tenants receiving HOME-ARP-assisted TBRA to determine compliance with these standards.

(2) *Financial oversight.* During the period of affordability, the participating jurisdiction must examine at least annually the financial condition of HOME-ARP-assisted rental projects with 10 units or more to determine the continued financial viability of the housing and must take actions to correct problems, to the extent feasible.

6. **Applicability of uniform administrative requirements**. The requirements of 24 CFR 92.505 apply to the use of HOME-ARP funds, except HUD waives 24 CFR 92.505 to the extent that it conflicts with the following:
The requirements of 2 CFR part 200, as amended, apply to participating jurisdictions, State recipients, and subrecipients receiving HOME-ARP funds, except for the following provisions: 24 CFR 200.306, 200.307, 200.308 (not applicable to participating jurisdictions), 200.311 (except as provided in 24 CFR 92.257), 200.312, 200.329, 200.333, and 200.334. The provisions of 2 CFR 200.305 apply as modified by 24 CFR 92.502(c) and the HOME-ARP Notice. If there is a conflict between definitions in 2 CFR part 200 and 24 CFR part 92, as revised by the HOME-ARP Notice, the definitions in 24 CFR part 92, as revised by the HOME-ARP Notice, govern. Moreover, if there is a conflict between the provisions of 2 CFR part 200 and the provisions of the HOME-ARP Notice, the provisions of the HOME-ARP Notice govern.

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

7. **Confidentiality**. 24 CFR 92.504 and 24 CFR 92.508(a)(3) are waived only to the extent that they conflict with the following alternative requirements:
Confidentiality Requirements. The participating jurisdiction, subrecipients, owners, contractors, must develop, implement, and maintain written procedures to require that –

   - All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential;

- The address or location of any NCS or HOME-ARP rental housing exclusively for individuals fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as necessary where making the address or location public does not identify occupancy of the NCS or HOME-ARP rental housing, when necessary to record use restrictions or restrictive covenants in accordance with Section VI.B or VI.E, or with written authorization of the person or entity responsible for the operation of the NCS or HOME-ARP rental housing; and
- The address or location of any program participant that is a fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as provided under a privacy policy of the participating jurisdiction consistent with state and local laws and any other grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

Documenting status of a qualifying population that is fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault, or human trafficking:

- If an individual or family qualifies because the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking then acceptable evidence includes an oral or written statement by the qualifying individual or head of household seeking assistance that they are fleeing that situation. An oral statement may be documented by either –
    - a written certification by the individual or head of household; or
    - a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance.

The written documentation need only include the minimum amount of information indicating that the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking and need not include any additional details about the conditions that prompted the individual or family to seek assistance.

All entities assisted by HOME-ARP funds must develop, implement, and maintain written procedures to require that –

a. All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential;

b. The address or location of any NCS or HOME-ARP rental housing exclusively for individuals fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as necessary where making the address or location public does not identify

occupancy of the NCS or HOME-ARP rental housing, when necessary to record use restrictions or restrictive covenants in accordance with Section VI.B or VI.E, or with written authorization of the person or entity responsible for the operation of the NCS or HOME-ARP rental housing; and

c. The address or location of any program participant that is a fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as provided under a privacy policy of the participating jurisdiction consistent with state and local laws and any other grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

Documenting status of a qualifying population that is fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault, or human trafficking:

a. If an individual or family qualifies because the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking then acceptable evidence includes an oral or written statement by the qualifying individual or head of household seeking assistance that they are fleeing that situation. An oral statement may be documented by either –
   i. a written certification by the individual or head of household; or
   ii. a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance.

The written documentation need only include the minimum amount of information indicating that the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking and need not include any additional details about the conditions that prompted the individual or family to seek assistance.

8. **Recordkeeping**.

Each participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of the HOME-ARP Notice. The recordkeeping requirements in 24 CFR 92.508 apply to HOME-ARP, except 92.508(a)(2) for program records, (a)(3) for project records, (a)(4) for financial records, and 92.508(c) for period of record retention are waived and HUD imposes the following alternative requirements for program, project, financial, and period of record retention:

(1) Program Records:

a. Records evidencing that all HOME-ARP funds used by a participating jurisdiction for TBRA, supportive services, and acquisition and development of non-congregate shelter units benefit individuals and families in qualifying populations.

b. Records evidencing that not less than 90 percent of affordable rental housing units acquired, rehabilitated, and/or constructed with HOME funds by a participating jurisdiction are occupied by households in the qualifying populations.

c. Records documenting compliance with the 15 percent limitation on administrative and planning costs.

d. Records documenting compliance with the 5 percent limitation on CHDO and non-profit operating and capacity building costs.

e. The underwriting and subsidy layering guidelines adopted in accordance with Section VI.B.10 of the HOME-ARP Notice that support the participating jurisdiction's HOME-ARP allocation plan certification.

f. If existing debt is refinanced for multifamily rehabilitation projects, the HOME-ARP refinancing guidelines established in the HOME-ARP Allocation Plan.

g. If HOME-ARP funds are used for TBRA, records supporting the participating jurisdiction's written selection policies and criteria; supporting documentation for preferences for specific categories of individuals with disabilities; and records supporting the rent standard and minimum tenant contribution established in accordance with Section VI.C.7 and 8 of the HOME-ARP Notice.

h. Confidentiality.

    i. The participating jurisdiction's written policies and procedures for maintaining confidentiality of qualifying households as individuals or families fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with Section VIII.H

    ii. The participating jurisdiction's written policies and procedures for maintaining confidentiality in compliance with the VAWA protections contained in 24 CFR Part 5, Subpart L.

(2) Project Records: participating jurisdictions are required to retain the following records for HOME-ARP-assisted projects, as specified by activity type.

a. A full description of each project assisted with HOME-ARP funds, including the location (address of project), form of HOME-ARP assistance, and the units, families, or qualifying households assisted with HOME-ARP funds, subject to the confidentiality requirements in the HOME-ARP Notice and this Appendix.

b. The source and application of funds for each project, including supporting documentation in accordance with 2 CFR 200.302; and records to document the eligibility and permissibility of the project costs, including the documentation of

the actual HOME-ARP-eligible development costs of each HOME-ARP-assisted unit as defined in the HOME-ARP Notice.

c. Records (i.e., written agreements) demonstrating compliance with the written agreement requirements in Section VIII.B. of the HOME-ARP Notice.
d. Records (e.g., inspection reports) demonstrating that each HOME-ARP rental project meets the property standards in Section VI.B.11 of the HOME-ARP Notice at project completion and through the applicable minimum compliance period. In addition, during a HOME-ARP rental project's minimum compliance period, records demonstrating compliance with the property standards and financial oversight pursuant to 24 CFR 92.504(d) and the operating cost assistance reserve management and oversight required by Section VI.B.22 of the HOME-ARP Notice.
e. Records (e.g., inspection reports) demonstrating that each unit occupied by a qualifying household receiving HOME-ARP TBRA, meets the housing quality standards of Section VI.C.9 of the HOME-ARP Notice at initial occupancy and throughout the household's term of assistance.
f. Records (e.g., inspection reports) demonstrating that each NCS project meets the property and habitability standards of SectionVI.E.7., of the HOME-ARP Notice at project completion and throughout the applicable restricted use period.
g. Records demonstrating that each qualifying household is eligible for HOME-ARP assistance based on the requirements of the ARP and Section IV of the HOME-ARP Notice.
h. Records demonstrating that each household qualifying as homeless, records that meet the requirements in 24 CFR 576.500(b)(1), (2), (3), or (4), as applicable (except that youth aged 24 and under must not be required to provide third-party documentation to show they are homeless to receive any shelter, housing, or services for which ESG or CoC Program funds may be used to supplement the HOME-ARP assistance) ;
i. Records demonstrating that each household qualifying as "at risk of homelessness," records that meet the requirements in 24 CFR 576.500(c)(1) or (2), as applicable, and include the following documentation of annual income:
    (i) Income evaluation form containing the minimum requirements specified by HUD and completed by the recipient or subrecipient; and
    (ii) Source documents for the assets held by the household and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);
    (iii) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits

administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the household received over the most recent period for which representative data is available; or

(iv) To the extent that source documents and third party verification are unobtainable, the written certification by the household of the amount of income the household received for the most recent period representative of the income that the household is reasonably expected to receive over the 3-month period following the evaluation.

j. Records demonstrating compliance with the household income requirements in accordance with Section VI.B.12 of the HOME-ARP Notice for each HOME-ARP rental project.

k. Records demonstrating that each HOME-ARP rental and NCS project meets the minimum compliance period or restricted use period described in Sections VI.B.17 and VI.E.9 respectively, of the HOME-ARP Notice.

l. Records demonstrating that for each HOME-ARP rental housing unit or for each household receiving HOME-ARP TBRA, compliance with the tenant protection requirements of Sections VI.B.18 and VI.C. 2, respectively, of the HOME-ARP Notice. For HOME-ARP TBRA or rental projects under a master lease, the participating jurisdiction must retain records demonstrating that a master lease for housing leased by a HOME-ARP sponsor and each sublease between a qualifying household and HOME-ARP sponsor complies with the tenant and participant protections of 24 CFR 92.253 and the HOME-ARP Notice. Records must be kept for each household.

m. Records demonstrating compliance with the return of the HOME-ARP rental capitalized operating cost assistance reserve and/or the NCS replacement reserve at the end of the compliance or restricted use period in accordance with Sections VI.B.23 and VI.E.10 respectively, of the HOME-ARP Notice.

n. Records demonstrating that each HOME-ARP rental and each NCS project meets the underwriting and subsidy layering or due diligence requirements of Section VI.B.10 or VI.E.6 of the HOME-ARP Notice.

o. Records demonstrating that each HOME-ARP rental housing project meets the rent limitations of Sections VI.B.13 and VI.B.15 of the HOME-ARP Notice for the 15-year minimum compliance period. Records must be kept for each household assisted.

p. Records demonstrating that each multifamily HOME-ARP rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with 24 CFR 92.206(b).

q. Records demonstrating that a site and neighborhood standards review was conducted for each HOME-ARP rental housing project involving new

construction under Section VI.B. of the HOME-ARP Notice to determine that the site meets the requirements of 24 CFR 983.57(e)(2) and (e)(3), in accordance with 24 CFR 92.202.

r. Records demonstrating that any conversion of HOME-ARP NCS complies with the requirements established by Section VI.E. of the HOME-ARP Notice, including that conversion of NCS only occurred after the end of the applicable minimum use period defined in Section VI.E.11.

s. For all HOME-ARP NCS projects the following documents must be maintained, as applicable:
   (i) Purchase contract, closing documents, settlement statement and title work for acquisitions.
   (ii) Appraisal or other estimation of value to justify acquisition expenditure.
   (iii) Architectural and engineering contracts and completed designs, plans, and specifications for rehabilitation and new construction activities.
   (iv) Invoices, pay requests, and proof of payment for all project expenditures.
   (v) Proof of insurance.
   (vi) Project and program audits.

t. For all HOME-ARP Supportive Services projects pursuant to McKinney-Vento or Homelessness Prevention Supportive Services:
   (i) Records demonstrating which types of Supportive Services the participating jurisdiction is offering program participants.
   (ii) Records, where applicable, demonstrating compliance with the termination of assistance requirement as described in section VI.D.5. of the HOME-ARP Notice.
   (iii) Records of all solicitations of and agreements with subrecipients and contractors, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable including any findings and corrective actions required.
   (iv) Records of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR part 200, subpart D, and Section VIII.D of the HOME-ARP Notice.
   (v) Records evidencing the use of the written procedures required under Section VI.D.2 and records evidencing compliance with Section IV.C.2.
   (vi) Records of all leases, subleases, and financial assistance agreements for the provision of rental payments, documentation of payments made by the participating jurisdiction to owners, HOME-ARP sponsor, or qualifying households for the provision of financial assistance for rental payments, and supporting documentation for these payments, including dates of occupancy by qualifying individuals and families.

(vii) Records that document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

(viii) Records of the types of services provided under the participating jurisdiction's program and the amounts spent on these services.

(ix) Records demonstrating subrecipient compliance with the recordkeeping requirements in Section VIII.F. of the HOME-ARP Notice.

u. For all HOME-ARP Housing Counseling Services projects as defined in 24 CFR part 5, each participating housing counseling agency must maintain a recordkeeping and reporting system in accordance with 24 CFR 214.315 and 24 CFR 214.317. The system must permit HUD to easily access all information needed for a performance review.

v. For all HOME-ARP-assisted nonprofit operating expense and capacity building assistance activities:

(i) Records concerning the use of funds for nonprofit operating expense and capacity building assistance must be maintained to enable HUD to determine whether the participating jurisdiction has met the requirements of Section VI.F. of the HOME-ARP Notice.

(ii) Written agreements between the participating jurisdiction and the nonprofit organization providing nonprofit operating expense assistance or capacity building assistance must be retained for five years after the agreement terminates.

(3) Financial records:

a. Records, in accordance with 2 CFR 200.302, identifying the source and application of HOME-ARP funds. Identification must include, as applicable, the Assistance Listing program title and number (formerly Catalogue of Federal Domestic Assistance), Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

b. Records concerning the HOME Investment Trust Fund Treasury account and local account required to be established and maintained by the HOME-ARP Notice, including deposits, disbursements, balances, supporting documentation and any other information required by IDIS.

c. Records identifying the source and application of program income and repayments.

d. Records demonstrating adequate budget control and other records required by 2 CFR 200.302, including evidence of periodic account reconciliations.

(4) Program administration records:

a. Records demonstrating compliance with the written agreements required by Section VIII.B. of the HOME-ARP Notice.

b. Records demonstrating compliance with the applicable uniform administrative requirements required by Section VIII.D. of the HOME-ARP Notice.

c. Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.

(5) Records concerning other Federal requirements:

a. Equal opportunity and fair housing records.

(i) Data on the extent to which each racial and ethnic group, and single-headed households by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME-ARP funds.

(ii) Documentation that the participating jurisdiction submitted a certification that it will affirmatively further fair housing consistent with 24 CFR 5.152 (HUD's Interim Final Rule entitled "Restoring Affirmatively Furthering Fair Housing Definitions and Certifications," (86 FR 30779, June 10, 2021), as amended established the AFFH definition, codified at 24 CFR 5.151 and the AFFH certification, codified at 24 CFR 5.152, available at. https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications)

(iii) Records demonstrating compliance with the nondiscrimination and equal opportunity requirements of 24 CFR 92, Subpart H.

b. Affirmative marketing and MBE/WBE records.

(i) Records demonstrating compliance with the affirmative marketing procedures and requirements of 24 CFR 92.351.

(ii) Documentation and data on the steps taken to implement the jurisdiction's outreach programs to minority-owned (MBE) and female-owned (WBE) businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of $25,000 or more paid, or to be paid, with HOME-ARP funds; the amount of the contract or subcontract, and documentation of participating jurisdiction's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services.

c. Records demonstrating compliance with the environmental review requirements of 24 CFR 92.352, 24 CFR part 58, and the HOME-ARP Notice including flood insurance requirements.

d. Records demonstrating compliance with the requirements of 24 CFR 92.353 and the provisions of Section VII.F. of the HOME-ARP Notice regarding

displacement, relocation, and real property acquisition, including but not limited to:

(i) project occupancy lists identifying the name and address of all persons occupying the real property on the date described in 24 CFR 92.353(c)(2)(i)(A), moving into the property on or after the date described in 24 CFR 92.353(c)(2)(i)(A), and occupying the property upon completion of the project;

(ii) lists of all individuals or families occupying hotels and motels and other nonresidential properties acquired, rehabilitated, and/or demolished and newly constructed to become HOME-ARP NCS or HOME-ARP rental housing that qualify for assistance under the HOME-ARP Notice as members of a qualifying population, as well as records indicating whether such persons were assisted by the HOME-ARP program by the participating jurisdiction following the closure of the nonresidential properties because of HOME-ARP activities

(iii) lists of all individuals or families occupying HOME-ARP NCS that were converted during the required use period that qualify for assistance under the HOME-ARP Notice, as well as records indicating whether moving costs or advisory services were provided as part of HOME-ARP administrative costs or under the HOME-ARP supportive services activity in Section VI.D of the HOME-ARP Notice, and records indicating whether such persons were assisted by the HOME-ARP program by the participating jurisdiction following the conversion of the HOME-ARP NCS units.

(iv) Documentation that the participating jurisdiction has and followed a RARAP in accordance with 24 CFR 92.353 and 24 CFR 42.325.

i. Records demonstrating compliance with the labor requirements of 24 CFR 92.354, including contract provisions and payroll records.

j. Records demonstrating compliance with the lead-based paint requirements of 24 CFR part 35, subparts A, B, J, K, M and R, as applicable.

k. Records supporting compliance with conflict of interest requirements in 24 CFR 92.356, as revised by Section VII.H. of the HOME-ARP Notice, as well as documentation of any exceptions granted by HUD or a state participating jurisdiction, as applicable, to the conflict of interest provisions in 24 CFR 92.356, as revised by Section VII.H. of the HOME-ARP Notice.

l. Records demonstrating compliance with debarment and suspension requirements in 2 CFR part 2424.

m. Records concerning intergovernmental review, as required by 24 CFR 92.357.

n. Records of emergency transfers requested under 24 CFR 5.2005(e) and 24 CFR 92.359 pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of those requests.

o. Documentation of actions undertaken to meet the requirements of 24 CFR part 75 which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).

(6) State Recipients and Subrecipients: A participating jurisdiction that distributes HOME-ARP funds to State recipients or subrecipients must require the State recipients or subrecipients to keep the records required by paragraphs 1. program records, 2. project records, 3. financial records, 4. program administration records, and 5. records concerning other federal requirements of this Section of the Notice, and such other records as the participating jurisdiction determines to be necessary to enable the participating jurisdiction to carry out its responsibilities under the HOME-ARP Notice. The participating jurisdiction need not duplicate the records kept by the State recipients or subrecipients. The participating jurisdiction must keep records concerning its annual review of the performance and compliance of each State recipient and subrecipient as required under24 CFR 92.504(a).

(7) Period of record retention: All records pertaining to HOME-ARP funds must be retained for five years, except as provided below.

a. For rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates.

b. For HOME-ARP TBRA projects, records must be retained for five years after the period of rental assistance terminates.

c. Written agreements must be retained for five years after the agreement terminates.

d. Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.

e. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

(8) Access to records: The participating jurisdiction must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent

with applicable state and local laws and any other applicable grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

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

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

9. **Performance reports**. Requirements in 24 CFR 92.509 are waived and HUD imposes the requirements in the Reporting and Performance Reports section in the HOME-ARP Notice as an alternative requirement.

   The participating jurisdiction must submit reports in a format and at such time as prescribed by HUD. In addition, HUD and Office of the Inspector General (OIG) staff must be given access, upon reasonable notice, to all information related to the selection, award, and use of HOME-ARP funds.

   Each participating jurisdiction must enter the required HOME-ARP data elements timely in IDIS.

   1. For HOME-ARP rental activities, the participating jurisdiction must enter complete project completion information when it completes the activity in IDIS, except the assisted units can be marked vacant until they are occupied by eligible households.

   2. For HOME-ARP NCS activities, the participating jurisdiction must enter complete project completion information when it completes the activity in IDIS. In addition, the participating jurisdiction must report the disposition of any HOME-ARP-assisted NCS activity that is converted to another eligible use at the time of conversion.

3. For HOME-ARP TBRA activities, the participating jurisdiction reports beneficiary information in IDIS at the time assistance is provided.

4. For HOME-ARP Supportive Services activities, the participating jurisdiction must report in IDIS quarterly, by the 30th day after the end of each calendar quarter, on the number of homeless and not homeless households assisted with supportive services and, housing counseling, and/or homelessness prevention including the race and ethnicity, household size, and household type of the households assisted.

HUD will issue guidance about reporting on HOME-ARP activities in the participating jurisdiction's consolidated annual performance and evaluation report (CAPER) required under 24 CFR 91.520, at a later date.

L. SUBPART L - PERFORMANCE REVIEWS AND SANCTIONS

1. **Performance reviews**. HUD waives 24 CFR 92.550 and imposes the following alternative requirements:

HUD will review the performance of each participating jurisdiction in carrying out its responsibilities for the use of HOME-ARP funds and its compliance with the requirements of the HOME-ARP Notice. Such reviews may take the form of remote or on-site monitoring, review of IDIS data or reports, assessment of documents requested from the participating jurisdiction, subrecipient, or other entity carrying out HOME-ARP activities, and inquiries resulting from external audit reports, media reports, citizen complaints, or other sources of relevant information. HUD may also review a participating jurisdiction's timely use of HOME-ARP funds for eligible activities, including the progress of expenditures for individual projects or activities, the requirement to place a project in service in accordance with requirements in the HOME-ARP Notice, and compliance of HOME-ARP rental housing and NCS with the 4-year deadline for completing projects.

If HUD preliminarily determines that a participating jurisdiction has not met a requirement of the HOME-ARP Notice or an applicable requirement of the HOME regulations at 24 CFR Part 92, as revised by this Appendix, HUD will communicate its determination in writing and provide the participating jurisdiction with the opportunity to demonstrate, based on substantial facts, documentation, and data, that it has done so. HUD may extend any time period it provided to the participating jurisdiction to demonstrate its compliance if upon request of the participating jurisdiction, HUD determines that is it infeasible for the participating jurisdiction to provide a full response within the prescribed period.
If the participating jurisdiction fails to demonstrate to HUD's satisfaction that it has met the requirement, HUD will take corrective or remedial action in accordance with this section or 24 CFR 92.552.

2. **Corrective and remedial actions**. HUD waives 24 CFR 92.551 and imposes the following alternative requirements:

Corrective or remedial actions for a performance deficiency (e.g., failure to meet a provision of the HOME-ARP Notice or an applicable provision of 24 CFR Part 92) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence. HUD may impose corrective or remedial actions including but not limited to the following:

1. HUD may instruct the participating jurisdiction to submit and comply with proposals for action to correct, mitigate and prevent a performance deficiency, including:
   a. Preparing and following a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;
   b. Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;
   c. Canceling or revising activities likely to be affected by the performance deficiency, before expending HOME-ARP funds for the activities;
   d. Reprogramming HOME-ARP funds that have not yet been expended from affected activities to other eligible activities;
   e. Reimbursing its HOME-ARP grant in any amount not used in accordance with the requirements of the HOME-ARP Notice;
   f. Suspending disbursement of HOME-ARP funds for affected activities; and
   g. Establishing procedures to ensure compliance with HOME-ARP requirements.

2. HUD may also:
   a. change the method of payment from an advance to a reimbursement basis and may require supporting documentation to be submitted for HUD review for each payment request before payment is made;
   b. determine the participating jurisdiction to be high risk and impose special conditions or restrictions on the use of HOME-ARP funds in accordance with 2 CFR 200.208; and
   c. take other remedies that may be legally available, including remedies under 2 CFR 200.339 and 200.340.

3. The requirements in 92.551(c)(2) are also revised to the updated regulatory references to 2 CFR part 200, as amended, that have been renumbered.

M. CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS (24 CFR PART 91)

1. **Consultation requirements for HOME-ARP allocation plan.** 24 CFR 91.100 and 24 CFR 91.110 are waived and the following alternative requirements shall apply to HOME-ARP allocation plan submissions.

(1) Before developing its HOME-ARP allocation plan, a participating jurisdiction must consult with agencies and service providers whose clientele include the HOME-ARP qualifying populations to identify unmet needs and gaps in housing or service delivery systems. In addition, a participating jurisdiction should use consultation to determine the HOME-ARP eligible activities currently taking place within its jurisdiction and potential collaborations for administering HOME-ARP. This consultation will provide a basis for the participating jurisdiction's strategy for distributing HOME-ARP funds for eligible activities to best meet the needs of qualifying populations.

(2) At a minimum, a participating jurisdiction must consult with the Continuum of Care (s) serving the jurisdiction's geographic area, homeless and domestic violence service providers, public housing agencies (PHAs), public agencies that address the needs of the qualifying populations, and public or private organizations that address fair housing, civil rights, and the needs of persons with disabilities. State participating jurisdictions are not required to consult with every PHA or Continuum of Care within the state's boundaries; however, local participating jurisdictions must consult with all PHAs and Continuum of Cares within the jurisdiction's boundaries. In its plan, a participating jurisdiction must describe its consultation process, list the organizations consulted, and summarize the feedback received from these entities.

2. **Public participation requirements for HOME-ARP allocation plan.** Section 105 of NAHA (42 U.S.C. 12705), section 107 of NAHA (42 U.S.C. 12707), 24 CFR 91.105, 24 CFR 91.115, 24 CFR 91.401 are waived and the following alternative requirements shall apply to HOME-ARP allocation plan submissions by participating jurisdictions.

(1) Participating jurisdictions must provide for and encourage citizen participation in the development of the HOME-ARP allocation plan. Before submitting the HOME-ARP allocation plan to HUD, participating jurisdictions must provide residents with reasonable notice and an opportunity to comment on the proposed HOME-ARP allocation plan of no less than 15 calendar days. The participating jurisdiction must follow its adopted requirements for "reasonable notice and an opportunity to comment" for plan amendments in its current citizen participation plan except for where it conflicts with the requirements of this Appendix. In addition, participating jurisdictions must hold at least one public hearing during the development of the HOME-ARP allocation plan prior to submitting the plan to HUD.

(2) For the purposes of HOME-ARP, participating jurisdictions are required to make the following information available to the public.

a. The amount of HOME-ARP funds the participating jurisdiction will receive.

b. The range of activities the participating jurisdiction may undertake.

(3) A participating jurisdiction must consider any comments or views of residents received in writing, or orally at a public hearing, when preparing the HOME-ARP allocation plan. In its plan, a participating jurisdiction must describe its public participation process, including any efforts made to broaden public participation and summarize the comments or views received. In its plan, the participating jurisdiction must also include a summary of comments received through the public participation process and any comments or views not accepted and the reasons why.

(4) Throughout the HOME-ARP allocation plan public participation process, the participating jurisdiction must follow its applicable requirements and procedures for effective communication, accessibility, and reasonable accommodation for persons with disabilities and providing meaningful access to participation by limited English proficient (LEP) residents that are in its current citizen participation plan.

3. **Alternative requirement to the Contents of the Consolidated Plan for Local Governments, States, Consortia, and Insular Areas.** The requirements of section 105(a), (b), (d)-(g) of NAHA (42 U.S.C. 12705(a), (b), (d)-(g)), section 107 of NAHA (42 U.S.C. 12707), 24 CFR Part 91, Subparts C and D are waived for HOME-ARP allocation plan submissions except to the extent that such provisions allow for the submission of the HOME-ARP allocation plan as part of a participating jurisdiction's annual action plan submission for Fiscal Year 2021. 24 CFR 91.505 is also waived. 24 CFR 91.500 shall apply except as modified by alternative requirements stated below. The following alternative requirements shall apply to the contents, submission, and review of the HOME-ARP allocation plan.

(1) *General Requirement.* The HOME-ARP allocation plan must describe the distribution of HOME-ARP funds and the process for soliciting applications and/or selecting eligible projects. The plan must also identify any preferences being established for eligible activities or projects. However, participating jurisdictions are not required to identify specific projects that will be funded in the HOME-ARP allocation plan.

(2) *Needs Assessment and Gaps Analysis.* A participating jurisdiction must evaluate the size and demographic composition of qualifying populations within its boundaries and assess the unmet needs of those populations. In addition, a participating jurisdiction must identify any gaps within its current shelter and housing inventory as well as the service delivery system. A participating jurisdiction should use current data including point in time count, housing inventory count, or other data available through CoCs, and consultations with

service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services. A participating jurisdiction should identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing. A participating jurisdiction must consider the housing and service needs of qualifying populations, including but not limited to:

(1) Sheltered and unsheltered homeless populations;
(2) Those currently housed populations at risk of homelessness;
(3) Other families requiring services or housing assistance to prevent homelessness; and
(4) Those at greatest risk of housing instability or in unstable housing situations.

A participating jurisdiction should include data in its HOME-ARP allocation plan that describes the qualifying populations. In addition, participating jurisdictions must include a narrative description that:

a. Identifies the characteristics of housing associated with instability and an increased risk of homelessness if the participating jurisdiction will include such conditions under HUD's definition of "other populations" as established in Section IV.A.2.g. of the HOME-ARP Notice.
b. Identifies the participating jurisdiction's priority needs for qualifying populations; and
c. Explains how the participating jurisdiction determined the level of need and gaps in its shelter and housing inventory and service delivery systems.

(3) *HOME-ARP Activities*. The HOME-ARP allocation plan must describe how a participating jurisdiction will distribute HOME-ARP funds in accordance with its priority needs. The plan must describe the participating jurisdiction's method for soliciting applications for funding and/or selecting developers, service providers and/or subrecipients and whether the participating jurisdiction will administer eligible activities directly. If the participating jurisdiction will provide any portion of its HOME-ARP administrative funds to a subrecipient or contractor prior to HUD's acceptance of the participating jurisdiction's HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the participating jurisdiction's entire HOME-ARP grant, the plan must identify the subrecipient or contractor and describe its role and responsibilities in administering all of the participating jurisdiction's HOME-ARP program.

Participating jurisdictions must indicate in the HOME-ARP allocation plan the amount of HOME-ARP funding that is planned for each eligible HOME-ARP

activity type, including administrative and planning activities. In addition, a participating jurisdiction must demonstrate that any planned funding for non-profit operating assistance, as described in Section VI.F of the HOME-ARP Notice, non-profit capacity building, and administrative costs is within statutory limits. A participating jurisdiction must also include a narrative description about how the characteristics of its shelter and housing inventory and service delivery system and the needs identified in the participating jurisdiction's gap analysis provided a rationale for its plan to fund eligible activities.

(4) *HOME-ARP Production Housing Goals*. The HOME-ARP allocation plan must estimate the number of affordable rental housing units for qualifying populations that a participating jurisdiction will produce or support with its HOME-ARP allocation. The plan must also include a narrative about the specific affordable rental housing production goal that the participating jurisdiction hopes to achieve and describe how it will address the participating jurisdiction's priority needs.

(5) *Preferences*. The HOME-ARP allocation plan must identify whether the participating jurisdiction intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project. For example, participating jurisdictions may include a preference for:

- homeless individuals and families as defined in the ESG and CoC Programs;
- individuals with special needs or persons with disabilities among qualifying individuals and families;
- a specific category of qualifying individuals and families (e.g., chronically homeless as defined in 24 CFR 91.5).

Participating jurisdictions are not required to describe specific projects to which the preferences will apply in the HOME-ARP allocation plan. However, a participating jurisdiction must explain how the use of a preference or method of prioritization will address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or category of qualifying population, consistent with participating jurisdiction's needs assessment and gap analysis. The participating jurisdiction must also describe how it will still address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in a preference through the use of HOME-ARP funds.

Preferences cannot violate any applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a). The participating jurisdiction must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when establishing preferences or methods of prioritization.

(6) *HOME-ARP Refinancing Guidelines.* If a participating jurisdiction intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, it must state its refinancing guidelines in accordance with 24 CFR 92.206(b)(2). The guidelines must describe the conditions under with the participating jurisdiction will refinance existing debt for a HOME-ARP rental project. At a minimum, the guidelines must:

- Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity

- Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.

- State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.

- Specify the required compliance period, whether it is the minimum 15 years or longer.

- State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including the Community Development Block Grant program.

(7) *Substantial Amendments to the HOME-ARP Allocation Plan.* Participating jurisdictions must make a substantial amendment to the HOME-ARP allocation plan for changes in the method of distributing funds; to carry out an activity not previously described in the plan; or, to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan. In addition, the requirements for substantial amendments at 24 CFR 92.63 apply to the HOME-ARP allocation plan for insular areas. Participating jurisdictions are not required to make a substantial amendment to describe individual projects selected for funding if the eligible activity is included in the participating jurisdiction's plan. Participating jurisdictions must make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission. Upon completion of the public comment period, participating jurisdictions must submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan as described in Section V.D.

(8) *Certifications and SF-424.* Participating jurisdictions must submit the required certifications in accordance with the requirements in the HOME-ARP Notice, including the following.

(1) Affirmatively Further Fair Housing;
(2) Uniform Relocation Act and Anti-displacement and Relocation Plan;
(3) Anti-Lobbying;
(4) Authority of Jurisdiction;
(5) Section 3; and,
(6) HOME-ARP specific certification that a participating jurisdiction will only use HOME-ARP funds for eligible activities and eligible costs.

Participating jurisdictions must also submit the SF-424, SF-424B and SF-424D with the HOME-ARP allocation plan.

(9) *HOME-ARP Submission and the eCon Planning Suite.* Upon completion of the HOME-ARP allocation plan, a participating jurisdiction must submit the HOME-ARP allocation plan to HUD. To submit the HOME-ARP allocation plan, participating jurisdictions must follow the process to make an amendment to the Fiscal Year (FY) 2021 annual action plan. Once the FY 2021 annual action plan is reopened, a participating jurisdiction must upload a Microsoft Word or PDF version of the plan as an attachment next to the "HOME-ARP allocation plan" option on the AD-26 screen (for participating jurisdictions FY 2021 annual action plan is a Year 2-5 annual action plan) or the AD-25 screen (for participating jurisdictions whose FY 2021 annual action plan is a Year 1 annual action plan that is part of the 2021 consolidated plan), unless instructed by HUD to follow a different submission procedure. Participating jurisdictions are not required to make any other edits to the FY 2021 annual action plan or applicable consolidated plan screens in the eCon Planning Suite. For more information on how to upload an attachment in the eCon Planning Suite, participating jurisdictions can refer to the eCon Planning Suite Desk Guide.

(10) *HUD Review of the HOME-ARP Allocation Plan.* The participating jurisdiction must submit its HOME-ARP allocation plan to HUD for review in accordance with 24 CFR 91.500, as revised by this alternative requirement. Unless instructed otherwise by HUD, the HOME-ARP allocation plan will be considered received by HUD when the SF-424 is submitted electronically, which means that it is uploaded in the eCon Planning Suite as an attachment on AD-25 or AD-26 screen, as applicable, and the action plan status is changed to "Submitted for Review." HUD will review a participating jurisdiction's HOME-ARP allocation plan to determine that it is.

(1) Substantially complete, and
(2) Consistent with the purposes of ARP.

HUD may disapprove a participating jurisdiction's HOME-ARP allocation plan in accordance with 24 CFR 91.500(b). HUD may also disapprove a HOME-ARP allocation plan or a portion of a plan if HUD determines that the plan is inconsistent with the purposes of ARP or substantially incomplete. A participating jurisdiction's plan is inconsistent with ARP if it includes allocates HOME-ARP funds for uses other than a HOME-ARP eligible activity, as described in the HOME-ARP Notice. A participating jurisdiction's plan is substantially incomplete if -

a. The participating jurisdiction does not complete the required public participation or consultation or fails to describe those efforts in the plan;

b. The participating jurisdiction fails to include the required elements outlined in the HOME-ARP Notice, including the amount of HOME-ARP funds for each eligible HOME-ARP activity type;

c. The participating jurisdiction fails to identify and describe the responsibilities of the subrecipient or contractor administering all of its HOME-ARP award, if applicable; or,

d. HUD rejects the participating jurisdiction's HOME-ARP certification as inaccurate.

In accordance with Section 105(c) of NAHA (42 U.S.C. 12705(c)) and 24 CFR 91.500(a), if the participating jurisdiction's HOME-ARP allocation plan is not disapproved within 45 days, then the plan is deemed approved 45 days after HUD receives the plan, and HUD shall notify the participating jurisdiction that the plan is accepted.

(11) *Plan Disapproval.* If HUD determines that the plan is substantially incomplete or that the plan is inconsistent with ARP, HUD will notify the participating jurisdiction in writing with the reasons for disapproval, in accordance with 24 CFR 91.500(c). If a participating jurisdiction's plan is disapproved, the participating jurisdiction may revise or resubmit the plan for HUD review within 45 days after the first notification of disapproval. HUD will respond to accept or disapprove the resubmitted plan within 30 days of receiving the revisions or resubmission.

(12) *Making the HOME-ARP Allocation Plan Public.* Once HUD notifies a participating jurisdiction that the plan is accepted, the participating jurisdiction must make the final HOME-ARP allocation plan available to the public in accordance with the same requirements in the participating jurisdiction's current citizen participation plan that are followed to make the participating jurisdiction's

adopted consolidated plan and substantial amendments available to the public, including the availability of materials in a form accessible to persons with disabilities and translated materials in different languages to accommodate LEP persons, upon request.

4. **Tenant preferences in HOME-ARP.** The requirements of Section 225(d) of NAHA (42 U.S.C. 12755(d)), 24 CFR 91.220(l)(2)(vii), 24 CFR 91.320(k)(2)(vii), 24 CFR 92.209(c), 24 CFR 92.252(k), 24 CFR 92.253(d), and 24 CFR 92.504(c)(3)(iii) shall not apply to HOME-ARP projects where they conflict with the following alternative requirements:

   A participating jurisdiction may establish reasonable preferences among the qualifying populations to prioritize applicants for HOME-ARP projects or activities based on the participating jurisdiction's needs and priorities, as described in its HOME-ARP allocation plan. For example, a participating jurisdiction may set a preference among qualifying individuals and families for a HOME-ARP non-congregate shelter for individuals and families who are homeless; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; and veterans and families with a veteran family member that meet the criteria of one of these prior qualifying populations, consistent with its HOME-ARP allocation plan.

   The participating jurisdiction must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when applying preferences through its referral methods. Persons who are eligible for a preference must have the opportunity to participate in all HOME-ARP activities of the participating jurisdiction in which they are eligible under the HOME-ARP Notice, including activities that are not separate or different, and cannot be excluded because of any protected characteristics or preferential status.

   Targeted assistance: If HOME-ARP funds are used for TBRA, the participating jurisdiction may establish a preference for individuals with special needs or persons with disabilities among the HOME-ARP qualifying populations. Within the qualifying populations, participation may be limited to persons with a specific disability, if necessary, to provide effective housing, aid, benefit, or services as those provided to others in accordance with 24 CFR 8.4(b)(1)(iv). The participating jurisdiction may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) within the qualifying populations if the specific category is identified in the participating jurisdiction's HOME-ARP allocation plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

5. **Referral Methods for Projects or Activities**

A participating jurisdiction may use the referral methods described below to administer HOME-ARP assistance to qualifying individuals and families. Regardless of the referral method used by the participating jurisdiction, HUD holds the participating jurisdiction responsible for determining and documenting that beneficiaries meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to qualifying populations, that beneficiaries are low-income.

A participating jurisdiction may use the coordinated entry or coordinated entry process (CE) of a continuum of care (CoC) for referrals for projects and activities as described below. Under 24 CFR 578.3, a CE is a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals within a defined area. HUD requires each CoC to establish and operate a CE with the goal of increasing the efficiency of local crisis response systems and improving fairness and ease of access to resources, including mainstream resources. A participating jurisdiction may permit a CoC CE to collect information and documentation required to determine whether an individual or family meets the criteria of a HOME-ARP qualifying population at any point in the coordinated entry process, (i.e., after or concurrently with the assessment and intake processes) as long as that information is not used to rank a person for HOME-ARP assistance other than as specified by the preferences or method of prioritization established by the participating jurisdiction, in accordance with HOME-ARP requirements. If the participating jurisdiction uses CE, the participating jurisdiction cannot require HOME-ARP victim service providers to use the CE but may permit them to do so.

(1) Use of Expanded CE in HOME-ARP

Under this referral method, a participating jurisdiction may use a CE established by a CoC operating within its boundaries for one or more projects or activities if the CE accepts all HOME-ARP qualifying populations eligible for those activities or projects, in accordance with the preferences and prioritization, if any, established or approved by the participating jurisdiction in its HOME-ARP allocation plan and imposed through the participating jurisdiction's written agreements.

Before using a CoC's CE, participating jurisdictions should consider whether the CE covers the same service area as the HOME-ARP projects or activities that would use that CE. At a minimum, the participating jurisdiction must establish policies and procedures that describe the relationship of the geographic area(s) served by the project or activity to the geographic area(s) covered by the CoC CE and address how the CE will provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

The participating jurisdiction must require a project or activity to use CE along with other referral methods (as provided in section b below) or to use only a project/activity waiting list (as provided in section c below) if:

i. the CE does not have a sufficient number of qualifying individuals and families to refer to the participating jurisdiction for the project or activity;
ii. the CE does not include all HOME-ARP qualifying populations; or,
iii. the CE fails to provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

(2) *Use of CE with Other Referral Methods*

The participating jurisdiction may use a CoC CE with additional referrals from outside organizations or project-specific waiting lists consistent with HOME-ARP requirements. If using a this referral method, the participating jurisdiction must establish or approve any preferences or prioritization criteria applied by a CoC CE or other referral sources. The participating jurisdiction may also use a waiting list to receive referrals from a CoC CE and other referral agencies for a project or activity, where a CoC CE or referral agency refers an applicant that is placed on the waiting list in chronological order.

If applicable, a participating jurisdiction must establish policies and procedures for applying a participating jurisdiction's established preferences and method of prioritization, if any, when accepting direct referrals from a CoC CE and other referral agencies, and must document that such the policies and procedures were followed for each applicant served.

(3) *Use of a Project/Activity Waiting List*

The participating jurisdiction may establish a waiting list for each HOME-ARP project or activity. All qualifying individuals or families must have access to apply for placement on the waiting list for an activity or project. Qualifying individuals or families on a waiting list must be accepted in accordance with the participating jurisdiction's preferences, if any, consist with the HOME-ARP Notice or, if the participating jurisdiction did not establish preferences, in chronological order, insofar as practicable.

6. **Limiting Eligibility to Subpopulations**

participating jurisdictions must follow all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of Rehabilitation Act, HUD's Equal Access Rule, and the Americans with Disabilities Act, as applicable.

HOME-ARP rental housing or NCS may be limited to a specific subpopulation of a qualifying population identified in Section IV.A. of this Notice, so long as admission does not discriminate against any protected class under federal nondiscrimination laws in 24 CFR 5.105 (e.g., the housing may be limited to homeless households and at risk of homelessness households, veterans and their families, victims of domestic violence, dating violence, sexual assault, stalking or human trafficking and their families).

Recipients may limit admission to or provide a preference for HOME-ARP rental housing or NCS to households who need the specialized supportive services that are provided (e.g., domestic violence services). However, no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

Consistent with the statutory authority under ARP, HOME-ARP NCS may be converted to permanent housing under the CoC program or used as shelters under the ESG program, when all program and fair housing and nondiscrimination requirements are met. As such, HOME-ARP NCS may need to limit eligibility to households that are homeless and/or at risk of homelessness if the shelter will be converted to permanent housing under the CoC program or used as an emergency shelter in the ESG program.

HOME-ARP PROPOSAL FORM: APPENDIX E

PROPOSAL FORM FOR THE HOME-ARP PROGRAM

Office of Housing and Community Development (OHCD)
1990 Kino'ole Street, Suite 102
Hilo, Hawai'i 96720
Phone: 808/961-8379

GENERAL INFORMATION

PROJECT NAME: _____
AMOUNT OF HOME FUNDS REQUESTED: $_____
Project Address: _____
City: _____ Zip Code: _____
Census Tract: _____ TMK: _____

Name of Applicant: _____
Mailing Address: _____
Phone Number: _____
E-mail Address: _____
Contact Person and Title: _____

A. Eligible Costs: The following is a list of eligible costs for the HOME-ARP Program. Please indicate the appropriate eligible cost(s) that the HOME-ARP funds will be used for.

☐ Development Hard Costs (please check one of the following:

- ☐ New Construction
- ☐ Rehabilitation
- ☐ New Construction and Rehabilitation

Notes: Housing that has received an initial certificate of occupancy or equivalent document within a one-year period before the applicant commits HOME funds to the project is new construction.

Conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding one or more units beyond the existing walls, in which case the project is new construction.

☐ Acquisition

Notes: Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide

affordable housing and for which funds for construction have been committed.

☐ Related Soft Costs (please check all that apply):
- ☐ Architect/Engineer/Professional Services
- ☐ Financing Costs
- ☐ Audits
- ☐ Affirmative Marketing/Fair Housing
- ☐ Initial Operating Deficit Reserve
- ☐ Staff and Overhead Costs for the Project
- ☐ Payment of Impact Fees Charged for all Projects

☐ Community Housing Development Organization (CHDO) project specific assistance under 92.301

☐ Relocation/Displacement

B. Type of Funding Assistance Requested (Check One)

- ☐ Equity Investment
- ☐ Interest-bearing loans or advances
- ☐ Non-interest bearing loans or advances
- ☐ Interest Subsidies
- ☐ Deferred Payment Loan
- ☐ Grants
- ☐ Other (HUD/HHFDC/OHCD Approved)

C. Type of Organization (Check One)

- ☐ Public Agency
- ☐ Private Non-Profit Organization
- ☐ Developers
- ☐ Owners
- ☐ Community Housing Development Organization (CHDO) See Appendix A for the CHDO requirements and definition
- ☐ Private Organization
- ☐ Other: (HUD Approved) _____

D. Project Schedule

Expected start date: _____
Expected completion date: _____

E. Consistency with the HHFDC HOME-ARP Allocation Plan

The proposed project must address and comply with the County's goals/priorities as contained in the HHFDC HOME-ARP Allocation Plan. Briefly describe which priority your proposed project complies with and how your project will address the priority(ies).

The following are the HHFDC HOME-ARP Production Housing Goals:

- Affordable Rental Housing: Development of affordable rental housing to meet the needs of the Qualifying Population for a proposed total of 6 HOME-ARP units.

F. EXHIBITS

Complete Exhibits 1 to 16, attach forms, documents, maps, etc., as requested in the exhibit. Narratives should be typed and not more than two pages long. Please tab exhibits for ease of locating information.

EXHIBIT 1 - PROJECT INFORMATION
THRESHOLD FACTOR - REQUIRED TO BE ADDRESSED

Check the activity category that most appropriately describes your proposed HOME-ARP activity. Complete the appropriate project information sheet which is attached for your use.

☐ Rental Housing
☐ Rehabilitation

On a separate sheet briefly describe the proposed project and attach all appropriate information. Include information necessary to provide a clear understanding of the project. This section should include a map to show location(s) of facility or service area; quantify the activity (i.e., number of units to rehabilitate, number of persons to be served). In addition, if the activity is real property acquisition, construction, or rehabilitation, explain what is being acquired, ownership of the property, and specify the property improvements. Discuss whether the project could be implemented at a lower level or smaller scale without the HOME-ARP award.

Describe the site and/or the building proposed, including property conditions, number of units and bedroom sizes, and proposed use of project.

If other funds will be used, explain specifically what the HOME-ARP funds will be used for.

For special needs housing projects, specify the special need group to be served and describe in detail the services that will be provided or coordinated for the property's residence and how client outreach will occur.

Specify the eligible families/tenants for the project/program and the selection procedure.

HOME-ARP Program
Minimum HOME-ARP Program Description Requirements

1. Description of the proposed project/program:

- Completely describe the proposed project or program (provide conceptual plans and maps showing location.)
- Does the project/program involve the use of existing property; is the property privately or publicly owned; are the units standard or substandard, occupied or vacant.
- Describe the site and/or the building proposed, including property conditions, number of units and bedroom sizes, and proposed use of project.
- Also address if site improvements or other amenities are being proposed (please list).
- For special needs housing projects, specify the special need group to be served and describe in detail the services that will be provided or coordinated for the property's residence and how client outreach will occur.

A. Rental Housing (New Construction or Acquisition and/or Rehabilitation):

- Describe the project site and why it is appropriate for the proposed housing, including information on site selection, zoning and land-use considerations, and required permits.
- Describe the project design (new construction) or the scope of work for rehabilitation and how the needs of the target population have been considered. Include the basis for cost estimates related to site acquisition, development costs, and construction sots.
- Calculate the total per unit development cost and the HOME-ARP investment per unit.
- Illustrate that the HOME-ARP investment per unit based on the level of HOME-ARP funds to be invested.
- Describe the proposed rent structure and your basis for determining that the proposed rents are appropriate and affordable to the target population.

- Describe how the project will be managed and include a management plan. If a management plan has not yet been prepared, provide the outline for such plan.
- Include a proforma operating statement projected through the period of affordability.
- Provide a proposed construction timetable and indicate when HOME funds are expected to be fully disbursed.
- Provide evidence of site control for the project (i.e., deed, lease, agreement of sale, option agreement.)

2. Indicate the total number of HOME-ARP-assisted and non-HOME-ARP assisted units, or the number of families to be assisted with HOME-ARP funds, whichever is applicable.

3. List all sources (including dollar amount) for the construction and permanent financing. Include a discussion as to whether the sources are conditional or firm, and when and under what circumstances will they become firm. Provide copies of commitment letters, if available.

4. Specify the form of HOME-ARP invest (i.e., loan, grant, deferred loan, etc.) and the specific terms.

5. Specify the term of affordability and how it will be enforced.

6. Specify the eligible families/tenants for the project/program and the County's selection procedures.

7. Provide a discussion as to how the project/program is consistent with the State's HHFDC HOME-ARP Allocation Plan.

8. Provide a proposed timeframe for the project/program.

9. Describe any relocation or displacement that will occur as a result of the project/program and the proposed relocation assistance to be provided. Please include the estimated number of households/businesses to be relocated, the availability of comparable replacement units, the total costs of relocation, the method of determining costs, and how and with what source these activities will be funded.

PROJECT INFORMATION SHEET

RENTAL HOUSING

THRESHOLD FACTOR - REQUIRED TO BE ADDRESSED

As described in Section II. Rental Housing Activities, there are many federal rules that must be complied with. Please provide the information and describe how the project will comply with the federal rules and requirements outlined in Section II.

1. What is the maximum HOME Investment (Appendix C/92.250) for the units per bedroom size?

	Total Cost/Unit	Home Investment/Unit
0 bedroom	$_____	$_____
1 bedroom	$_____	$_____
2 bedroom	$_____	$_____
3 bedroom	$_____	$_____
4+bedroom	$_____	$_____

2. INCOME LIMITS (Appendix C) Explain the procedure that will be used to determine the income of the beneficiaries of the project. How often will the income be re-examined?

3. OCCUPANCY REQUIREMENTS AND TARGETING OF HOME FUNDS (Appendix C):

   a. Indicate the total number of HOME-ARP-assisted units and percentage of units that will be rented to the Qualifying Populations to meet the occupancy requirement and Targeting of HOME-ARP Funds Requirement:

   Total Number of HOME-ARP units: _____
   Total Number of Non-Assisted units: _____
   Total Number of Units: _____

   b. VERY LOW INCOME FAMILIES (92.252a2/Appendix C) - Indicate and explain which rent structure will be

used for the project for very low income families:

☐ whose rent does not exceed 30% of the annual income of a family whose income equals 50% of the median income for the area.

☐ whose rent does not exceed 30% of the family's adjusted income. If the unit receives federal or state project-based rental subsidy and the family pays as a contribution towards rent not more than 30% of the family's adjusted income, the maximum rent is the rent allowable under the federal or state project-based rental subsidy program.

☐ whose rent does not exceed 30% of the adjusted income of a family whose annual income equals 65% of the median income for the area.

☐ fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111.

c. LOW INCOME FAMILIES (Appendix C/92.252a3) - Explain how the project will comply with the rent limits. (See No. 5, Initial Affordability, below.)

d. TEMPORARY NON-COMPLIANCE WITH OCCUPANCY REQUIREMENTS - (Appendix C/92.252i) - Explain the procedures that will be used for temporary non-compliance with the occupancy requirement.

4. PROPERTY STANDARDS (Appendix C/92.251) - Indicate and explain the property standards that will be used for existing units, newly constructed units, and/or substantially rehabilitated units. Units built prior to 1978 must comply with the recently

implemented Lead-Based Paint requirements (24 CFR Part 35), effective September 15, 1999. Please describe your procedures for compliance.

5. INITIAL AFFORDABILITY:

a. RENT LIMITS (Appendix92.252a1) - The rental housing project must have rents not greater than the lesser of:

the fair market rent established by HUD (see below), **less** the monthly allowance for the utilities and services to be paid by the tenant;

OR

the 65% rent limit (see below), **less** the monthly allowance for any utilities and services to be paid by the tenant.

Indicate what the rents will be for your project.

HOME RENTS LIMITS (06/15/22)
Updated Annually

UNIT TYPE	FAIR MARKET RENT	65%RENT LIMIT	50%RENT LIMIT	PROPOSED RENT
Efficiency	$1,017	$1,064	$ 833	$_____
1 Bedroom	1,164	1,141	893	$_____
2 Bedroom	1,531	1,372	1071	$_____
3 Bedroom	1,969	1,576	1,283	$_____
4 Bedroom	2,076	1,739	1,381	$_____
5 Bedroom	2,387	1,900	1,523	$_____
6 Bedroom	2,699	2,061	1,666	$_____

b. RENT CHANGES (Appendix C/92.252c) - Explain the procedure that will be used for any changes in rent.

6. PERIOD OF AFFORDABILITY - See Appendix C - Explain how the project will comply with the period of affordability requirement. The rental units must remain affordable without regard to the term of any mortgage or the transfer of

ownership, pursuant to deed restrictions, covenants running with the land, or other mechanisms approved by HUD, for not less than the following time periods, beginning after project completion.

7. LEASE REQUIREMENTS (Appendix C/92.253):

   a. LEASE TERMS - Explain the terms of the lease between the owner and tenant. Please attach a copy of the lease that will be used for this project.

   b. TERMINATION OF TENANCY (Appendix C/92.253c) - Explain the policy that will be followed for termination of tenancy. Explain notice procedures.

8. TENANT SELECTION (Appendix C/92.253d) - An owner of rental housing assisted with HOME-ARP funds must adopt written tenant selection policies and criteria that comply with the following. Please provide a copy of the written tenant selection policy.

   - Are consistent with the purpose of providing housing for HOME-ARP Qualifying Populations;

   - Are reasonably related to program eligibility and the applicants ability to perform the obligations of the lease;

   - Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and

   - Give prompt written notification of any rejected applicant of the grounds for any rejection.

9. SITE AND NEIGHBORHOOD STANDARDS (Appendix C/92.202b) - If this project is for the construction of new rental housing, explain how this project will comply with the site and neighborhood standards of Appendix C, 92.202b and/or 24 CFR 983.6.

EXHIBIT 2
EXTENT AND SERIOUSNESS OF THE IDENTIFIED NEED
(100 Maximum Points)

1. Identify and clearly describe the extent and the seriousness of the need for your project. Explain why this project is needed and how your project will help address this need.

2. Describe the seriousness of the need and identify the need of the community in specific, quantifiable and measurable terms and submit necessary documentation based on recent available data to support the stated need. Include the area or location of the need.

EXHIBIT 3- NEED FOR HOME-ARP FUNDS
(100 Maximum Points)

1. Explain why HOME-ARP dollars are necessary for project implementation and why the proposed activities cannot occur without the HOME-ARP award. Fully describe the activities which will address the need, including all appropriate quantifiable information. Justify why the activity was selected to address the need.

2. State the amount and sources of other funds being requested for this activity. List unsuccessful requests your organization has made for other resources for this project, including sources, amount, and, if known, reasons for rejection. Explain why no other source of funds can replace HOME-ARP resources. Discuss whether the project could be implemented at a lower level or smaller scale without the HOME-ARP funds. Describe known public and private projects that address a similar need in your area and explain how this project differs from each other.

EXHIBIT 4 – HHFDC HOME-ARP ALLOCATION PLAN GOALS

(100 Maximum Points)

Clearly describe how this proposed project will comply and ultimately accomplish the goals/priorities of the HHFDC HOME-ARP Allocation Plan.

EXHIBIT 5 - RESULTS TO BE ACHIEVED
(100 Maximum Points)

1. State your project's overall goals and objectives. Describe the results you expect to achieve, the number and type of persons to benefit, and the nature of the benefit. Explain how the proposed activities are directly related to the problem and need described and what the anticipated direct and indirect results of the program will be. Include information on length of commitment to the original target population, the continued affordability of the assisted housing in terms of monthly rent or mortgage costs, and other program results that help illustrate the overall benefit of the proposal.

2. Describe the people who will benefit from the proposed project in terms of income, age, employment, status, etc.

3. Please indicate the number of households that will benefit from the activity.

	TOTAL	HOME
HOME-ARP QUALIFYING POPULATIONS	_____	_____
Family	_____	_____
Elderly	_____	_____
Persons with Disabilities	_____	_____
Seriously Mentally Ill	_____	_____
Dually-Diagnosed	_____	_____
Persons with HIV/AIDS	_____	_____
Veterans	_____	_____
Other: _____	_____	_____
TOTALS	_____	_____

4. Please indicate the number of households assisted.

	TOTAL	HOME
Renters	_____	_____

5. Out of the total number of beneficiaries, indicate the total number of female head-of-household beneficiaries there are for the proposed project. (Submit documentation to verify the statistics)

Female Head of Households _____

6. Out of the total number of beneficiaries, indicate the total number of minority households who will benefit from the proposed project: (Submit documentation to verify the statistics)

_____White
_____Black/African American
_____Asian
_____American Indian/Alaskan Native
_____Native Hawaiian/Other Pacific Islander
_____American Indian/Alaskan Native & White
_____Asian & White
_____Black/African American & White
_____American Indian/Alaskan Native & Black/African Am
_____Other Multi-Racial
_____Asian/Pacific Islander
_____Hispanic

7. Please indicate the income levels of households that will benefit from the activity.

	TOTAL	HOME
At or below 50% of median income	_____	_____
At or below 60% of median income	_____	_____
At or below 80% of median income	_____	_____
Other_____	_____	_____
Total Units	_____	_____

8. Please indicate the proportion of units for:

Mobility Impaired ___ No. of units
Hearing/Vision Impaired ___ No. of units

*Affected projects must have 5% or at least one, whichever is greater, for mobility impaired and 2% but not less than one for hearing/vision impaired.

9. Please indicate the anticipated amount of HOME-ARP expenditures per HOME-ARP-assisted unit:

$_____

10. Please indicate the total anticipated program income:

$_____

11. Submit documentation to verify the above statistics. (i.e., Census Data)

EXHIBIT 6 - BUDGET AND FUNDING
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED
(100 Maximum Points)

1. State the amount of HOME-ARP funds being requested for the activity.

2. Provide a detailed budget of the proposed project and its activities in the prescribed format provided or a comparable format.

3. Identify who did the estimates and what these estimates were based on. Provide documentation to support these estimates.

4. If other sources of funds will be used (i.e., County, State, private donations, etc.), state the amount, the source, the date of expected availability and expiration, submit documentation to verify that these funds are secured.

5. Specify what the HOME funds will be used for.

6. Explain your organization's ability to access other funds and the overall attempts to obtain additional resources.

7. If you are requesting a loan, identify the repayment source and describe and justify your proposed terms. Also, explain the cost savings the HOME-ARP award would create versus your organization securing a conventional loan or other financing options available. Explain your organization's ability to access other funds and the overall attempts to obtain additional resources.

8. If your organization is requesting a grant, submit justification on why your organization requires a grant versus a loan. Please provide documentation and explain the cost savings a grant will generate over a conventional loan or other financing options currently available.

9. If your project will generate project income, state the projected amount and the expected date to receive this program income. Under the HOME-ARP Program Rules, program income is required to be returned to the County.

10. For rental housing projects, a proforma based upon the applicable period of affordability must be submitted with the budget. (i.e., a proforma for 15 years must be submitted)

Be sure your submitted budget identifies specifically what the HOME-ARP funds will be used for.

Type of Funding Assistance Requested (check one).
Grant: ☐ Loan: ☐ Other: ☐

Note: If project is funded, letters of commitment from all sources of funding must be submitted.

HOME-ARP INVESTMENT PARTNERSHIPS PROGRAM
BUDGET AND FUNDING
SOURCES OF FINANCING - ALL SOURCES/ALL ACTIVITIES

	SOURCE/TYPE	*COMMITTED	*TENTATIVE	TOTAL	IF TENTATIVE DATE EXPECTED
#HOME-ARP FUNDS		$	$	$	
#HOME FUNDS		$	$	$	
#HOME FUNDS		$	$	$	
#CDBG		$	$	$	
#OTHER FEDERAL		$	$	$	
		$	$	$	
		$	$	$	
STATE		$	$	$	
		$	$	$	
COUNTY		$	$	$	
		$	$	$	
		$	$	$	
PRIVATE	_____	$	$	$	_____
	_____	$	$	$	_____
	_____	$	$	$	_____
	_____	$	$	$	_____
OTHER	_____	$	$	$	_____
	_____	$	$	$	_____
	_____	$	$	$	_____
	_____	$	$	$	_____
	_____	$	$	$	_____
TOTALS		$	$	$	

* IF PROJECT IS FUNDED, LETTERS OF COMMITMENT MUST BE SUBMITTED. NO HOME-ARP FUNDS WILL BE RELEASED WITHOUT PROOF OF COMMITMENT FROM ALL SOURCES.

* FEDERAL DOLLARS ARE SUBJECT TO EXCESSIVE LAYERING REGULATIONS.

ADMINISTRATIVE BUDGET - ALL ACTIVITIES

ITEMS	TOTAL	HOME $	OTHER $	SOURCE(S)
APPLICATION PREP/TECH ASSIST	$	$	$	_____
SALARY/WAGES	$	$	$	_____
POSITION	$	$	$	_____
POSITION	$	$	$	_____
POSITION	$	$	$	_____
POSITION	$	$	$	_____
POSITION	$	$	$	_____
EMPLOYEE RELATED EXPENSES @_____%	$	$	$	_____
PROFESSIONAL SERVICES	$	$	$	_____
SERVICE	$	$	$	_____
SERVICE	$	$	$	_____
SERVICE	$	$	$	_____
TRAVEL	$	$	$	_____
OFFICE SUPPLIES/EQUIPMENT	$	$	$	_____
MARKETING (FAIR HOUSING)	$	$	$	_____
OTHER (SPECIFY)	$	$	$	_____
OTHER (SPECIFY)	$	$	$	_____
OTHER (SPECIFY)	$	$	$	_____
OTHER (SPECIFY)	$	$	$	_____
OTHER (SPECIFY)	$	$	$	_____
OTHER (SPECIFY)	$	$	$	_____
TOTAL	$	$	$	_____

*CARRY THIS AMOUNT TO "USES OF FINANCING AND HOME PROJECT BUDGET" LINE 13.

USES OF FINANCING AND HOME-ARP PROJECT BUDGET

ALL ACTIVITIES

	ACTIVITY	TOTAL	HOME	OTHER	SOURCE (i.e., CDBG, CIP)
1	ACQUISITION				
	LAND				
	EXISTING STRUCTURES				
2	SITE IMPROVEMENTS				
	ON-SITE				
	OFF-SITE		-------		
3	CONSTRUCTION/REHAB.				
	OTHER SITE WORK				
4	CONSTRUCTION SUPERVISION				
5	TENANT-BASED ASSISTANCE				
6	FIRST-TIME HOMEBUYER				
7	RELOCATION COSTS				
8	PROJECT SOFT COSTS				
	ORIGINATION FEES				
	CREDIT REPORTS				
	TITLE REPORTS & UPDATES				
	RECORDATION FEES				
	PREP. & FILING OF LEGAL				
	APPRAISAL				
	ATTORNEY'S FEES				
	LOAN PROCESSING FEES				
	DEVELOPERS FEES				
9	CONSTRUCTION-RELATED COSTS				
	ARCHITECTURAL FEES				
	ENGINEERING FEES				
	WORK WRITE-UPS/COST EST.				
	DEVELOPERS FEES				
10	PROJECT AUDIT COSTS				
11	AFFIRMATIVE MARKETING & FAIR HSG				
12	OPERATIONS/SERVICES				
13	ADMINISTRATION		------		
14	TECHNICAL ASSISTANCE				
15	ENVIRONMENTAL SURVEY				
16	IMPACT FEES/TAP FEES				
17	OTHER:				
18	OTHER:				
19	TOTALS				

EXHIBIT 7 - PROJECT SCHEDULE
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

The applicant must be able to expend the HOME-ARP funds in a timely manner. In order to comply with and meet State Housing and Community Development Corporation of Hawai'i (HHFDC) requirements, all activities funded with HOME-ARP funds shall be committed, completed and expended within a **twelve (12) month period.** The applicant should anticipate receiving funding on or about November 1, 2023. Project funds unencumbered may and will be reprogrammed to other projects.

1. Please accurately describe what the HOME-ARP funds will be spent on and the date you expect this expenditure to occur within the twelve month period.

2. Please provide the OHCD with a schedule of the proposed project's monthly activities and drawdown of HOME-ARP funds. Indicate the milestones (i.e., design, bid, construction, zoning changes, acquisition process, etc.) and anticipated start and completion dates of each milestone.

Example:

Milestones	Start Date	Completed Date	Projected Expenditure
Environmental Review			
Project Design			
Bid/Advertisement			
Site Work			
Construction			

EXHIBIT 8 - SITE SELECTION STANDARDS INFORMATION
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED
(100 Maximum Points)

1. Are you in control of the project site, which means having fee simple title to the property, an executed lease agreement, executed option to purchase, agreement executed DROA? If not, at what point are you in obtaining site control and when do you anticipate having site control?

   Site Control Status
   ☐ Own site - fee simple
   ☐ Executed Ground Lease
   ☐ Option to purchase
   ☐ Option to lease
   ☐ Other (Describe)

   Attach evidence of site control (example: deed, lease, agreement of sale, option agreement).

2. What is the asking price and what are the terms and conditions for purchase? The applicant is required to disclose all relevant information on the proposed property.

3. Are there any tax delinquencies?
   Yes ☐ No ☐ Unknown ☐

4. Are there any mortgage delinquencies?
   Yes ☐ No ☐ Unknown ☐

5. Are there any other liens/encumbrances on title?
   Yes ☐ No ☐ Unknown ☐

6. Identify the present legal owner and the address of the proposed project site and if any existing facilities.

7. Please provide the following information regarding the proposed project site:
   Property Address:_____
   City:_____ Zip Code:_____
   TMK:_____ Land Area:_____
   Census Tract:_____ Block Group:_____
   Estimated Market Value:_____ Age of Facility:____
   Assessed Value:_____ Current Zoning:_____

8. Overall, is the location suitable for residential use:
   Suitable for homeownership? Yes ☐ No ☐
   Suitable for rental? Yes ☐ No ☐

9. Is there a likely presence of:
   Lead-based paint Yes ☐ No ☐ Unknown ☐
   Asbestos Yes ☐ No ☐ Unknown ☐

10. Does the property meet HUD's Housing Quality Standards as is? Yes ☐ No ☐ Unknown ☐

11. If not, what is the estimated level of construction required:
   New Construction _____
   Rehabilitation _____
   Minor Repairs _____

12. If applicable, please indicate if any of the following conditions apply to the infrastructure servicing the project site by checking the appropriate category.

	Yes	No	N/A
Road access to the site is adequate	☐	☐	☐
Sewer capacity is adequate	☐	☐	☐
Electrical service is adequate	☐	☐	☐
Water service is adequate	☐	☐	☐

13. If the project does not have the appropriate infrastructure/utility services, describe and document any actions being taken to resolve any potential problems associated with the particular infrastructure deficiency. Describe the improvements required and the estimated costs. Address the off-site improvements such as water, sewer, drainage, roads, electrical, phone, cable, etc.

14. If the project site will be on leasehold property, provide details on the steps taken or will be taken to secure the project site. Please submit a copy of the lease. If a lease is not available at this time, describe the terms of the lease, the duration, etc., and what steps have been taken to secure a lease. The applicant is required to disclose all relevant information on the proposed property.

15. Attach location map(s) of the project site. The map should identify the site, parks, schools and competitive developments. Include schematics, and/or preliminary drawings, if available.

16. Will you have to obtain changes to, or exemptions from the following land use designations and code requirements in order to carry out your project? Indicate by checking "Yes" or "No" for each item.

	Yes	No		Yes	No
State Land Use District Boundary	☐	☐	Building Code	☐	☐
General Plan	☐	☐	Zoning Code	☐	☐
Development Plan	☐	☐	Housing Code	☐	☐
Subdivision Code Requirements	☐	☐	Other _____	☐	☐

Will your project conform to the existing zoning for the property?

If no, describe your plan of action for obtaining the appropriate zoning or zoning exemptions. List the variances and/or special use permits required.

17. If any answer to the above questions is "Yes," identify the kinds of changes which are required as well as any actions taken toward obtaining the necessary clearances.

18. Identify the benefits in use or disclose any potential problems associated with your proposed site.

EXHIBIT 9 - ENVIRONMENTAL CONSIDERATIONS
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED
(100 Maximum Points)

A Federal environmental review that complies with 24 CFR Part 58-Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities is required if your proposal is accepted to be funded. However, information relating to environmental concerns at the selection stage can have a significant impact on your proposal.

The extent to which an applicant has considered and acted upon potential environmental concerns are important. Therefore, please indicate the level of environmental review that is required based on the type of activity funded with HOME-ARP funds. Please indicate which of the following environmental concerns are applicable to your project by checking "Yes" or "No." In addition, please provide and submit information and documentation, if there are any, on environmental concerns. Please explain if your proposed project has a completed final Environmental Assessment (EA) that complies with 24 CFR Part 58, and whether any permits or clearances related to the aforementioned environmental concerns have been obtained. Projects having completed a state and federal environmental assessment will rate higher in the selection process.

Please indicate the level of environmental review required for your proposed project.

- ☐ Exempt Activity
- ☐ Categorically Excluded/Exempt Activity
- ☐ Categorically Excluded Activity
- ☐ Environmental Assessment (EA)
- ☐ Environmental Impact Statement (EIS)

	Yes	No
The project will affect a property that is 50 years or older and therefore eligible or designated as a historic site on the State or National Registers of Historic Places.	☐	☐
The project site is located within a flood plain and requires flood insurance and compliance with flood plain management decision making (8-step) process.	☐	☐

	Yes	No
The project site is located within a wetland which Requires consistency review from the U.S. Dept. of Army Corp. of Engineers.	☐	☐
The project site will increase density in volcanic hazards 1 and/or 2.	☐	☐
The project will require a major Shoreline Management Permit (SMA).	☐	☐
The project has received an SMA approval.	☐	☐
The project will affect endangered species or their habitats.	☐	☐
Will your proposed project trigger compliance with Chapter 343 of the Hawai'i Revised Statutes? (Environmental Impact Statement)	☐	☐

Are there any known environmental issues with the site?

Airport Clear Zone	☐	☐
Known Prior Industrial Use	☐	☐
Other Known Environmental Concerns	☐	☐

Are there any neighborhood factors which negatively impact the site?

Crime, Drugs, other Safety Concerns	☐	☐
Traffic, Noise, other environmental factors	☐	☐
Incompatible Non-Residential uses nearby	☐	☐

If any answer to the above questions is "Yes":

Has a final Environmental Assessment (EA) been Completed for the project? **If "Yes," please submit a copy of the Environmental Assessment.**	☐	☐
Have any of the permits or clearances related to the aforementioned environmental concerns been obtained?	☐	☐
If "No," identify any actions taken toward obtaining these permits and/or clearances.	☐	☐

EXHIBIT 10 - ADDITIONAL ACTIONS

(50 Maximum Points)

If the project does not fully address the identified need, describe further actions which may be appropriate or necessary to resolve the problem. Supporting information and documentation should be provided. Describe and provide documentation, where necessary, to indicate what other resources or activities are needed to ensure a complete project/program will be available. If such support is not documented, or if the need is evident but not addressed, the impact of the proposal may be diminished. Discuss the magnitude and duration of the problem and its impact on the target population and the community-at-large. Give details and documentation to show community outreach or support for your project.

EXHIBIT 11 - COMPLIANCE WITH FEDERAL OVERLAY STATUTES

(50 Maximum Points)

Below is a list of federal overlay statutes that may apply to your particular project. Please review the statutes and if you check yes to any of the following, please describe your procedures on a separate sheet of paper for complying with the following federal rules. Please refer to Appendices A and C for a brief description of the rules.

Please note: Should your project be selected for funding, the OHCD will require the applicant to submit documentation to ensure compliance. Failure to conform with the applicable statutes will be grounds for non-compliance, and any agreements to utilize the HOME funds may be terminated and the County will recapture the HOME funds.

COMPLIANCE REQUIRED	Yes	No
1. Equal Employment Opportunity & Fair Housing -Discrimination on the basis of race, color, religion, sex, sexual orientation, age, HIV infection, disability, ancestry/national origin, familial status, marital status, or disability is prohibited	☐	☐
2. Section 504 of the Rehabilitation Act -Accessibility requirements & reasonable accommodations	☐	☐
3. Section 3 - Training & Employment Opportunities for low-income residents	☐	☐
4. Affirmative Marketing	☐	☐
5. Minority/Women's Business Enterprise	☐	☐
6. Environmental Review	☐	☐
7. Displacement/Relocation/Acquisition	☐	☐
8. Federal Labor Standards (Davis-Bacon) -Activities involving 12 or more units	☐	☐
9. Lead-Based Paint (Pre 1978 Units)	☐	☐
10. Conflict of Interest	☐	☐
11. Debarred and Suspension	☐	☐
12. Flood Zones - Federal Funds not usually provided in FEMA designated flood areas	☐	☐
13. 2 CFR Part 200, Uniform Administrative Requirements and Cost Principals	☐	☐
14. 2 CFR Part 200, Subpart F, Audit Requirements for federal funds in excess of $750,000	☐	☐
15. Drug Free Workplace	☐	☐
16. Anti-lobbying provisions	☐	☐
17. Violence Against Women Act(VAWA)	☐	☐

EXHIBIT 12 - PROJECT MANAGEMENT

(100 Maximum Points)

1. Name of the agency or person who will manage, coordinate, and implement the proposed project:

   _____

2. Address: _____

   _____

3. Contact Person and staff primarily responsible to oversee and implement the project:

   _____

4. Phone Number: _____ Fax Number: _____

5. Describe your organization's management ability. Describe the mission, management structure, and staffing of your organization. Provide a detailed description of your organization's experience and ability in implementing and managing projects. Explain any past or current experience with federal or state award or loan programs. Provide an organizational chart showing the staffing and lines of authority for the key personnel to be used in the project. Give a brief job description of the overall duties of the staff assigned to manage the program during each phase, a description of related experience, and how the management plan will be structured. If staff has not been hired, provide a job description for each vacant position. If a third party will be involved in management, describe their role.

6. Describe the accounting/record keeping system used by your organization (i.e., manual, computer software, etc.). Indicate whether it complies with applicable OMB Circulars governing financial management and audits.

EXHIBIT 13 - PAST PERFORMANCE
(100 Maximum Points)

Indicate if your organization received other HOME grants or other Federal, State, local, or private financial assistance in the past. If yes, briefly describe the program or project(s) for the last five (5) years. If there were no programs or project(s) within the last five (5) years, briefly describe the last program or project(s) funding received and include:

1. Project Title(s)

   _____

2. Project Amount(s)

   _____

3. Project Status

   _____

4. Project achievement and if there were any problems encountered.

   _____

5. Explain any delays encountered and the reasons for the delays.

   _____

6. Identify any audit finding(s) from your previous audit(s) and explain the status of the finding(s). Also, explain what your organization is doing to eliminate or reconcile the finding(s).

   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____

EXHIBIT 14 - DISPLACEMENT/RELOCATION/ACQUISITION THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

1. If your project will entail permanent or temporary displacement or relocation of families and businesses:

   a. Your project will be required to comply and meet the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, under 49 CFR Part 24, and as required under Section 104(d) of the Housing and Community Development Act of 1974, as amended. Please contact the OHCD for a copy of these federal regulations.

   b. Please submit a copy of a draft or final relocation plan that describes in detail, your procedures to minimize involuntary relocation, the availability of comparable replacement units within the project area, and how and with what resources these activities will be funded as required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

   c. Submit a tentative notification schedule and the types of notices that your organization plans on utilizing for your project.

   d. Should your project be selected for funding, documentation indicating compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, will be required to be submitted.

2. If your project will involve the acquisition of real property, and there are existing tenants, the property is subject to the Uniform Relocation Act and the requirements of 49 CFR part 24. Please contact the OHCD for a copy of these federal regulations.

   How many units are occupied? _____
   How many existing residents are low income? _____
   How many existing residents are very-low income? _____
   How many residents will have to be relocated? _____
   What is the current unit size(s)? _____

a. Explain the procedures that will be undertaken to acquire the proposed project site and when the acquisition process will begin and be completed.

b. Please submit documentation on the value of the property to be acquired and explain how the value was determined.

c. Should your project be selected for funding, documentation indicating compliance with the Uniform Relocation Assistance and its requirements of 49 CFR Part 24 will be required to be submitted.

3. If this project is for homeownership, are the area residents interested? Yes☐ No☐ Unknown☐

If yes, how many? _____

EXHIBIT 15 - APPLICANT INFORMATION
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

In order to receive HOME funds, the applicant must be eligible under HUD regulations. The following documents must be attached to this exhibit:

- ☐ Articles of Incorporation
- ☐ By-Laws
- ☐ IRS Exemption under Section 501(c)
- ☐ List of Current Board of Directors and evidence that the Board Members are volunteers
- ☐ Board of Director composition
- ☐ Most Current Financial and Program Audit
- ☐ Procedures of non-discrimination

EXHIBIT 16
CERTIFICATION OF AUTHORIZING OFFICIAL/RESOLUTION
THRESHOLD FACTOR-REQUIRED TO BE ADDRESSED

1. To the best of my knowledge, the statements in this proposal are true and correct.

2. I hereby authorize the Office of Housing and Community Development to obtain further information and to verify any statements made as it deems necessary.

3. The applicant will comply with and certify all HOME Program regulations, policies, guidelines, and requirements as set forth in this proposal.

4. The applicant certifies that they have read and will comply with all aspects of Exhibit 11 (Compliance with Federal Overlay Statutes), as applicable.

5. The applicant assures the County that it will provide sufficient funds to cover any cost overrun to complete the project and, where required by its by-laws, the Board of Directors have duly passed a resolution authorizing its authorized official to file this proposal and provide further information to the County.

6. I certify that I am authorized on behalf of _____ to submit this proposal,
(name of applicant)
to carry out the proposed project/activity pursuant to its charter and by-laws and comply with the standards for private non-profit entities established by HUD and the County of Hawai'i. (Please submit resolution authorizing filing and submittal).

_____ _____
Signature Date

_____ _____
Typed Name Typed Title