DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

HOME INVESTMENT PARTNERSHIPS PROGRAM

POLICIES AND PROCEDURES

Kelly Cimino, Director of Housing and Community Development
Elizabeth Meadows, Community Planning and Grants, Chief
Nkechi M. Animashaun, HOME Program Specialist
Updated February 2017.

Table of Contents

Page intentionally left blank.

1. Introduction

This Policy and Procedures Manual establishes a framework for guiding the operation of the Howard County's Home Investment Partnership Fund (HOME) program. It provides an approach for making decisions and ensuring that the County's HOME program is operated in a fair and consistent manner. Lastly, the Policy and Procedures Manual provides information for program sub recipients in the management of their projects and how to achieve and maintain compliance with federal, state, and local requirements.

Disclaimer: The following policies were developed within the guidelines of the HOME regulations established by the Department of Housing and Urban Development (HUD) and may be revised at any time as necessitated to be in conformance with Federal regulations.

2. Background on HOME Investment Partnership Funds

The HOME Investment Partnership Program was created in 1990 through the Cranston-Gonzalez Affordable Housing Act. The sole purpose of this program is to create affordable housing for low-income individuals. HOME activities undertaken must accomplish at least one of two goals for low-income individuals; (1) Provide decent housing and/or (2) Provide suitable living environments. However, unlike CDBG, this program requires the participating jurisdiction to have a 25% match for each dollar awarded
HOME funding also strengthens the ability of state and local governments to provide housing and promotes public-private partnerships. The HOME program is administered through the U.S. Department of Housing and Urban Development (HUD), and Howard County receives funding as a Participating Jurisdiction (PJ).

Home Program Regulations are promulgated in the Code of Federal Regulations at 24 CFR Pt 92 with subparts A through M.

Sub Part K (24 CFR 92.500 - 92.509) explains general responsibilities of HOME grant administration including uniform administrative requirements, provisions of subrecipient agreements, program income, use of real property, record-keeping and reporting, and closeout procedures.

Sub Part H (24 CFR 92.350 - 92.358) details other HOME program requirements including affirmative marketing, environmental standards, displacement, relocation and acquisition, labor standards, lead-based paint, and conflicts of interest.

For any PJ to participate in entitlement programs, Howard County must develop a strategic five year plan known as the Consolidated Plan or "Con Plan". Community members along with stakeholders create this plan that provides local direction. The Consolidated Plan establishes community needs, goals and strategies, as well as identifying and prioritizing local objectives, within the parameters of the national objectives for these entitlement programs. After approval by Council, the plan is submitted to HUD and becomes part of our contractual agreement to pursue stated objectives with funding priorities. The plan is renewed and resubmitted for approval every five years. The current Consolidated Plan dated 2016-2020 can be found at https://www.howardcountymd.gov/Departments/Housing/Community-Planning-and-Grants-Management

The County must also submit an annual Action Plan to HUD to formally request allocated program funds. The Action Plan includes a review of projects and organizations that the County has selected to fund for the following program year. In this plan, the County also describes how selected activities meet local objectives. Upon approval by the County Council, a grant agreement is executed between HUD and the County and funds become available for local distribution.

At the conclusion of a program year, the County is required by HUD to complete a Consolidated Annual Performance Evaluation Report (CAPER). The CAPER outlines how funds from both CDBG and HOME were expended, including how the funds were used to meet the priorities, goals and objectives outlined in both the Consolidated and Annual Action Plans.

3. Federal Objectives

HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. HOME funds may be applied to a broad range of eligible activities such as providing home purchase or rehabilitation financing assistance to eligible homeowners and new homebuyers; build or rehabilitate housing for rent or ownership; or for "other reasonable and necessary expenses related to the development of non-luxury housing," including site acquisition or improvement, demolition of dilapidated housing to make way for HOME-assisted development, and payment of relocation expenses. HOME funds may be applied to provide tenant-based rental assistance contracts of up to 2 years if such activity is consistent with an approved Consolidated Plan and justified under local market conditions.

FEDERAL OUTCOME CATEGORIES

Howard County is responsible to report on activities through the outcome and performance measurement system established by HUD. The system is designed to provide the opportunity for the federal government to collect information on outcomes funded with grant assistance, and thereby demonstrate program results.

The HUD system identifies three overarching objectives and three measurable outcomes. When a proposal is reviewed, staff will determine how the specific activities including intended results, benefits or objectives fall within the outcome parameters outlined by HUD. The intent when funding an activity determines which of the three objectives best describes the purpose of the activity. The three objectives include:

1. **Suitable Living Environment:** In general, this objective relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environment.

2. **Decent Housing:** The activities that typically would be found under this objective are designed to cover the wide range of housing possible under CDBG or HOME. This objective focuses on housing programs where the purpose of the program is to meet individual family or community needs and not programs where housing is an element of a larger effort, since such programs would be more appropriately reported under Suitable Living Environment.
3. **Economic Opportunities:** This objective applies to the types of activities related to economic development, commercial revitalization, or job creation. *This objective is only used in the CDBG program.*

The three outcome categories are described:

1. **Availability/Accessibility:** This outcome category applies to activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to low and moderate income people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the affordable basics of daily living available and accessible to low and very low income people where they live.
2. **Affordability:** This outcome category applies to activities that provide affordability in a variety of ways in the lives of low and moderate income people. It can include the creation or maintenance of affordable housing, basic infrastructure hook-ups, or services such as transportation or day care.
3. **Sustainability - Promoting Livable or Viable Communities:** This outcome applies to projects where the activity or activities are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of low and moderate income or by removing or eliminating slums or blighted areas, through multiple activities or services that sustain communities or neighborhoods.

Each outcome category can be connected to one of the overarching objectives, producing nine result statements. Each proposed activity must intend to have one of the following results.

	Outcome 1: Availability or Accessibility	**Outcome 2:** Affordability	**Outcome 3:** Sustainability
Objective 1: Suitable Living Environment	Enhance Suitable Living Environment through Improved or New Accessibility	Enhance Suitable Living Environment through Improved or New Affordability	Enhance Suitable Living Environment through Improved or New Sustainability
Objective 2: Decent Housing	Create Decent Housing with Improved or New Availability	Create Decent Housing with Improved or New Affordability	Create Decent Housing With Improved or New Sustainability
Objective 3: Economic Opportunities	Provide Economic Opportunity through Improved or New Accessibility	Provide Economic Opportunity through Improved or New Affordability	Provide Economic Opportunity through Improved or New Sustainability

CPD Performance Measurement Guidebook July 7, 2006 Exhibit 2-1: Link between Objectives, Outcomes and Outcome Statements

4. Overview of HOME Program in Howard County

Howard County is responsible for executing all program activities in compliance with its adopted policies and procedures, as well as applicable state, federal, and local regulations. Howard County is responsible for general oversight of the program which includes the allocation of resources, policy development/oversight, and community relations issues associated with the programs.

HUD published a Final Rule in the Federal Register on July 24, 2013 to amend the HOME Program regulations. These amendments to the HOME regulations represent the most significant changes to the HOME Program in 17 years. ***This document is amended to reflect the changes made to the HOME Program rule.***

This includes actions such as:

1) Implementing eligibility criteria;
2) Processing and approving project applications;
3) Preparing work orders and bid documents (if applicable);
4) Oversight of work and conducting progress inspections during construction;
5) Preparing security documents including mortgages and notes, and servicing recoverable grants where appropriate;
6) Preparing and executing subordination agreements for property owners who continue to meet the subordination requirements of the housing programs;
7) Preparing and executing affordability agreements, contractor/owner/municipality agreements, covenants and other agreements.

These guidelines may be amended based upon any changes in federal, state, or local regulations or administrative requirements.

Howard County uses its HOME Program funds to meet its housing and community development needs, which are included in its 5-year Consolidated Plan. In the current Consolidated Plan, there are ten (10) goals and objectives which include housing rehabilitation, home ownership, operation support, housing, special needs housing, community facilities, public services, overall coordination, fair housing and prevention and housing; with the last five activities being funded by the Community Development Block Grant (CDBG) program.

Some of the types of projects that may be funded include:

- Rental housing development;
- Community Housing Development Organization (CHDO) projects;
- Homeowner Rehabilitation; and
- Homebuyer Assistance.

Howard County's Department of Housing and Community Development (DHCD) manages the HOME program for Howard County. Staff members of the Division of Community Planning and Grants Management, namely the HOME Program Specialist oversee all HOME processes described in this policy and procedure manual as well as the ongoing oversight and monitoring of the program as HOME-funded projects are executed.

5. Citizen Participation

Howard County has established a Citizen Participation Plan to provide opportunities for citizen involvement in the process of developing and implementing the Community Development Block Grant (CDBG) Program and the HOME Program.

The Citizen Participation Plan outlines when, where and how citizens can access information, review and comment on major community plans and comment on progress of funded activities under these programs.

6. Definitions

A. **Con Plan** - *Consolidated Plan* - A plan prepared in accordance with the requirements set forth in 24 CFR Part 91 which describes community needs, resources, priorities and proposed activities to be undertaken under certain HUD programs, including CDBG.

B. **Contractors** - A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.

C. **DOL** – *Department of Labor* – The Federal department of the Unites States government that is responsible for labor regulations and requirements.

D. **EEO** – *Equal Employment Opportunity* – Laws and regulations that require CDBG recipients to provide equal opportunity to all individuals without regard to race, color, religion, age, familial status, disability, national origin, or sex in the administration of their programs.

E. **Extremely Low Income** – Under CDBG regulations, a household/family having an income equal to or less than the Section 8 Very Low Income limit (30 percent of the area median income) as established by HUD.

F. **Fair Housing** – Multiple laws and regulations applied to the CDBG program that prohibits a wide range of discriminatory practices and requires the CDBG program to be administered in a manner which affirmatively furthers fair housing.

G. **Family** – All persons living in a household who are related by birth, marriage, or adoption.

H. **Grantee** – See Recipient.

I. **HOME-**Home Investment Partnership Funds, The Federal entitlement program that provides funds to states and cities/counties to aid in the assistance of affordable housing.

J. **Household** – All the persons who occupy a housing unit. The occupants may be a single family, one person living along, two or more families living together, or any groups of related or unrelated persons who share living arrangements.

K. **HUD** – *The United States Department of Housing and Urban Development*. HUD establishes the regulations and requirements for the CDBG program and exercises oversight responsibilities for the use of CDBG funds.

L. **LMI** – *Low and Moderate Income* - A household/family having an income equal to or less than, the Section 8 Low Income limit (80 percent of the area median) as established by HUD.

M. **Local match** – non-Federal funding provided by a community/recipient as a condition of award or use of HOME funds. The amount of local match amount is 25% for each HOME eligible activity receiving funding. The match can come from a variety of non-grant, cash sources.

N. **Low income** – Under HOME regulations, a household/family having an income equal to or less than the Section 8 Very Low Income limit (50 percent of the area median income) as established by HUD.

O. **MBE/WBE** – *Minority Business Enterprise / Woman-owned Business Enterprise*; Companies owned by minorities and/or women.

P. **Moderate Income** – Under CDBG regulations, a household/family having an income equal to or less than the Section 8 Low Income limit (80 percent of the area median), but greater than the Section 8 Very Low Income limit (50 percent of the area median) as established by HUD.

Q. **National Objective** – The three main goals of the CDBG program – benefit LMI individuals, prevent or eliminate slum/blight, or meeting a particular urgent need. All funds expended under the program must meet one of the three National Objectives.

R. **OMB** – *Office of Management and Budget* – The oversight agency for matters relating to financial management and audits. OMB requirements are issued in the form of “circulars.”

S. **Project Development** – The Division within the West Virginia Development Office that processes requests for payments for CDBG funds and monitors financial aspects of program implementation and reviews audits.

T. **Recipient** – Eligible localities and agencies that receive and use HOME Program funds under the State of Howard County’s HOME Program. Commonly referred to as “Grantee”.

U. **Regulations** – The requirements developed and issued by the agency responsible for specific programs and/or requirements. For the HOME Program, regulations are issued by HUD and are codified at 24 CFR Part 92.

V. **RFP** – *Request for Payment* – The formal process of requesting payment of HOME Program funds from Howard County’s Department of Housing and Community Development. RFP can also refer to procuring a Request for Proposal.

W. **Section 3** – The Housing and Urban Development Act of 1968, as amended in 1992, that requires employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low and very low income persons; particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

X. **Statute/Statutory** – Requirements that have their basis in laws passed by Congress. For CDBG, the statute is Title 1 of the Housing and Community Development Act of 1974. Statutory provisions cannot be waived by HUD except in cases of natural disaster and must be amended or approved by Congress.

Y. **Sub-recipient** – Sub-recipients are government or private nonprofit organizations chosen by the Grantee to undertake certain eligible HOME activities. Sub-recipients may also be referred to as sub-Grantees.

Z. **URA** – *Uniform Relocation Act* – A Federal regulation governing the acquisition of real property and the relocation or displacement of persons from federally-assisted projects.

AA. **Very Low Income** – Under HOME Program regulations, a household/family having an income equal to or less than the Section 8 Low Income limit and that does not exceed 50 percent of the area median income.

BB. **ABA** – Architectural Barriers Act of 1968

CC. **ADA** – Americans with Disabilities Act

DD. **AFFH** – Affirmatively Furthering Fair Housing

EE. **AI** – Analysis of Impediments to Fair Housing

FF. **CAPER** – Consolidated Annual Performance Evaluation Report

GG. **CFR** – Code of Federal Regulations

HH. **PI** – Program Income

II. **PJ** – participating Jurisdiction (in the HOME program)

JJ. **Title VIII** – Title VIII of the Civil Rights Act of 1968 (also known as the Fair Housing Act)

KK. **URA** – Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

LL. **WBE** – Woman-owned Business Enterprise

7. Project Review, Application Process and Project Selection

Howard County's program year begins July 01 and runs through June 30 of the following year. A *Public Notice* is published in the local newspapers and on the County's website around December of each year announcing the anticipated available funding and notifying nonprofits of the application process for the upcoming program year. However, funding amounts are announced and estimated based on the anticipated federal budget. The actual amounts are typically provided from HUD prior to when Howard County begins writing the Annual Action Plan. Adjustments are made to award amounts to reflect the correct formula allocation for the upcoming program year. Consideration of funding amounts will be made on a case by case basis in keeping with the intent of the requirements of the HOME Program and available funding.

ANNUAL PROJECT APPLICATION PROCESS

All HOME Program Funds are allocated based on the review and recommendations pertaining to applications submitted to the County through a yearly funding process.

Funding provided by the process will be awarded for the upcoming fiscal year (July 1- June 30). However, no contracts/agreements for funding can be executed until DHCD has executed funding agreements with HUD, which may be as late as September of the program year.

This is a competitive application process for limited funding; therefore, applications that meet all criteria are not guaranteed an award of funds and successful applications may be funded for less than the amount requested. Funding requests may be adjusted based on underwriting, subsidy layering reviews, the County's determination of the financial gap, proven market-based demand and economic growth.

Applications may be submitted during the course of the program year if no applications were received as part of the yearly funding process.

APPLICATION PROCESS

Applications are made available in January for the next fiscal year allocations. The applications are due in February. Applications are submitted through the DHCD staff located at 6751 Columbia Gateway Drive, Columbia MD 21046 where they are date and time stamped.

Agencies that are currently receiving County CDBG funds, who are also applying for HOME funds, must be in compliance with all terms of their current agreement(s) and must not have any outstanding audit findings, monitoring findings or concerns as determined by the County.

DHCD may adjust funding requests based on underwriting, subsidy layering review, revised determination of the financial gap, revised evaluation of the DHCD proportionate, share proven market-based demands and economic growth.

No work on the project may begin nor can HOME Program funds be released until the environmental review process has been completed in accordance with the provisions of the National Environmental Policy Act of 1969 and the related authorities listed in HUD's Regulations at 24 CFR Parts 50 and 58. Ifa development site is purchased or under a purchase agreement prior to or during the funding round, the purchase must not be subject to the receipt of DHCD funding.

The applicant may be ineligible to be considered for funding if, in DHCD's discretion, the applicant has demonstrated an untimely use of previously awarded HOME funds. The applicant shall not exclude any organization or individual from participation under any program funded in whole or in part by HOME Program funds on the grounds of age, disability, race, creed, color, national original, familial status, religion or sex. No applicant, clients or contractors that have been suspended or debarred under HOME (debarred list at http://epls.arnet.gov) or any other federal program may receive HOME funds.

PROJECT SELECTION

Applications submitted will be reviewed by Howard County Housing staff that may elect to use a committee of reviewers, to ensure that all aspects of potential HOME projects are evaluated from a multidisciplinary perspective. Recommendations on which projects to fund will be based on review and ranking of the projects and on the availability of HOME funds.

Incomplete applications or projects that cannot meet these requirements will not be considered for HOME funding. Instead, these applications will be withdrawn from consideration, and the applicant will be notified of areas of improvement needed in their application so that it may be resubmitted in the future if so desired by the applicant.

For any project to be considered for CHDO set-aside funding, whether the CHDO is the owner with one or more individuals, a corporation, a partnership or other legal entity, the CHDO MUST be the managing general partner with effective decision making control.

PROJECT APPROVAL

Once staff has completed the review and ranking, conditionally funded projects will be notified. A public hearing on the conditionally funded projects will be held in April. The general public, project beneficiaries and project applicants will be afforded the opportunity to speak on the recommended project list. Once the County Council approves the County's Annual Action Plan, awards will be finalized.

Post Award Requirements

Projects and programs awarded funding must:

- Enter into a funding agreement within 24 months;
- Begin to expend funds within 12 months of executing a funding agreement;
- Expend all funds within 24 months of allocation;
- Complete relocation surveys, if applicable, within 90 days of obtaining site control, if the previous owner denies access to complete this activity, then the surveys must be completed within 90 days of assuming management control; and
- Must not conduct any activity at the project site until the HUD required environmental review has been completed.

8. Scoring of Grant Applications

- Each application is reviewed by staff for completeness; ensuring that all requested supportive documents are submitted.
- The application review is completed by a grant review committee (GRC) composed of Howard County employees. The GRC members score each application, and discuss with the Grants staff.
- The applications are scored and then prioritized and provided to the Director of the Department who then presents to the County Council for approval.

9. Funding Priority

Funding priority will be given to projects that;

- Impact a significant number and/or percentage of low- and moderate-income persons;
- Projects that help end homelessness;
- Meet the strategic plan objectives provided in the Consolidated Plan;
- Have adequate community support, and support an identified community need;
- Maximize the use of outside funds, match and services which are coordinated with other public and private efforts;
- Established means for program evaluation and accomplishment tracking;
- Are clearly defined as to scope, location, need, budget, goals;
- Demonstrate the applicant has the capacity and the capability to carry out the project successfully;
- Connection with employment in the community; and
- Can begin immediately and finish within the contracted time.

10. HOME Agreements

Howard County will initiate a HOME Agreement and other supporting documents based on the nature of the activity. Agreements are typically not signed until late August or September except in the case of acquisition activities. In the latter, the HOME Agreement is signed after the proposed property has successfully passed an environmental review. Any expenditures or work initiated prior to receiving a signed copy of the Agreement will not be approved.

11. Eligible Activities

Eligible costs depend on the HOME activity. HOME funds may be used for acquisition, new construction or rehabilitation of affordable rental housing. The 2013 HOME Rule adds language to paragraph 92.205(a)(1)to clarify that activities and costs are eligible for HOME funding only if the housing meets the property standards in 92.251 upon project completion. The developers or owners of the rental housing may be small-scale property owners, for-profit developers, nonprofit housing providers, CHDOs, the unit of local government, redevelopment organizations or a public housing agency such as the Howard County Housing Commission. DHCD staff only considers projects for HOME funds that are pursuing eligible activities. DHCD staff provides HOME funding only for eligible HOME rental housing costs which include hard (construction, rehabilitation) and soft costs (fees, insurance, appraisals) as detailed below:
All eligible uses of HOME funds are described in 24 CFR 92.206.

Hard Costs

- Acquisition of land *(for a specific project which will begin within 12 months of project commitment)* and existing structures;
- Site preparation or improvement, including demolition;
- Costs to make utility connections;
- Securing buildings; and
- Construction materials and labor

Soft Costs

- Financing or Surety fees;
- Credit reports;
- Title binders and insurance;
- Recordation fees, transactions taxes;
- Legal and accounting fees, including cost certification;
- Appraisals;
- Architectural/engineering fees, including specifications and job progress inspections;
- Environmental reviews and release of funds which are directly related to the project;
- Builders' or developers' fees;
- Affirmative marketing, initial leasing and marketing costs; and
- Operating deficit reserves (up to 18 months) – *see specifics below*.

Relocation Costs

- Payment for replacement housing, moving costs and out-of-pocket expenses;
- Advisory services; and
- Staff and overhead related to relocation assistance and services

Operating deficit reserve

This reserve is meant to meet any shortfall in project income during the project rent-up period and cannot exceed 18 months. The reserve can be used only for project operating expenses, scheduled payments to replacement reserves and debt service. Reserves remaining at the end of 18 months may be retained for reserves in the project at the Department's discretion. The disposition of any remaining funds at the end of the 18-month period must

Note on Related Soft Costs*:* Reasonable and necessary cost incurred by the owner or Howard County, the PJ, 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:

- 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 month 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.

- 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, attorney fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees.

- Cost of a project audit, including certification of costs performed by a certified public accountant, that the Howard County may require with respect to the development of the project.

- Cost to provide information services such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by 92.351.

- 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 expenses, schedule payments to a replacement reserve, and debt services. 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 Howard County, the participating jurisdiction.

- Staff and overhead costs of Howard County 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*.

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

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

12. Ineligible Activities

HOME funds may not be used to provide a project reserve account (except as allowed in section 92.206(d) (5) of the regulations) or operating subsidies; tenant based rental assistance with an existing Section 8 program; non-federal matching contributions for other federal programs; annual contributions to the operations of public housing; and other prohibitions as outlined in section 92.214 of the HOME regulations. The County will not use HOME funds for any of these activities.

13. HOME Program - Subsidy Layering

Subsidy Limits

Each project funded with HOME must be evaluated to ensure that no more HOME funds are invested in the project than are necessary to provide affordable housing. The County prefers to fund projects that are successfully leveraging various funding sources. Before committing funds, if a project has multiple funding sources, an evaluation must be made to ensure that the HOME funds, in combination with other governmental funds, do not exceed what is necessary to provide affordable housing. This is generally referred to as the "subsidy layering review." Howard County must conduct a subsidy layering review prior to the award of any funds. DHCD staff will evaluate the reasonableness and need for the requested assistance by analyzing pro-formas, showing the full length of affordability period, for cash flow, debt –coverage ratios, and the appropriateness of fees charges with and without the HOME funds.

Forms of Subsidy

HOME allows virtually any form of financial assistance to be provided for eligible projects and to eligible beneficiaries. The County will determine what forms of assistance it will provide. Some forms of assistance will require legal instruments for implementation. HOME regulations list the following forms of assistance as eligible:

- **Interest or non-interest bearing loans or advances:** These loans are amortizing loans, with or without accruing interest. Repayment is expected on a regular basis so that over a fixed period of time all of the principal and interest is repaid. The term of the loan may vary and the property or some other assets are used as collateral.

- **Deferred Loans (forgivable or repayable):** These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred until some point in the future. Deferred loans can be structured in a variety of ways and terms may differ greatly. Deferred payment loans use the property or some other form of collateral as security for repayment.

- **Grants:** Grants are provided with no requirement or expectation of repayment. They require no liens on the property or other assets.

- **Interest Subsidies:** This is usually an up-front discounted payment to a private lender in exchange for a lower interest rate on a loan.

- **Equity Investments:** An investment made in return for a share of ownership. Under this form of subsidy, the PJ acquires a financial stake in the assisted property and is paid a monetary return on the investment if money is left after expenses and loans are paid.

- **Loan Guarantees and Loan Guarantee Accounts:** HOME funds may be pledged to guarantee loans or to capitalize a loan guarantee account. A loan guarantee or loan guarantees account ensures payment of a loan in case of a default.

MINIMUM AMOUNT OF HOME ASSISTANCE

The minimum amount of HOME assistance that must be invested in a project involving rental housing or a homeownership project is $1,000 times the number of HOME-assisted units in the project. The minimum amount does not apply to tenant based rental assistance.

MAXIMUM PER UNIT SUBSIDY

The *maximum per unit* HOME varies by metropolitan area and is based on Section 234 Mortgage limits. Each year, HUD calculates these maximum amounts by area. Current subsidy limits may be obtained by contacting the HUD Baltimore CPD (Community Planning and Development) Representative or CPD Director. Under the regulation, the maximum limit relates to the HOME funds; but DHCD staff will also utilize the subsidy limit to evaluate the number of units required in the project based upon the total HOME funding in the project.

ALLOCATING COSTS

Before determining the allowable HOME subsidy amount, DHCD staff will establish the total HOME-eligible costs for the project. HOME funds may be used to assist one or more housing units in a multi-unit project. Only the actual HOME eligible development costs of the assisted units may be charged to the HOME program. If the assisted and non-assisted 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 pro-rating 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. Costs included in the budget are used for allocating costs. Since floating units, by definition, must be comparable, costs should always be pro-rated if HOME units float.

PROJECT EVALUATION

Before the County invests HOME funds in a project, it will assess if other governmental assistance that has been, or is likely to be made available to the project. In performing this evaluation, the County will consider the aggregate amount of assistance from HUD and other sources that is necessary to insure the project's feasibility. T he analysis includes:

- Project budget with all expenses
- Sources and Uses
- Property information
- Review of tax credit application, awards and syndication costs
- Eligible costs
- Developer fees
- Operating expenses
- Vacancy rates
- Debt ratio
- Performa

14. Environmental Review

As part of the contract preparation process, the County will conduct an environmental review under the National Environmental Policy Act (NEPA). No funds will be formally committed nor expended until the completion of the NEPA.

To expedite the process, the County proceeds with the required environmental review and information gathering prior to the Agreement being signed. The sub recipient may be required to furnish data, information and assistance as part of the environmental review.

Completion of the environmental review process is mandatory, before taking any choice-limiting actions, including the expenditure or commitment of either federal or non-federal funds.

Prohibited actions include any physical action on a site such as demolition, movement, rehabilitation, conversion, repair or construction. Further the agency may not execute a construction contract prior to environmental clearance.

15. Acquisition with Relocation

Federal law regarding acquisition and relocation is complex and involves an extensive series of notifications and actions within prescribed timelines. Rigorous documentation and recordkeeping standards are also outlined. Therefore, an agency considering such action ***must contact the County prior to any choice-limiting actions***. Choice-limiting actions include, but are not limited to the expenditure or commitment of either federal or non-federal funds, or execution of any contract. Howard County's staff will work closely with any applicant pursuing such a project.

For more information see:

Federal Register /Vol. 73, No. 142 /Wednesday, July 23, 2008 /Notices **42895**
Section 104(d) of the Housing and Community Development Act of 1974, as amended Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended.

24 CFR	42	Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs
24 CFR	92.353	Displacement, Relocation, and Acquisition
24 CFR	570.606	Displacement, Relocation, Acquisition, and Replacement of Housing
49 CFR	24	Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs
42 USC	Chapter 44	Sec. 3537 (c) Prohibition of Lump-sum Payments

16. LEVERAGING OTHER FUNDS

Howard County encourages the leveraging of funds from both public and private resources to finance projects. HOME Program funds are used as gap funding. Further, the County will work with applicants to assist in applying for all available funds and leveraging other resources to implement the housing strategies and programs.

Applicants must document funding commitments and leverage sources. In addition, applicants must disclose other funding requested and the status of that request. All funds necessary for the development of a project must be committed within 12 months of this award. The County will not execute documents until all funding commitments are confirmed.

17. HOME Program- Matched Resources

The HOME program requires participating jurisdictions to have a match of at least 25%. Sources of match can be cash, donated land or real property, infrastructures improvements, bonds issued by state or local government, donated materials, equipment, or professional services, sweat equity, and the value of foregone taxes.

18. HOME Program – Resale/Recapture

Howard County administers the federal HOME program which establishes a funding mechanism to assist low income persons achieve homeownership. The HOME Loan and Regulatory agreements will contain a recapture clause.

The County may demand payment in full for any of the following reasons. The specific criteria is detailed in the deed and note attached to the property.

- Change of use of the property;
- Transfer of all or any part of the property or interest in the property;
- Homebuyer does not maintain principal residency; and
- Failure to uphold the affordability period.

19. Loan Terms

Howard County Department of Housing and Community Development (DHCD) provides assistance to rental projects as grants or loans with specific terms and restrictions incorporated on a project-by-project basis. Below is an outline of the types of loans awarded by the County.

- The loan shall be secured by a Promissory Note and/or Deed of Trust;
- Loan terms are finalized at time of project negotiation; and
- Loan amounts are based on project budget and capacity for debt.

LOAN SERVICING AND DELINQUENT PAYMENTS

Howard County's Finance Department (finance) services all loans. Finance informs HOME staff of any delinquent payments, when applicable. County staff will work with property owner regarding rectifying any delinquency. If necessary, legal remedies will be pursued.

DEFERRED PAYMENT LOANS

These loans are available to borrowers who are utilizing the Settlement and Down payment Loan Program (SDLP) and have a household income of less than 80% of area median income. There are no pre-payment penalties. The Deferred Payment Loan is due and payable when one or more of the following occurs:

- A change in property ownership,
- Refinance; and
- Termination of owner occupancy.

Please note: If an application for a loan is denied, the applicant must wait one year from the date of denial before submitting another application for the Housing Rehabilitation Program.

FORGIVABLE LOANS/ NON-PROFIT AGENCY LOANS

These loans can be forgiven or deferred for a period of time if the borrower is in compliance with the terms and conditions of the loan. This type of loan is typically used with non-profit organizations that create affordable housing projects. Loans are negotiated at time of contract with general terms are generally at 1-3% with a 5-20 year amortization. Repayments are always expected on income producing properties.

20. Period of Affordability

HOME-assisted units must meet affordability requirements as required by the HOME regulations. Affordability periods begin with the completion of the project and affordability requirements apply regardless of the term of the project's loan, mortgage or transfer of ownership. Affordability requirements will be imposed by deed restrictions, covenants running with the land, or other mechanism approved by HUD. The affordability period is the length of time during which the HOME requirements apply to a HOME-assisted property. The affordability period can be 5, 10, 15, or 20 years, depending on the type of HOME project and the average per unit HOME investment.

The affordability period will be determined by the amount of funds invested in a project. DHCD has the right to require a minimum affordability period beyond that required by HUD. The affordability period should be thought of as the "compliance period." Throughout the period of affordability the owner must enforce funding requirements. Howard County DHCD will monitor to ensure compliance.

HOME affordability periods are minimum requirements. DHCD may, at its sole discretion, establish longer terms of affordability. The affordability period for each project is clearly defamed in each HOME written agreement.

The HOME Rule does allow for termination of affordability restrictions upon foreclosure or transfer in lieu of foreclosure as a means to encourage lenders to participate in the HOME program. However, Howard County must repay the U.S. Department of Housing and Urban Development if HOME-assisted housing fails to meet the affordability requirements for the full affordability period without regard to the term of any loan or mortgage or the transfer of ownership, even in the event of foreclosure, transfer in lieu of foreclose or assignment to the U.S. Department of Housing and Urban Development. Therefore, the Department will require grantees to repay DHCD the full amount of the HOME funds drawn for projects where affordability requirements are not met in full.

DHCD typically uses a regulatory agreement and/or a deed of trust which are recorded to enforce rent and occupancy agreements. Covenants and deed restrictions may be suspended upon transfer by foreclosure or deed-in-lieu of foreclosure.

Amount of HOME funds	Affordability Period
Under $15,000	5 years
$15,000-$40,000	10 years
Over $40,000	15 years

AFFORDABLE RENTAL HOUSING

- The rental property owner must comply with the HOME requirements, including rent limits,tenant income limits, tenant lease protections, affirmative marketing, and property standards;
- Affordability requirements apply without regard to the term of any mortgage or loan, or transfer of ownership;
- Throughout the period of affordability, income eligible households must occupy the assisted units;
- When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent.

AFFORDABLE HOMEOWNERSHIP HOUSING

As defined by HOME regulations, affordable housing for homeownership is single-family housing that is a 1- to 4-unit residence, a condominium unit, a cooperative unit, a combination of manufactured home and lot, or a manufactured home lot. HOME-assisted homeownership housing must meet a period of affordability based on the amount of HOME funds invested in the project. The minimum periods of affordability per unit are as shown in the table below:

If the homeowner does not maintain principal occupancy during the entire affordability period, Howard County will recapture the federal funds associated with the unit. Howard County must ensure that 100% of all HOME funds made available during a program year that are invested in homeownership projects benefit households defined as low-income by HUD.

21. HOME Program- Tenant Leases

DHCD's HOME Program Specialist reviews each project's lease and tenant selection plan to ensure HOME compliance. Any agency, non-profit or sub recipient receiving HOME Program funds must enact specific tenant protections; some of which are outlined below.

Leases must be for not less than one year, unless by mutual agreement between the tenant and the owner. The Department will review the lease term on a case by case basis.

Leases may not contain any of the following provisions enumerated at 24 CFR 92.253:

1. 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. 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. However, the owner may dispose of personal property left by a tenant in accordance with state law;
3. 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. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
5. 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. Agreement by the tenant to waive any right to a trial by jury;
7. 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; and
8. 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.

LEASE TERMINATION POLICIES

An owner may not terminate or refuse to renew the lease except for the following reasons:

- Serious or repeated violation of the terms and conditions of the lease;
- Violation of applicable federal, state, or local law;
- Completion of the tenancy period for transitional housing; and
- Good cause.

To terminate or refuse to renew tenancy, the owner must serve written notice specifying the grounds for the action at least 30 days before the termination of tenancy.

TENANT SELECTION POLICIES

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

- Are consistent with the purpose of providing housing for very low-income and low- income families;
- Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
- Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
- Give prompt written notification to any rejected applicant of the grounds for any rejection.
- Are consistent with the purpose of providing housing for very low-income and low-income families.
- Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease.
- Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable.
- Give prompt written notification to any rejected applicant of the grounds for any rejection.

22. Tenant Based Rental Assistance (TBRA)

Tenant based rental assistance is a rental subsidy that can be used to help individual households afford housing costs such as rent and security deposits. TBRA may also assist tenants with utility deposits, but only when HOME Program funds are also used for rental assistance or security deposits.

For each HOME allocation, 90% of the occupants of HOME assisted rental units and households assisted with HOME funded TBRA must have incomes that are 60% or less of the area median. TBRA programs require annual re-certification of income.

For TBRA programs, source documentation is required for initial and all subsequent income verifications. For rental projects, the requirement for annual income re-certification can be fulfilled with tenant self- certification. Self-certification must include a statement that provides 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. Income must be verified with source documentation every fifth year.

23. Rental Housing Policies

General Program Rules

Before any funds are released, an agreement will be signed between DHCD and the recipient. The agreement will satisfy Federal requirements and establishes the terms under which the funding is being provided. Funds will not be released until a funding agreement is executed.

Funding Agreements will establish a minimum affordability period that is typically not less than 5 years and will at minimum meet the HOME guidelines for new construction. DHCD wants to ensure a permanent stock of affordable housing and may require longer affordability periods than is required by HUD regulations.

Project funding will be limited to the amount necessary to facilitate completion of the project and will not exceed a proportionate share of costs in a project with floating units. All costs must be in direct relation to DHCD assisted units and supporting documentation of all expenditures is required for all costs being paid for with the DHCD funding. With the exception of acquisition and financing costs, DHCD funds are available as reimbursement for eligible expenses. Documentation must be provided for any cost re-imbursement.

Eligible Property Types

HOME rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management and financing. The project must be assisted with HOME funds as a single undertaking. The project includes all activities associated with the site or building.

HOME funds may be used to assist mixed-income projects (but, only HOME-eligible tenants may occupy HOME-assisted units). Transitional as well as permanent housing projects, including group homes and Single Room Occupancy (SRO) projects, are allowed. There are no preferences for project or unit size or style. For group homes, the rent for the project is based on the number of bedrooms in the project which is then split (pro-rata) share between tenants.

Properties previously financed with HOME during the affordability period cannot receive additional HOME assistance unless assistance is provided during the first year after project completion. HOME funds may not be used for operations or modernization of public housing projects financed under the Housing Act of 1937. DHCD will not fund these ineligible property types.

DETERMINING HOME-ASSISTED UNITS

The HOME Program distinguishes between the units in a project that have been assisted with HOME funds and those that have not been assisted. This distinction between HOME-assisted and unassisted units allows HOME funds to be spent on mixed-income projects while still targeting HOME dollars only to income-eligible households. HOME may only pay actual costs of HOME-assisted housing. The HOME rent and occupancy rules apply only to HOME-assisted units. In general this designation will be based on the actual HOME investment in a unit or project. The number of HOME-assisted units in a project must be specified in the HOME Loan Agreement or Regulatory Agreement. HOME rules create a floor for the number of HOME-assisted units a project must have which is based on the proportional share of total eligible costs to be paid with HOME funds. Howard County DHCD may require a higher number of HOME-assisted units in a project. Some projects may consist of only HOME-assisted units.

Fixed and Floating Units

For properties with both assisted and non-assisted units, DHCD specifies in the HOME Agreement whether the units are "fixed" or "floating". This designation cannot be changed after the initial contract has been executed.

a) Fixed

When HOME-assisted units are "fixed," the specific units that are HOME-assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change. Designating fixed units allows the project to have a composition of HOME-assisted units by unit size (number of bedrooms) that varies from the composition of non-HOME assisted units by unit size (number of bedrooms). In other words, a project with two three-bedroom units and four four- bedroom units could "fix" one three-bedroom unit and one four-bedroom units as HOME-assisted.

b) Floating

When HOME-assisted units are "floating," the units that are designated as HOME-assisted may change over time as long as the total number of HOME- assisted units in the project remains constant. HOME-assisted floating units must represent the same percentage of all comparable unit sizes in the project. In other words, a project with two three-bedroom units and four four-bedroom units could "float" one three-bedroom unit and two four-bedroom units (thus "floating" fifty percent of each unit size in the project.

The floating designation gives the owner some flexibility in assigning units, and can help avoid stigmatizing the HOME-assisted units. If the floating designation is used, the owner must ensure that the HOME-assisted units remain comparable to the non-assisted units over the affordability period in terms of size, features and number of bedrooms.

MAXIMUM PURCHASE PRICE

Housing purchased with HOME funds must be modest housing as defined by HUD in the HOME Program regulations. In the case of acquisition of newly constructed housing or existing housing, the housing must have a purchase price for the particular type of single-family housing to be purchased that does not exceed 95% of the median purchase prices for the area. Howard County will ascribe to the maximum purchase price as established from HUD's for the Baltimore-Towson MSA as follows:

- When HOME funds are used to build or to acquire newly constructed housing or standard housing for homeownership, the housing must have a purchase price for the type of single family housing that does not exceed 95 percent of the median purchase price for the area. [92.254(a)(2)(i)]
- When HOME funds are used to acquire housing with rehabilitation for homeownership, the housing must have an estimated property value after rehabilitation that does not exceed 95 percent of the median purchase price for the area. [92.254(a)(2)(ii)]

- When HOME funds are used to rehabilitate housing which is currently owned by a family, the housing must have an estimated property value after rehabilitation that does not exceed 95 percent of the median purchase price for the area. [92.254(b)(1)]

Note: Every homebuyer must receive homeowner housing counseling.

24. Financial Management

Howard County requires all subrecipients to comply with the requirements and standards of OMB Circular 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements", as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis. Additionally, as part of these requirements all subrecipients must conduct annual audits.

DHCD operates on a fiscal year of July 1 through June 30. Planning for each fiscal year begins the previous January with requests for proposals released and due in February. Funds are estimated to be available after July 1st, with the understanding that no contracts/agreements can be executed until DHCD has executed funding agreements with HUD, which could be as late as September of the fiscal year.

25. Administration and Monitoring

AMENDING DOCUMENTS

HOME loan agreements are fully executed between the County and the project prior to a project's set- up in IDIS and any HOME funds being disbursed. Loan agreements may be amended by mutual agreement of the parties for changes in terms, for the receipt of additional funds, or changes in project scope. However, agreements will be automatically amended if so required to ensure compliance with regulations.

OTHER DOCUMENTS

Other types of documents may be executed as conditions of funding and may include mortgage and loan agreements, deed restrictions and other use agreements between Howard County and the owner, property management agreements between the owner and property manager, and asset management agreements between the owner and asset manager.

Examples include:

- Mortgage and loan documents are signed at closing and contain the financial terms and conditions of the loan;
- Deed restrictions and other use agreements will be used to place specific restrictions on the property; and
- Property management agreements detail the specific responsibilities of the property manager.

Copies of management agreements executed assigning the management responsibility of DHCD funded projects must be provided to DHCD prior to the release of retention or within 15 days of execution, whichever is later.

MONITORING

The development process will be monitored by DHCD staff through the draw process, including reviewing draw or reimbursement requests, cost estimates, construction contracts and construction documents. PJs must also conduct construction progress and final inspections to ensure that the work is done appropriately.

The initial monitoring, completed upon lease-up, includes reviewing 100 percent of client files and inspecting 15 to 20 percent of assisted units.
During the affordability period the project will be inspected and monitored annually for compliance with funding requirements, which will include a review of management

processes, a file review, and a physical inspection of the property and assisted units. HOME During the affordability period all assisted units must be in compliance with rent and income limits DHCD requires that agencies submit a Rental Housing Project Compliance Report annually until the end of the project's affordability period, submit an annual certification that the project and its units are suitable for occupancy,and submit rents for approval.

Also, annually, the PJ must examine the financial condition of HOME-assisted rental projects with **10 or more** HOME-assisted units to determine the continued financial viability of the project.
After the HUD-required affordability period ends, the Federal HOME requirements no longer apply.

HOME properties will be monitored in according to the total number of units in a project as follows:

Number of Units	Inspection Required	Units Inspected
1 to 4	Every 3 years	100%
5-25	Every 2 years	20% or 4 HOME units minimum
26 or more	Annually	20% or4 HOME units minimum

Note: DHCD reserves the right to inspect the properties more frequently than the HOME rule requires

Grantees are expected to keep adequate records to document and demonstrate compliance of all requirements including:

- The project is Affirmatively Marketed to qualified applicants; Plan must be in place and reviewed;
- Tenants are screened for eligibility;
- Rent and occupancy targets are observed;
- Adequate property maintenance is conducted; and
- Proper internal controls and financial management

26. Community Housing Development Organizations (CHDOs)

A Community Housing Development Organization (CHDO) is a private non-profit, community- based service organization that has obtained or intends to obtain staff with the capacity to develop manage and/or sponsor affordable housing. Further information on the regulations regarding CHDOs, can be found in the Code of Federal Regulations Title 24 at Part 92.300.

REGULATORY REQUIREMENTS FOR CHDO CERTIFICATION

In order to receive HOME funding under CHDO guidelines, an organization must:

- Submit a complete application with up to date supporting documentation to the County *for every project that the CHDO seeks funding for*
- Receive certification approval from the County
- Demonstrate a history of serving the community and have a clearly defined geographic service area
- Document that at least one-third of its governing board is composed of residents of low- income neighborhoods or elected representative of low-income neighborhood organizations;
- Organized under State/Local Law: The nonprofit organization must show their articles of incorporation as evidence of being organized under state and local law.
- IRS Nonprofit Status: Organizations must have a 501(c) (3) non-profit status of exemption letter of certification from the Internal Revenue Service (IRS).
- Purpose of Affordable Housing: Providing decent and affordable housing must be the organization's primary purpose as evidenced by the organization's Charter, Articles of Incorporation, By-laws or a Resolution of the CHDO's board of directors.
- Service Area: The organization's service area must be Howard County or a smaller area within Howard County and this must be in its Articles of Incorporation and/or By-laws; a map of the service area must be attached to the organization's CHDO application.
- Board Representation: The board of directors must contain no more than 1/3 representation from the public sector and a minimum of 1/3 representation from the low- income community it serves.
- For-Profit Sponsorship: CHDOs may be sponsored by for-profits; however, the CHDO cannot be controlled by the for-profit and must be free to contract for goods and services. The primary purpose of the for-profit cannot be housing ownership/management as evidenced by the for-profit's Articles of Incorporation. For profit organizations and/or their appointees can only make up 1/3 of the board of directors, *but they cannot serve as officers or employees of the CHDO (2013 Rule).*
- If sponsored by a religious organization, the CHDO must be a separate secular entity from the religious organization, with membership available to all persons, regardless of religion or membership criteria, as evidenced by by-laws, charter, or articles of incorporation.
- Low-Income Input: A formal process that is described in the By-laws or Resolutions has been established and implemented for low-income program beneficiaries from the organization's service area to advise the organization in all of its decisions regarding affordable housing projects.
- Serving the Community: A minimum of one year of relative experience serving the community where the organization intends to develop affordable housing must be demonstrated. This must be demonstrated via letters of community support and a narrative description of the organization's community activities.
- Accounting Standards: The organization must meet and adhere to financial accountability standards found in 24 CFR 84.21.
- Organizations having revenues in excess of $300,000 MUST submit an audit

performed by a Certified Public Accountant, along with their most recently filed IRS Form 990. Organizations having income less than $300,000 MUST submit the most recently filed IRS Form 990.

- Benefit No Individual: No part of the CHDO's profits may benefit any members, founders, contributors, or individuals. This requirement must be in the Articles of Incorporation.

Capacity and Experience

To qualify as a CHDO, the 2013 Rule requires that a nonprofit have paid employees with housing experience appropriate to the role the nonprofit expects to play in projects (i.e., developer, sponsor, or owner) in order to receive a CHDO designation.

Note: the definition of “owner” has been significantly revised in the 2013 Rule at 92.300. The Rule now permits a CHDO to own and operate housing that it does not develop. Therefore, a nonprofit that will undertake development activities must demonstrate development capacity. A nonprofit that will undertake property ownership and management must demonstrate ownership/management experience.

The requirement for development capacity can no longer be demonstrated through the use of consultants with development experience, except during the first year of operation as a CHDO, provided that the consultant trains *the CHDO staff.*

In addition, the capacity requirements cannot be met through the use of volunteers of staff that is donated by another organization. Consultants or volunteers can continue to fill occasional skill gaps or undertake activities that are required only on a periodic basis (e.g., project underwriting), but cannot be the basis of a determination that a nonprofit has the capacity to be designated as a CHDO.

Per HOME regulations funding is set aside for CHDO use as follows:

- 15 percent of total HOME funding allocation is reserved for CHDOs to develop, sponsor or own housing (Up to 10 percent of this 15percent may be used for project specific assistance; see additional information at Title 24 Section 92.301);
- Up to 5 percent of the total HOME funding allocation *can* be used directly for operating expenses for a CHDO per fiscal year, contingent upon the CHDO entering an agreement to use HOME funds to develop, sponsor or own housing within 24 months;

Howard County Requirements for CHDO Certification

In addition to the regulatory requirements from HUD, Howard County has established additional criteria for CHDO certification. The organization must:

- Maintain a record of good standing with the Maryland Secretary of State's Department of Assessment and Taxation Office

- Maintain no history of awarded CHDO funding being de-obligated or significant compliance findings on its Howard County funded projects.

The criterion above is not all-inclusive and Howard County may require additional information prior to determining CHDO certification. Meeting the above requirements does not guarantee CHDO certification and/or CHDO funding. Howard County reserves the right to deny or revoke CHDO certification based on its evaluation of the organization's performance.

PROJECT DEVELOPMENT USING CHDO SET-ASIDE

A certified CHDO must be an owner, developer or sponsor of a HOME-eligible project to use CHDO set-aside funds. A CHDO may serve in one of these roles or in a combination of roles, such as being owner and developer.

OWNER OF RENTAL HOUSING

The CHDO is required to own (in fee simple absolute or long-term ground lease) multifamily or single family housing that is rented to low-income families. The CHDO must own the HOME project during development and throughout the period of affordability, and is required to oversee all aspects of the development process. At a minimum, the CHDO can own the property and hire a project manager or contract with a development contractor to oversee all aspects of the development.

Under the 2013 Rule at 92.300(a)(2), a CHDO is also permitted to acquire housing that is in standard condition provided it owns the housing throughout the affordability period.

- This new definition facilitates participation of community-based nonprofit organizations that have the capacity to own and operate affordable rental housing in their community, but do not have the capacity to develop such housing.
- Consequently, this new definition *creates additional opportunities* for nonprofits organizations to access the CHDO set-aside funds to address their neighborhoods' affordable housing needs.

DEVELOPER OF RENTAL HOUSING

A CHDO that is a "developer" of rental housing is the owner (in fee simple absolute or long-term ground lease) and developer of the project and must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-- HOME funds, selecting contractors, overseeing the progress of work, and determining reasonableness of costs. The CHDO must own the HOME-assisted housing during the development process and throughout the period of affordability.

This is a change from the pre-2013 Rule in that the CHDO must own the property; *it no longer has the option to be under contract with an owner to develop the property.*

SPONSOR OF RENTAL HOUSING

The 2013 Rule provides two definitions of a “sponsor” of HOME-assisted rental housing:

- 92.300(a)(4) clarifies the requirements for CHDOs to maintain effective project control when acting as “sponsor” of rental housing. A CHDO "sponsors" rental housing when the property is "owned" or "developed" by:
  a. A subsidiary of the CHDO (in which case the subsidiary, which may be a for-profit or nonprofit organization, must be wholly owned by the CHDO);
  b. A limited partnership (in which the CHDO or its wholly owned subsidiary must be the sole general partner); or
  c. A limited liability company (in which the CHDO or its wholly owned subsidiary must be the sole managing member).

  If the limited partnership or limited liability company agreement permits the CHDO to be removed as sole general partner or sole managing member, respectively, the agreement must require that the removal be "for cause" and that the CHDO must be replaced by another CHDO. In addition, HOME funds must be provided to the entity that owns the project.

  92.300(a)(5) codifies the pre-2013 Rule definition of “sponsor.” It states that a CHDO also "sponsors" HOME-assisted rental housing in situations in which the CHDO owns and develops the housing and agrees to convey the housing to a private nonprofit organization (that does not need to be a CHDO but cannot be created by a governmental entity) at a predetermined time after completion of the project development.
  - Such arrangements typically occur when a CHDO has development expertise and the nonprofit organization has the capacity to own and operate the housing.
  - The CHDO is required to own the property before the development phase of the project and is required to select the nonprofit organization before entering into an agreement with the PJ that commits HOME funds to the project.
  - The nonprofit organization assumes the CHDO's HOME obligation (including any repayment of loans) for the project.
  - If the property is not transferred to the nonprofit organization, the CHDO sponsor remains liable for the HOME assistance and the HOME project.

DEVELOPER OF HOUSING FOR HOMEOWNERSHIP

For HOME-assisted homebuyer projects, the housing is "developed" by the CHDO if it is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that is owned or will be acquired by the CHDO and rehabilitated for sale to low-income families in accordance with Part

92.254.

- To be the "developer," the CHDO must arrange financing for the project and be in sole charge of construction. As part of its set-aside funds, the CHDO can provide direct down payment assistance to a buyer of the housing it has developed with HOME funds in an amount not to exceed 10 percent of the amount of HOME development funds. In this role, the CHDO is not a subrecipient.

Note: Every homebuyer must receive homeowner housing counseling.

SET-ASIDE REQUIREMENT FOR CHDOS

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.

- Howard County must *certify* the organization meets the definition of a "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.
- **Note on reserving:** Funds are allowed to be committed, or reserved, when Howard County has a fully executed written agreement with the CHDO (or project owner as described paragraph 92.300(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.

AGREEMENT REQUIREMENTS

- The written agreement between Howard County and the CHDO must state the actual sales price of the housing or describe the method that will used to determine the sales price
- The written agreement must state whether the proceeds of the sale must be returned to the County, retained by the CHDO, and whether the proceeds must be used for HOME-eligible activities or other housing activities in accordance with 92.503.

Note: Funds that are recaptured during the period of affordability because housing no longer meets the affordability requirement under 92.254(a)(5)(ii) must be reinvested in HOME-assisted activities in accordance with Part 92.503.

ELIGIBLE AND INELIGIBLE USES OF CHDO SET-ASIDE FUNDS

A. CHDO acting as owner, sponsor or developer may use the 15 percent CHDO set-aside for the following activities:

- Acquisition and/or rehabilitation of rental or homebuyer property;
- New construction of rental or homebuyer property; and
- Direct financial assistance to homebuyers of HOME-assisted property developed or sponsored by the CHDO.

CHDO set-aside HOME funds must be used during the construction or rehabilitation of the property.

B. Ineligible CHDO Activities - Ineligible uses of the HOME CHDO set-aside are homeowner rehabilitation, tenant-based rental assistance (TBRA), and down payment and/or closing cost assistance to purchasers of housing not developed with HOME CHDO funds.

C. Operating Assistance – Howard County may choose to use up to 5 percent of its annual HOME allocation to provide funds for CHDO operating assistance. This allocation does not count toward the 15 percent set-aside funds used by CHDOs for projects. To be eligible for CHDO operating assistance, the CHDO must submit a funding application for a CHDO-eligible project and the funding must be available. Howard County is not required to provide operating assistance.

LIMITATIONS ON CHDO OPERATING FUNDS:

CHDO operating assistance may not exceed $50,000 each fiscal year, or fifty percent (50%) of CHDO's total annual operating expenses for that year, *whichever is greater*.

Operating funds are provided on a year-by-year basis provided funds are available and the organization has acceptable performance in the community. A certified copy of the CHDO's most recent operating budget must be submitted to Howard County to determine amount of assistance.

Howard County reserves the right to delay payment of operating funds if it is evident that the CHDO project is experiencing delays. Howard County reserved the right to reduce the amount of or not award operating assistance based on its evaluation of the CHDO's production and/or overall performance.

Eligible operating expenses (must be reasonable and necessary) are:

- Salaries, wages, benefits, and other employee compensation;
- Employee education, training and travel
- Rent and utilities;
- Communication costs;
- Taxes and insurance; and
- Equipment, materials, and supplies.

Reporting Requirement

Howard County will periodically evaluate the performance of any CHDO wishing to receive CHDO operating funds. When receiving operating funds, monthly performance reports are required. The reports must include information about the following:

- A report on the community involvement and participation in the CHDO with regard to beneficiaries of the projects as well as partner organizations and other entities involved in serving low-and moderate-income households.
- A description of what the receipt of the CHDO operating funds has enabled the CHDO to accomplish that would otherwise have been unable to achieve and a detailed narrative of specific uses of the CHDO operating funds

Technical Assistance Available to CHDOs

Staff members are available to assist CHDOs in structuring project proposals to best meet program requirements as well as to assist CHDOs in implementing these projects once they are funded.

Nonprofits (including CHDOs) may also be eligible to receive technical assistance from other organizations including:

- Training and Development Association;
- Maryland Department of Housing and Community Development; and
- HUD Baltimore Field Office.

27. Other Federal Requirements

For all HUD programs, there are many other requirements that must be met in addition to the specific HOME program requirements. Those who receive HOME funds must comply with these requirements and should be mindful of this during the preparation of their applications. The description and checklist of other federal requirements below is not all-inclusive. Applicants should refer to the HOME regulations for a complete list of other federal requirements.

Non-Discrimination and Equal Access Rules / Fair Housing and Equal Opportunity

Yes, must affirmatively further Fair Housing. Particular attention should be paid to signs of discrimination in leasing practices.

Regulatory Citations & References:

- 92.202 and 92.250
- Title VI of Civil Rights Act of 1964 (42 U. S. C. 2000d et. seq.)

- Fair Housing Act (42 U. S. C. 3601-3620)
- Executive Order 11063 (amended by Executive Order 12259)
- Age Discrimination Act of 1975, as amended (42 U. S. C. 6101) o
  24 CFR 5.105(a)

AFFIRMATIVE MARKETING AND MINORITY OUTREACH

All rental or homebuyer projects with HOME assisted housing units must adopt affirmative marketing procedures and requirements. Howard County has **adopted and follows** affirmative marketing procedures and requires all our subrecipients and property owners to follow as well.

Agreement Requirement - a*ll* written agreements with subrecipients; and owners, developers, or sponsors, in accordance with §92.504(c), must include the affirmative marketing requirements.

With the 2013 HOME Rule, §**92.351 was revised** to extend the applicability of affirmative marketing procedures ***to all HOME-funded programs***, including TBRA and down-payment assistance programs**.** The pre-2013 affirmative marketing requirements were applicable only to HOME-assisted projects with five or more HOME units.

- The previous exception to the affirmative marketing requirements for tenants receiving Section 8 rental assistance has been eliminated.
- The specific affirmative marketing procedures to be used will depend on the type and size of the program or project. For instance, a PJ administering a down-payment assistance program must affirmatively market the program (i.e., the availability of federal funds for down-payment assistance), rather than units available for purchase.

Regulatory Citations & References: 92.351

Projects with Tenant Preferences

The HOME 2013 Rule further modified the requirements to specify that to the extent that a project is implementing tenant preferences, the PJ must have affirmative marketing procedures that apply in the context of limited/preferred tenant selection policies.

For example, a project for homeless persons must be marketed to the universe of persons who would meet the preference. The project could not rely solely on referrals from a specific homeless provider when there are other homeless providers with potential applicants in the market area.

Owners of Rental Property

Howard County Department of Housing and Community Development mandates the Owner of the Rental Property with HOME assisted units must adopt an affirmative marketing policy and procedure acceptable to the County to ensure that eligible persons regardless of race, color, national origin, sex, religion, and familial status are adequately informed of the services they provide as described in 24 CFR 92.351 (a). The Rental Property Owner's adopted Plan must be approved by DHCD staff and by HUD's Fair Housing Program Center.

Affirmative marketing procedures must include the following elements:

- Methods for informing the public, owners and potential tenants about fair housing laws and the grantee's policies (for example: use the Fair Housing logo or equal opportunity language).
- A description of what owners and/or the grantee will do to affirmatively market housing assisted with HOME funds, and maintenance of records that document the actions taken in this marketing effort.
- A description of persons not likely to apply for housing without special outreach and on what basis the owners and/or the grantee made this determination.
- A description of what owners and/or the grantee will do to inform persons not likely to apply for housing without special outreach, and maintenance of records that document the actions taken in this marketing effort.
- A description of how efforts will be assessed and what corrective actions will be taken where requirements are not met, and maintenance of records that document an assessment of the effectiveness of the marketing effort.

ACCESSIBILITY

Regulatory Citations & References:

- Section 504 of the Rehabilitation Act of 1973 (implemented at 24 CFR Part 8)
- For multi-family buildings only, 24 CFR 100.205 (implements Fair Housing Act)

EMPLOYMENT AND CONTRACTING RULES

Equal Opportunity Employment -Yes, contracts and subcontracts for more than $10,000 must include language prohibiting discrimination.

Regulatory Citations & References:

- Executive Order 11246 (implemented at 41 CFR Part 60)

SECTION 3 ECONOMIC OPPORTUNITY

Federal regulations require that to the greatest extent possible the benefits of federal financial assistance will be directed to very low- and low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to very low- and low-income persons. However, Section 3 only applies to new employees hired as a result of the federal assistance. If a contractor or subcontractor performs the work with existing employees, Section 3 requirements do not apply to the contract. Contracts and subcontracts funded in whole or in part by HUD resources where the individual contract or subcontract exceeds $100,000 and the amount of the HUD assistance for the project exceeds $200,000 are subject to Section 3 requirements. Both dollar thresholds must be present to trigger Section 3. Contracts exclusively for supplies or materials are excluded unless the contract includes installation of the materials.

SECTION 3 ACTIVITIES INCLUDE:

- Housing rehabilitation, including reduction and abatement of lead-based paint projects; housing construction; and
- Other public construction assisted with housing or community development funds.
- HUD has established goals and actions to be taken in awarding contracts to Section 3 businesses
- 10 percent of the total dollar amount in contract for building trades work arising in connection with housing rehabilitation and housing construction;
- 3 percent of the total dollar amount of all other Section 3 covered contracts;
- Notify Section 3 businesses of the contracting opportunities covered by these requirements;
- Notify all potential contractors of the Section 3 covered contracting requirements, and include the Section 3 clause in all contracts;
- Assist and "actively" cooperate with HUD in obtaining contractor/subcontractor compliance with Section 3 requirements;
- Refuse to award a contract to any contractor who has been found to have violated the Section 3 regulations;
- Take remedial action against contractors who fail to comply with the Section 3 requirements (e.g. termination); and
- Document actions (including results and impediments) taken to comply with Section 3 requirements.

Projects will have to report to DHCD on how they are meeting Section 3 requirements.

MINORITY/WOMEN EMPLOYMENT

Howard County Housing has adopted the MBE/WBE language of Howard County when related to HOME Rental Program. The Owner of the HOME assisted Rental Property will follow the specific Procurement Guidelines and Procedures related to MBE and WBE beginning on page 73 of the County Manual.

Regulatory Citations & References:

- Executive Orders 11625, 12432 and 12138
- 24 CFR 85.36(e)

DAVIS-BACON

Yes, if construction contract includes 12 or more units that are HOME-assisted.

Regulatory Citations & References:

- 92.354 Davis-Bacon Act (40 U. S. C. 276a -276a-5) o 24 CFR Part 70 (volunteers)
- Copeland Anti-Kickback Act (40 U. S. C. 276c)

CONFLICT OF INTEREST

The *conflict of interest provisions* at §92.356(f)(1) prohibit certain persons from occupying HOME-assisted housing. This provision has been revised with the 2013 HOME Rule to clarify that *immediate* family members of an officer, employee, agent, elected or appointed official or consultant of an owner, developer, or sponsor are prohibited from occupying a HOME-assisted affordable housing unit in a project. This amendment further clarifies that the restriction on occupancy applies during the period of affordability only, and not to the entire period of ownership by the entity that received the HOME assistance.

Regulatory Citations & References:

- 24 CFR 92.356
- 24 CFR 85.36
- 24 CFR 84.42

DEBARRED CONTRACTORS

DHCD staff ensure that no contractor working on a HOME project is debarred, suspended, or ineligible, per the requirements of 24 CFR part 24. If amount of assistance exceeds $200,000 OR contract or subcontract exceeds $100,000.

Regulatory Citations & References:

- Section 3 of the Housing and Urban Development Act of 1968 (implemented at 24 CFR Part 135)

Yes, check HUD's list of debarred contractors.

Regulatory Citations &

References: 24 CFR Part 5

ENVIRONMENTAL REVIEWS

Projects funded with HOME must examine the environmental impacts of each activity as required by the National Environmental Policy Act of 1969 (NEPA) and other environmental requirements. The cost of the environmental assessment is an eligible project-related soft cost and may be paid for with HOME funds. A full explanation of the NEPA requirements can be found in the HOME regulations in section 92.352. DHCD will ensure environmental reviews are completed prior to commitment of HOME funds.

Regulatory Citations & References:

- 24 CFR 92.352
- 24 CFR Part 58.35 b(5)
    - National Environmental Policy Act (NEPA) of 1969

Flood Insurance

Yes, must obtain flood insurance if located in a FEMA designated I 00-year flood plain. Community must be participating in FEMA's flood insurance program.

Regulatory Citations & References:

- Section 202 of the Flood Disaster Protection Act of 1973 (42 U. S. C. 4106)
-

Site and Neighborhood Standards

- Yes, for new construction only.

- Regulatory Citations & References: 24 CFR 893.6(b)

Lead-Based Paint

Housing that is purchased, rehabilitated or assisted in some way with HOME is subject to the Lead-based Paint Poisoning Prevention Act, the Residential Lead-based Paint Hazard Reduction Act and the implementing regulations for these Acts. HUD maintains a website for the Office of Healthy Homes and Lead Hazard Control where lead-based paint requirements are described as they apply to HUD programs.

Applicants for HOME funds should discuss acquisition projects where units that are older than 1978 are being purchased with DHCD prior to purchase. Lead paint was used in all residential paints prior to 1978. Testing for lead, an assessment of its presence, and a plan for stabilization or removal will be required if HOME funds are used to acquire pre-1978 units. Requirements differ depending on whether rehabilitation work is performed. Rehabilitation notices to owners. Paint testing of surfaces to be disturbed. Risk assessment, if applicable, based on level of rehabilitation assistance. Appropriate level hazard reduction activity (based on level of rehabilitation assistance). Safe work practices and clearance. Provisions included in all contracts and subcontracts.

Regulatory Citations & References:

- 92.355
- Lead Based Paint Poisoning Prevention Act of 1971 (42 U. S. C. 4821 et. seq.)
- 24 CFR Part 35
- 982.401(j) (except paragraph 982.401G)(l)(i))

WHAT MUST BE DONE

1. The rules require that a disclosure to all applicants and tenants about any known or potential lead-based paint hazards must be issued; **and**
2. Documentation of the issuance of the EPA/HUD/Consumer Product Safety Commissions brochure "Protect Your Family from Lead in your Home", **and**
3. Get a signed copy of the certification of accuracy completed at each initial lease up.

Note: For any HOME projects involving existing housing/rehabilitation, DHCD will ensure the proper disclosures are provided to applicants and tenants regarding lead-based paint

RELOCATION

It is important that those who receive HOME funds from the County take appropriate steps to minimize the displacement of families, individuals, businesses, nonprofit organizations and farms as a result of the activity being funded with HOME. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) guide the steps that must be taken to minimize displacement and the actions taken to compensate those who are displaced by a federally-funded project.

The applicant must fully describe any project activity that may lead to voluntary or involuntary displacement of persons impacted by the proposed project in an application for HOME funding. A timeline for notification of persons who may be impacted is of vital importance and those applying for HOME funds should take no steps that may result in a person relocating involuntarily prior to discussing their application with the County. All required steps must be determined by consulting the Uniform Relocation Act (URA) which can be found in section 92.353 of the HOME regulations.

For voluntary purchases of property, the applicable disclosure must be submitted with an application for funding for any HOME project where the purchase of land is involved. These disclosures must be retyped on the applicant agency's letterhead.

Displacement must be minimized; existing tenants must be provided a reasonable opportunity to lease a dwelling unit in the building upon completion of the project. Reimbursement for temporary relocation, including moving costs and increase in monthly rent/utilities, must be provided, as well as advisory services.
Regulatory Citations & References: 92.353

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U. S. C. 4201-4655)
- 49 CFR Part 24
- 24 CFR Part 42 (subpart B)

- Section 104(d) "Barney Frank Amendments"

UNIFORM ADMINISTRATIVE REQUIREMENTS

Nonprofit agencies who receive HOME funds are subject to OMB Circular No. A-122, which guides the determination of cost reasonableness, allocation of costs to grant funds, direct vs. indirect costs, allowable costs, etc. Nonprofit agencies must follow Circular A-122 when making decisions about eligible and ineligible costs that can be assigned to grant awards.

The requirements of OMB Circular A-87 and following requirements of 24 CFR part 85 apply to the participating jurisdiction receiving HOME funds: 85. 6, 85.12, 85.20, 85.22, 85.26-85.34, 85.36, 85.44, 85.51, and 85.

AUDITS

Nonprofit agencies that receive federal funds are subject to the audit requirements imposed by OMB Circular A-133 for nonprofit organizations. However, a nonprofit must expend $300,000 or more in federal funds before Circular A-133 requirements apply. After December 31, 2004, the expenditure threshold increases to $500,000. Circulars A-122 and A-133 are available from the Whitehouse website at www.whitehouse .gov/omb/circulars/index.html .

PROCUREMENT

Nonprofits that receive federal funds must follow policies that dictate how goods and services are purchased with these funds. The federal regulations published at 24 CPR Part 84 establish the procedures that a nonprofit must follow. One of the most important aspects of the federal procurement regulations is that a nonprofit must have written procedures in place prior to beginning procurement with federal funds. How to develop these policies is described in sections 84.40-84.48. Howard County DHCD is available to assist nonprofits with the development of procurement policies and standards prior to their purchasing goods with federal funds.

Howard County Housing has adopted the Procurement Policy of Howard County when related to the HOME Rental Program. The Howard County Purchasing Manual will be referenced within the HOME Agreement under the Procurement section and attached as an Exhibit to all HOME Rental Grant Agreements. The Owner of the HOME Assisted Rental Property will follow the specific guidelines for all purchases and procurement.

LABOR STANDARDS

For all construction projects that meet established threshold requirements and use federal funds for construction or rehabilitation of units, the project contractor must pay prevailing wages for the area to the trade employees working on the project. DHCD will provide wage determinations from the U.S. Department of Labor for inclusion in all bidding and contractual documents for construction and rehabilitation projects. For HOME projects, if 12 or more units will be developed, prevailing wages must be paid as required by the Davis-Bacon and related wage payment Acts.

28. Property Standards & Other Standards

Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, city codes and zoning ordinances at the time of project completion.

- **Accessible Units** – in HOME properties with 5 or more total units, the common spaces and a certain number of units must be constructed or rehabilitated to be accessible to persons with mobility and/or sensory impairments in accordance with the *Section 504 Accessibility - Uniform Federal Accessibility Standard* (UFAS). **These units must be marketed to ensure that they offered first to persons with disabilities.**

SEC. 3.100. - HOWARD COUNTY BUILDING CODE; ADOPTION OF INTERNATIONAL CODES.

(a) *In General* . Except as amended in sections 3.101, 3.102, 3.103, and 3.104 of this subtitle, the codes enumerated in this section are hereby adopted as the Howard County Building Code as if the codes were set out in full in this section.

(b)

Adopted Code:

(1)

The International Building Code, 2015 Edition, Published by the International Code Council, Inc.

(2)

The International Residential Code for One- and Two-Family Dwellings, 2015 Edition, published by the International Code Council, Inc.

(3)

The International Mechanical Code, 2015 Edition, published by the International Code Council, Inc.

(4)

The International Energy Conservation Code, 2015 Edition, published by the International Code Council, Inc.

(5)

The Life Safety Code, 2015 Edition, published by the National Fire Protection Association.

(6)

The Howard County Electrical Code, adopted pursuant to title 3, subtitle 2 of the Howard County Code.

(7)

The Plumbing and Gas fitting Code for Howard County adopted pursuant to title 3, subtitle 3 of the Howard County Code.

(8)

The Maryland State Accessibility Code.

(9)

The Howard County Sign Code, adopted pursuant to title 3, subtitle 5 of the Howard County Code.

(C.B. 10, 2015, § 1)

PROPERTIES THAT ARE REHABILITATED WITH HOME FUNDS MUST MEET THE FOLLOWING STANDARDS:

- DHCD's Rehabilitation Standards
- Handicapped accessibility requirements, where applicable.
- Also, one of the following:
  - Local and State Code Requirements
  - Uniform Physical Condition Standards (UCPS) – the UCPS are uniform standards established by HUD for housing that is decent, safe, sanitary, and in good repair per 24 CFR 5.703.

NEW CONSTRUCTION WITH THE USE OF HOME FUNDS MUST MEET THE FOLLOWING STANDARDS:

- Model Energy Code
- Handicapped accessibility requirements, where applicable.
- New construction of rental housing must meet site and neighborhood standards at 24CFR 9 83.6(b)
- Also, one of the following:
  - Local and State Code Requirements
  - International Code Council's International Residential Code
  - International Building Code

ACQUISITION OF EXISTING HOUSING (NO REHAB OR CONSTRUCTION) MUST MEET THE FOLLOWING STANDARDS:

- Applicable local housing quality standards and code requirements.
- Handicapped accessibility requirements, where applicable.
- Uniform Physical Condition Standards (UCPS) **- 24 CFR Parts 5 and 200**

To ensure compliance with property and accessibility standards, DHCD development staff and HOME Program Specialist monitor each project during construction. They also review the project construction budget prior to funding the project to ensure that cost estimates are appropriate and review any change orders to ensure cost reasonableness and that HOME funds are only disbursed for eligible costs. In addition, DHCD development staff review work write-ups and plans, prior to construction, in order to confirm they reflect all applicable property standards and codes.

Owners must maintain properties in accordance with property standards throughout the affordability period. DHCD will conduct periodic property inspections as determined by HOME regulations to insure continued compliance.

A. Occupancy Standards

In March, 1991, the Department of Housing and Urban Development (HUD) addressed the issue of occupancy standards in the Keating Memorandum, which states that "...HUD believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act." However, the HUD memorandum goes on to state that a "two people per bedroom" policy may be unreasonably restrictive, depending on other factors, such as the size and number of bedrooms, the overall size of the unit, and other special circumstances. For this reason, caution suggests that housing providers should consider the occupancy standard of two persons per bedroom plus one or more additional persons, depending on the household's circumstances.

Local code requirements mandate the following in reference to the designation of rooms as a bedroom:

Howard County Occupancy Limitations

Bedrooms – Every bedroom occupied by one person shall contain at least70 square feet of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant thereof. Living Room – 3 to 5 occupants must have a minimum of 120 square feet, 6 or more occupants must have a minimum of 150 square feet. Dining Room – 3 to 5 occupants must have a minimum of 80 square feet, 6 or more occupants must have 200 square feet. Combined living room and dining room spaces - If the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living/dining room. There are additional requirements for efficiency Apartment units whose maximum occupancy is 3 persons.

- A den with windows must be treated as a bedroom;
- You must have 70 sq. feet in the bedroom for the first person;
- You must have 50 sq. feet per person for any additional persons using the same room as a bedroom

The Local Code should be consulted for additional requirements.

B. Other Standards

The site and neighborhood standards (24 CFR 983.6(b)) apply only to new construction of rental housing. DHCD development staff review each HOME project to ensure it meets the site and neighborhood standards prior to funding.

29. Annual Review and Rents and Income

Howard County will implement a four (4) step process to ensure that rents and income are reviewed annually. The first step would entail sending a reminder on January 01 or the closest work day thereafter to all property managers requesting that a rent and income report be submitted, along with the certification that all units are suitable for occupancy to Howard County Housing. The second step ensures that all reports will be obtained by the HOME Program Specialist no later than January 31st. The report should list the rents, income and family size for ALL HOME assisted units. The third step would entail the HOME Program Specialist reviewing the rents and income in accordance with HOME Program rental affordability requirements and completing checklist 6-D, Project Compliance Report: Rental Housing. A copy of checklist 6-D is attached for reference (Appendix E). Lastly, a copy of the checklist along with written correspondence and a summary of the review will be placed in the project file and a copy sent to each property manager.

Howard County Housing has also implemented an “Annual Review of Rents and Income” form (Appendix F) for each project file. After each step is completed, HCH staff must initial and upon completion of all four (4) steps, sign and date the form. This process will ensure that rent rolls are being reviewed and reported on annually, and ultimately keeping Howard County in compliance with 24CFR Pt 92.252.

30. Rental Units - Single Family Rental

HOME RENTS

The Home Program restricts the rents for HOME units and the incomes of the tenants in units throughout the affordability period. Every HOME-assisted unit is subject to rent limits designed to help make rents affordable to low income households. These maximum rents are referred to as "HOME Rents." Based on changes in area income levels or market conditions, HOME rents, as calculated by HUD and approved by DHCD, may increase. **If a project can and wants to increase HOME rents, official requests must be submitted to Howard County and DHCD must approve prior to implementation.**

Tenants must be given at least 30 days written notice before increases are implemented. Any increases are also subject to other provisions of the lease agreements. For example, rents may not increase until the tenant's lease expires.

HOME rents may decrease. While project rent levels are not required to decrease below the HOME rent limits in effect at the time of project commitment, decreasing HOME rents may reflect a change in market conditions that may force owners to reduce rents in order to maintain tenants. DHCD with HUD's approval may permit adjustments to the rent structure if the financial feasibility of the project is threatened. This is important to lenders providing financing to HOME-assisted projects.

There are two HOME rents used in the HOME program:

- High HOME Rents: The maximum amount an owner can collect per month on a "High"

HOME-assisted unit

- Low HOME Rents: The maximum amount an owner can collect per month on a "Low" HOME-assisted unit.

A. HOME Rent Limits

It is imperative that grantees understand HOME rent limits as they apply to their project.

DHCD utilizes HUD published Low and High HOME rents limits. HUD's calculation of Low and High HOME rents assumes the owner pays the utilities. If the tenant pays utilities, the maximum allowable rent that could be collected by the owner would be the applicable Low or High HOME rent *minus* a utility allowance. DHCD will approve utility allowances on a project by project basis based upon allowances prepared by local utility providers or based on HUD's Utility Schedule Model. The HOME rent limits restrict the maximum total rent (minus the utility allowance) that can be received by project owners regardless of the amount of rental assistance provided to a tenant.

Examples:

	1 Bedroom High HOME Unit		**2 Bedroom High HOME Unit**
$326	High HOME Rent Limit	$416	High HOME Rent Limit
-$70	Utility Allowance	-$90	Utility Allowance
$256	Maximum Rent Owner May Collect	**$326**	Maximum Rent Owner May Collect

	1 Bedroom Low HOME Unit		**2 Bedroom Low HOME Unit**
$326	Low HOME Rent Limit	$416	Low HOME Rent Limit
-$70	Utility Allowance	-$90	Utility Allowance
$256	Maximum Rent Owner May Collect	**$326**	Maximum Rent Owner May Collect

DHCD will inform grantees of updated HOME rent limits upon its receipt of new HUD- published limits (generally in the spring each year). However, tenants' rents should not be adjusted until the provider requests in writing approval from Howard County to increase the rents for the HOME-assisted units in their project. The County approves all rent increases. The increase occurs at the time their leases are renewed. The tenant must be given a 30-day notice of rent increase.

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

1. High HOME-Assisted Units

DHCD will require all initial tenants of High HOME-assisted units to have incomes at or below 60% of the area median income. Subsequent tenants are restricted to the income as specified in the HOME Loan Agreement for the project. DHCD reserves the right to further restrict the income level for a project to achieve appropriate levels of project compliance when warranted.

2. Low HOME-Assisted Units

DHCD will require all projects with five or more HOME-assisted units to designate at least 20 percent of the HOME-assisted units as Low HOME units. Tenants must have incomes at or below 50 percent of the area median income to occupy Low HOME-assisted units. DHCD, through the HOME Loan Agreement, may require more Low HOME-assisted units for a project than the HOME rules require.

The rents collected by the owner on Low HOME-assisted units are restricted to the Low HOME rent limits less tenant paid utilities per an approved utility allowance. The only exception is for Low HOME units in a project that receives federal or state project-based rental subsidies and the tenant pays no more than 30% of their adjusted income for rent. The maximum rent may then be the rent allowable under the project-based subsidy program.

INCOME ELIGIBILITY REQUIREMENTS FOR GRANTEES

DHCD requires grantees to use the *Part 5 Definition* (also referred to as Section 8 Method), which calculates the gross family annual income *minus* any eligible exclusions for the upcoming year definition found at 24 CPR Part 5.609 to determine applicant income eligibility. Eligibility is based on anticipated or projected income during the next 12 months. A detailed explanation of the Annual (Gross) Income definition can also be found in the "*Technical Guide for Determining Income and Allowances for the HOME Program.*"

The HOME Program allows grantees to use two forms of verification for the Annual (Gross) Income basis of determining income eligibility. These forms are third party verification and review of source documents. Source documents for at least two months must be reviewed. All household members must be counted when calculating household income. When collecting income verification documentation, property owners (or managers) should also consider any likely changes in income.

A. Third Party Verification

Under third party verification, a third party (e.g. employer, Social Security Administration, or public assistance agency) is contacted to provide information. Written requests and responses are preferred. However, to clarify or complete missing information on a written response, conversations with a third party are acceptable if documented through a memorandum to the file that documents the contact person, information conveyed and date of call.

To conduct third party verifications, a grantee must obtain a written release from the household that authorizes the third party to release required information. If a third party is unwilling to provide the information or will not do so without charging a fee, the grantee may attempt to obtain the required source documentation through other documented means, such as the use of bank statements.

B. Timing of Income Determinations

Income determinations are to be completed *before* tenant occupancy of a HOME-assisted unit. If the income determination is more than six months old, a new determination will have to be conducted.

ANNUAL RECERTIFICATION OF INCOME

Due to the HOME Program imposing occupancy restrictions over the length of the affordability period, owners must establish systems to recertify tenant income on an annual basis. Tenant income will be examined on the anniversary of the original income evaluation or at lease renewal. However, the owner may adopt an annual schedule and perform all verifications at the same time. DHCD will verify that tenant income recertification documentation is in the tenant files at the time of on-site inspections.

Although the final HOME rule allows two additional methods of income recertification, in addition to the method of collecting source documentation, DHCD will allow only source documentation and at its discretion, may permit a written statement from the administrator of another government program under which the family receives benefits, and that examines the annual (gross) income gross income of the family each year *minus* any exclusions the households have. The statement must also indicate the family size, or provide the current income limit for the program and a statement that the family's income does not exceed that limit. If the owner chooses to utilize the alternative method described, they will still be required to collect full source documentation every sixth year of the tenants

INCREASES IN TENANT INCOME

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

- The project must maintain the correct number of High and Low HOME rent units.
- Rents must be adjusted for tenants whose incomes rise above 80 percent of the area median income.
- Owners of projects assisted with HOME and Low Income Housing Tax Credits must comply with the specific requirements associated with combining these funding sources.

KEEPING THE CORRECT NUMBER OF HIGH AND LOW HOME RENT UNITS

The owner should take the following steps to maintain the correct numbers of High and

Low HOME rent units.

If the income of a tenant occupying a Low HOME rent unit increases, but **does not exceed 80 percent** of area median income, that unit becomes a High HOME rent unit. To replace the Low HOME rent unit, the owner must rent the next available comparable unit (for "floating" unit projects) or HOME-assisted unit (for "fixed" unit projects) to a very-low- income tenant (income at or below 50% of the area median income). Subject to the terms of the lease, the rent of the tenant whose income has increased may be increased to the High HOME rent for the unit. This process should not increase the number of assisted units.

If a tenant's income **increases above 80 percent** of the area median income, the unit occupied by the tenant is still considered to be a HOME unit, but the tenant's rent must be adjusted as described below.

A. <u>Adjusting Rent for Over-Income (Above 80% of AMI) Tenants in "Floating Units"</u>
Over-income tenants in HOME-assisted "floating" units must pay 30 percent of their **adjusted** income for rent and utilities; however, the rent may not exceed the market rent for comparable, unassisted units in the neighborhood. Rent may only be increased at lease renewal. In projects where the HOME units float, the next available unit in the project of comparable size or larger must be rented to a HOME-eligible household. The unit occupied by the over-income tenant is no longer considered HOME-assisted subject to HOME rules after a HOME-eligible household rents a comparable unit.

Note: In units that are financed with both HOME and Low Income Housing Tax Credits (LIHTCs), the LIHTC rules apply when a tenant's income exceeds 80% of AMI Under the LIHTC program, the tenant's rent is not adjusted, and the unit does not need to be replaced by another comparable unit until the tenant's income rises above 140 percent of the LIHTC program eligibility threshold.

B. *<u>Adjusting Rent for Over-Income (Above 80% of AMI) Tenants in "Fixed Units</u>*"
Over income tenants in HOME-assisted "fixed" units must pay 30 percent of their adjusted income for rent and utilities. Rent may only be increased at lease renewal. There is no rent cap for "fixed" units.

Computing adjusted income for purposes of adjusting rent for over-income tenants is derived by *subtracting* any of the following deductions (also called allowances) that apply to the household from a household's annual (gross) income:

- $480 for each dependent (includes any of the following family members who are not the head of household or spouse: persons under 18, handicapped/ disabled family members, or full-time students);
- Reasonable child care expenses (for children 12 and under) during the period for which annual income is computed that enable a family member to work or go to school, if no adult is available in the household to provide child care.
- For elderly households (62 and older) only, medical expenses, including medical insurance premiums, in excess of three percent of annual income

that are anticipated during the period for which annual income is computed and that are not covered by insurance.

- Reasonable expenses in excess of three percent of annual income for the apparatus and care of a handicapped or disabled family member that enable that person or another person to work that are anticipated during the period for which annual income is computed.
- $400 for any elderly family (head of household or spouse is 62 or older or handicapped or disabled).

For a detailed discussion of calculating annual and adjusted income under the Part 5 Definition of annual income, see the HOME Model Series "Technical Guide for Determining Income and Allowances for the HOME Program." For up-to-date rules and requirements, consult the regulations at 24 CFR Part 5 (subpart F).

DEVELOPMENT PROPERTY MANAGEMENT

Many established owners have property management departments within their organizations or have created separate organizations to perform this function. Other developers hire one management firm to manage properties in its portfolio. Property management is important to ensure the owner's physical, financial, administration and occupancy performance standards for the property. When working with the DHCD-assisted units, it is expected that the owner enter into an agreement that the units will be operated in accordance with all applicable regulations.

TENANT OUTREACH

All HOME Rental Projects maintain a constant presence within the community where the Project is located.

Examples:

- Advertisement within the Baltimore Sun Newspaper biannually, monthly
- Advertisement within the Howard County Flier Newspaper biannually, monthly
- Advertisement within the Howard County Times Newspaper biannually, monthly
- Twice per year post card mailing to all Howard County Housing Choice Voucher Clients
- Property owner Web-site
- One time per year Marketing Event at HOME Rental Location.

31. Recording documents related to a HOME Activity

After all HOME related documents are fully executed; that is they have been signed by the County Executive and returned to the DHCD, both the Regulatory Agreement and Deed of Trust should be sent to the Office of Recordation to be recorded. DHCD staff will provide a copy to non-profits and subrecipients at no additional cost.

32. Record Keeping

HOME requires documentation for rental projects to show that all program regulations have been met. Because of the long-term monitoring required for rental projects, however, record-keeping responsibilities are more extensive. This section briefly describes the record-keeping responsibilities associated with rental housing for the property owner.

One of the owner's responsibilities is to keep adequate records, to be able to demonstrate compliance with HOME requirements. The owner should keep both project and tenant records.

- Project records should include documentation to back-up rent and utility allowance calculations. If the project's HOME-assisted units are "floating," the owner should also keep records to show how HOME occupancy targets were met (for example, rental logs to show that as units were vacated or tenants became over-income, HOME-assisted units were properly replaced).
- Tenant files should include the documentation necessary to demonstrate that each HOME-assisted unit is properly occupied by an income-eligible tenant. Such documentation includes the tenant's application, initial income verification documents, subsequent income recertification documents and the tenant's lease.

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

APPENDIX A: Program Administration Procedures (updated per the 2013 HOME Rule)

A. Project Underwriting and Subsidy Layering

i. Project underwriting

Most HOME projects in Howard County have multiple sources of funds and are seeking HOME funds to fill the gap in their project budget.At a minimum, the HOME Program Specialist and Grants Administrator review a project application to make sure the project is underwritten well, will be stable in the long-term, and will be leveraging HOME funds. For larger projects (over 5 units), the Senior Development Officer completes an extensive review of the project's financing to determine how best to meet its budget needs. This is an addition to a review of the project's underwriting by the HOME Program Specialist.

ii. Subsidy Layering

Before committing funds to a rental project, DHCD will evaluate the project and verify that the owner did not request or was not allocated any more HOME funds in combination with other governmental assistance than is necessary to provide the affordable housing. DHCD will review and keep project records demonstrating that each rental housing project meets required subsidy layering guidelines. Part of the documentation process includes a Proforma (project income and expense statement) which should include achievable rent levels, market vacancies and operating expenses.

The investment of HOME funds is limited by per-unit subsidy limits based on number of bedrooms and location. The HOME Program Specialist reviews each project to ensure the subsidy level is appropriate and complies with the maximum per-unit HOME subsidy limits as well as meets the minimum p er-unit investment. DHCD Development staff also complete a subsidy layering review as part of their underwriting unless a subsidy layering review has been completed by the state Department of Housing and Community Development because of state funds in the project. In those cases, DHCD staff review the state subsidy layering.

B. Homebuyer Underwriting

This does not apply to Howard County as Howard County is not using HOME funds for homebuyer projects. If that changes under a future Action Plan, these procedures will be updated.

C. Risk-based Monitoring

Howard County's monitoring policy is to monitor each HOME funded rental project each year. This monitoring visit includes a file review as well as a review of financial statements for the project. A sample of units are inspected at every project every year. If a monitoring visit reveals significant project issues, a follow up visit would be scheduled within two months of the original visit to make sure all issues had been sufficiently addressed.

D. Inspection Procedures

Howard County's HOME units are inspected by the Program Specialist and Operations Supervisor. Units are held to a higher standard than UCPS which is a standard unit checklist for leasing a market rate unit. Issues ae rated in terms of what must be corrected and what is recommended to be fixed. Projects have a thirty (30) day period to make any unit improvements that have been identified as flawed.

APPENDIX B: Howard County Affirmative Fair Housing Marketing Plan

A. POLICY

Howard County Housing (DHCD) in accordance with the regulations of the HOME Investment Partnerships (HOME) Program (24 CFR 92.3510), has established this "Affirmative Fair Housing Marketing Plan" to ensure that the County and all entities to whom they have allocated HOME Funds employ a marketing plan that promotes fair housing and ensures outreach to all potentially eligible households, especially those least likely to apply for assistance.

The County's policy is to provide information and attract eligible persons to available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. The procedures followed are intended to further the objectives of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and Executive Order 11063, which prohibits discrimination in the sale, leasing, rent and other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

B. PROCEDURES

The HOME Final Rule regarding affirmative marketing procedures and requirements apply to all *rental, homebuyer, rehabilitation, down payment assistance and TBRA* projects funded with HOME Program funding.

DHCD is committed to the goals of affirmative marketing that will be implemented through the following procedures:

i. Providing equal service without regard to race, color, religion, sex, handicap, familial status, or national origin of any client, customer, or resident of any community;

ii. Keeping informed about fair housing laws and practices;

iii. Informing clients and customers about their rights and responsibilities under the fair housing laws by providing verbal and written information;

iv. Evaluating the effectiveness and compliance of all marketing as it relates to fair housing;

v. Including the *Equal Opportunity* logo or slogan, and where applicable the accessibility logotype, in all ads, brochures, and written communications to owners and potential tenants;

vi. Displaying the HUD's fair housing posters (at a minimum in English and Spanish versions) in rental offices or other appropriate locations;

vii. Soliciting applications for vacant units from persons in the housing market who are least likely to apply for assistance without the benefit of special outreach efforts; working with the local public housing authority and other service and housing agencies, as well as community groups, places of worship, employment centers, fair housing groups, housing counseling agencies and popular social media tools to distribute information to a wide and diversified population;

viii. Maintaining documentation of all marketing efforts (such as copies of newspaper ads, memos of phone calls, copies of letters).

vix. Maintaining a record of applicants for vacant units with a general profile of the applicant, how the applicant learned of the vacancy, the outcome of the application, and if rejected, why; maintaining this record for two years or through one compliance audit, whichever is the shorter period of time.

C. ASSESSMENT

In conjunction with the annual on-site compliance reviews, DHCD will:

i. Review and evaluate records of affirmative marketing efforts (advertisements, flyers, and electronic media spots, etc.);

ii. Evaluate outcomes and effectiveness of marketing efforts and make changes where needed.

iii. Evaluate whether good faith efforts have attracted a diversified cross-section of the eligible population.

D. CORRECTIVE ACTIONS

Failure to meet affirmative marketing requirements will result in the following corrective actions:

i. **For failure to comply,** DHCD will set a probationary period for compliance, not to exceed six months, during which time DHCD will provide more specific guidelines for compliance.

ii. **Further failure** to comply with the affirmative marketing requirements may result in the withdrawal of HOME support.

iii. **Further failure** to take appropriate actions to correct discrepancies in affirmative marketing programs may result in steps to recover all invested HOME funds.

APPENDIX C: Monitoring Plan

A. Objectives

The objective of the Howard County HOME Monitoring Plan is to establish standards for evaluating and reporting a grantee's compliance with program requirements. Howard County will conduct on-site reviews to verify accuracy of records/documents, review program policies and procedures, conduct housing inspections, and evaluate overall administrative compliance to HOME Regulations.

B. Monitoring Format

A written Report will be prepared and provided to the grantee following the completion of each monitoring review. The report will include the following information:

- An explanation of the purpose and scope of the review;
- A list of findings, comments, recommendations, and corrective actions to be taken;
- A list of the client files reviewed;
- A list of the houses/units inspected;
- An evaluation of project performance to date; and
- A time frame for taking corrective action.

C. Monitoring Compliance

HOME activities will be evaluated on the basis of the following program areas:

- Adherence to HOME guidelines, procedures, and regulations;
- Grantee's administration and management;
- Fair Housing;
- Housing Quality Standard Inspections;
- And Lead Based Paint, if applicable

D. Pre-Monitoring Preparation

Prior to an on-site monitoring visit, the County will provide written notification of the visit to the grantee. The notice will provide the following information:

- The date(s) and time of the visit;
- A copy of the monitoring checklist

The grantee will be asked to provide the County with the following:

- Agreements/contracts;
- Policy guidelines and procedures, administrative plans, and operation manuals;
- Beneficiary data

E. Monitoring and Inspection Schedule

DHCD staff will provide program monitoring over three phases:

i. Contract Development Phase

- Ensuring that projects are consistent with the Consolidated Plan
- Ensuring that all Environmental Review requirements have been met
- Ensuring clients are income-eligible

ii. Development Phase

- Ensuring that project costs, budgets, and timelines are adhered to
- Ensuring conformance to HOME standards through periodic property inspections

iii. Post-Development Phase (Long-Term)

- The duration and frequency of on-site grantee monitoring and inspections is based on the length of the affordability period and the total number of project units.

Appendix D: Using the Low Income Housing Tax Credits with HOME Funds

There are essentially four ways HOME funds can be used with low-income housing tax credits.

Market Rate Loan

If the HOME funds are provided at or above the applicable federal rate, these funds are not treated like a federal subsidy. The project qualifies for the 9% credit for eligible improvement costs and is eligible for the 130 percent basis for projects in "qualified census tracts" or "difficult development areas" (QCT/ DDA).

Below Market Rate Loan with 9% Credit

If HOME funds are provided at an interest rate below the applicable federal rate, they may still be counted in the eligible basis and the project may receive a 9% credit if the project meets stricter occupancy requirements. The project may receive the 9% credit if 40% of the residential rental units are occupied by tenants with incomes at or below 50% of the area median income. However, such projects are not eligible for the 130 percent basis for projects in "qualified census tracts" or "difficult development areas".

Below Market Rate Loan with 4% Credit

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

Grant

HOME funds may be provided in the form of a grant, but, they may not be counted in the eligible basis for the project, and therefore do not contribute to the credits for which the project is eligible. Therefore, a loan instrument is generally preferable to a grant (Note that deferred payment loans are generally permissible provided the debt service accrues and there is a reasonable expectation that the loan can be repaid no later than when the loan matures). Projects using HOME funds with Low Income Housing Tax Credits have to consider a number of items in blending the two sets of program rules. The following chart provides an overview of tax credit rules and the requirements for combining the two programs.

RULES FOR COMBINING HOME FUNDS AND TAX CREDITS

	Tax Credit Program Rules	Combining Tax Credits with HOME
Occupancy Requirements	At least 20 percent of assisted units must be reserved for households with incomes at or below 50 percent of area median; OR 40 percent of the units must be reserved for households with incomes at or below 60 percent of area median income.	If HOME funds are provided at below the market interest rate, at least 40 percent of the units must be reserved for households with incomes at or below 50 percent of the area median income to qualify for the 9 percent credit. Otherwise, on projects with 5 or more HOME-assisted units at least 20 percent of the units must serve households with incomes at or below 50 percent of area median income (to meet HOME requirements).
	Tax Credit Program Rules	**Combining Tax Credits with HOME**
Rent Requirements	Rents for qualified units must not exceed the rent limit set for the program. These limits are set by bedroom size and are based on the qualifying incomes of an imputed household size. They are provided by Howard County Housing.	For units to qualify as both tax credit and HOME-assisted units, rents cannot exceed either program limit. Low HOME rent units are subject to Low HOME rents and tax credit limits and High HOME rent units are subject to High HOME rents and tax credit limits.
Establishing Tenant Eligibility	*Documentation* --Tenants must provide acceptable documentation of income from a third party source. All sources of income are verified. *Definitions* --The tax credit program defines income using the Section 8 definition of annual (gross) income. *Asset Income* --Assets $5000 or less: tenants certify asset amount and income. Use actual income. Assets above $5000: verify amount and income. Use larger of actual income from assets or imputed asset income.	*Documentation* --Initial tenant eligibility documentation for both programs is the same. *Definitions -DHCD* requires the use of the Section 8 definition of income for HOME. *Asset Income* --Follow more stringent HOME rules and verify all asset income.
Reexaminations of Income	Reexaminations are performed annually following the	Tax credit/ HOME projects may request waivers m order to perform

	Procedures as at initial certification; however, an owner may request a waiver of reexamination requirements if all units in the project are tax	Re-examinations similar to HOME. Otherwise, the project must follow the more stringent tax credit requirements.
Over-Income Tenants	Rent for over-income tenants remains restricted. An owner *may* increase an over-income tenants rent, but *only after* the unit is replaced with another low- income unit in the project, thereby keeping the portion of low-income units above the minimum amount required for the owner to be eligible for the credit. **"Over-income"** IS defined as above 140 percent of the project income limit.	HOME rules defer to tax credit rules -- rent remains restricted. (In other words, in no case can the rent exceed limits set by the tax credit program).
	Tax Credit Program Rules	**Combining Tax Credits with HOME**
Monitoring	Projects are monitored annually throughout the affordability period. Statement of compliance IS submitted annually with documentation of occupancy. On-site inspections are conducted by DHCD	DHCD will monitor according to their program requirements.

Occupancy Requirements

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

In order to take the 9 percent credit in conjunction with below-market-rate HOME funds, joint HOME/ tax credit projects must meet a higher occupancy standard than either the tax credit program or the HOME program alone requires:

- 40 percent of the units must be occupied by tenants with incomes at or below 50 percent of area median. (However, such projects are not eligible for the 130 percent increase in basis for projects in "qualified census tracts" or "difficult development areas."

- To receive the 130 percent increase, the project must either take the four percent credit, or use the HOME funds at or above the applicable federal rate.)

- In all other cases, projects must ensure that they meet both sets of program rules.

Rents

When combining the two types of funding, two sets of rent rules apply.
Qualified tax credit units must not exceed tax credit rent limits, while HOME-assisted units must meet HOME rent requirements. If a unit is being counted under both programs, the stricter rent limit applies:

- Low HOME rent units are subject to the lower of the Low HOME rent and the tax credit rent.
- High HOME rent units are subject to the lower of the High HOME rent and the tax credit rent.

When tenants receive additional subsidy through rental assistance programs such as Section 8, additional requirements apply.

- HOME allows the rent to be raised to the rental assistance program limit only if the tenant pays no more than 30 percent of adjusted income, the subsidy is project-based (not tenant-based), and the tenant's income is less than 50 percent of the area median income.
- Tax credit rules state that if the rental assistance program rent limit exceeds the tax credit rent, the unit rent may be raised to the higher limit as long as tenants pay no more than 30 percent of their adjusted monthly income for housing costs.
- In a joint tax credit/ HOME-assisted unit, the stricter HOME requirements would apply.

Establishing Tenant Eligibility

Both the HOME and tax credit programs require project owners to certify tenants' incomes, to ensure that they are income-eligible and that the project is in compliance with initial occupancy requirements.

- To demonstrate eligibility under both programs, property managers must have tenants certify their income, and obtain supporting documentation. This documentation must be kept in project unit files for review by the monitoring agencies.
- Under tax credit rules the Section 8 definition of annual (gross) income is used.
- DHCD requires the use of the Section 8 definition of armual (gross) income for HOME projects.

A difference between HOME and tax credit rules is that HOME requires verification of all asset income, whereas the tax credit rules require verification of asset income if the household's assets are greater than $5,000. For total assets of less than $5,000, the tax credit program allows tenants to provide a signed statement of asset income.

A tenant in a unit subsidized by both sources of funds would have to comply with the stricter HOME requirements.

Reexaminations of Tenant Eligibility

The tax credit program does not allow alternative methods of tenant recertification allowed under the HOME program.

For projects with both HOME funds and tax credits, owners may seek a project waiver from the state allocating agency to allow certification documentation similar to HOME. Alternatively, the project must comply with the tax credit rules (and, thus, automatically comply with the HOME requirements).

Over-Income Tenants

The HOME and tax credit programs have slightly different approaches to over-income tenants. The definition of an over-income tenant differs under the two programs. Tax credit rules define "over-income" as having income above 140 percent of the project income limit.

Under HOME, the tenants are considered over-income if their income rises above 80 percent of area median income.

Further, unlike under HOME, the rent remains restricted under the tax credit program. An owner may increase an over-income tenant's rent, but only **after** the unit is replaced with another low- income unit in the project, thereby keeping the portion of low-income units above the minimum amount required for the' owner to be eligible for the credit. To resolve this conflict, HOME rules state that when funds from both programs are used on the same unit, the tax credit rules should be followed.

Monitoring

Both programs require annual monitoring to ensure compliance with program rules over the length of a pre-established affordability period. DHCD will monitor according to their program requirements.

Additional Notes

- Deed of Trust- The trustee is always the current director of Finance. Typically there are two trustees, but since a Chief of Staff was not replaced, there is only one. Older deeds may show two trustees, Aaron Greenfield and Sharon Greisz,
  At time of this publication it is Stanley Milesky.
- Completed grant/loan documents should be printed single sided and only one copy of each document is required for signatures.
- Once all documents have been returned with signatures, the Deed of Trust and Regulatory Agreements should be recorded. They are sent to the Division of Land Records. If a payment is necessary to have the documents recorded, they should be sent to the Department of Finance first. If a payment is NOT necessary, the documents should still be sent to the Department of Finance, with attention to Leslie Bennett. However, if the document is exempt from payment, please use the following text in the header;

“PURSUANT TO SECTION 3-603 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THIS DEED OF TRUST IS **EXEMPT** FROM THE PAYMENT OF RECORDING FEES. EXEMPTION PURSUANT TO SECTION 12-108(a) TAX-PROPERTY ARTICLE.”

APPENDIX E: Annual Rent and Income Checklist- Form 6-D

HOME Monitoring Checklist 6-D

Project Compliance Report: Rental Housing

Project Name:		Date Completed:	
Owner Name:		Reporting Period:	

A	B	C	D	E	F	G	H	I	J	K	L
UNIT NUMBER	LOW OR HIGH HOME RENT UNIT?	TENANT NAME: (**LAST NAME, FIRST NAME)**	NO. PERSONS	NO. BDROOMS	DATE OF LAST INCOME CERT.	MAX RENT	UTILITY ALLOWANCE	MONTHLY UNIT RENT	TENANT'S ANNUAL GROSS INCOME	COMPLIANCE Y/N (HCH Staff)	**UNIT STATUS** (HCH Staff)

APPENDIX F: Annual Review of Rents and Income Form

Howard County Department of Housing and Community Development

Howard County HOME Investment Partnership Program (HOME)

Annual Review of Rents and Income

Instructions: Please initial after each step is completed. Once step four (4) has been completed, the employee should print their name, sign and date below. Place the completed form, along with Checklist 6-D (Project Compliance Report) and a copy of the correspondence letter in the respective file under monitoring.

Project Name/Mgmt Company: ____

1. Emailed notice to property manager. Initials_____
2. Rent roll and Income data submitted to Howard County Housing. Initials_____
3. Review rents and income and complete checklist 6-D. Initials_____
4. Write correspondence letter to property manager. Initials_____

Review completed by (Please Print): ____

Signature: ____

Date: ____