Macomb HOME Consortium

HOME Investment Partnership
Policies and Procedures Manual

HOME Investment Partnership Program

Policies and Procedures

The Macomb HOME Consortium has created the HOME Policies and Procedures manual as a guide to help recipients of HOME Investment Partnership Program funds understand their responsibilities under the program and how program staff views potential/actual projects. However, the information in this manual is not a substitute for federal laws and regulations governing the program. Recipients of funds are responsible for compliance with program requirements and are encouraged to familiarize themselves with both this manual and the HOME regulations which can be found on the U.S. Department of Housing & Urban Development's (HUD) website at:

https://www.hudexchange.info/

The policies and procedures contained in this manual apply to all projects receiving HOME funds through the Macomb HOME Consortium (MHC). Any violations of the requirements of the HOME program or policies contained within could result in the repayment of HOME funds received by the recipient.

These Policies and Procedures will be updated as the HOME program changes in the future or as needed.

Table of Contents

Introduction 1
Definitions 2
General Eligibility Requirements 7
Eligible Activities 7
Eligible Properties 7
Ineligible Activities 7
Methods of Assistance 8
Written Agreements 9
Underwriting and Subsidy Layering 10
Minimum HOME Investment 10
Maximum HOME Investment 10
Eligible Project Costs 12
Acquisition Costs 12
Development Hard Costs 12
Soft Costs 13
Community Housing Development Organization (CHDO) Costs 14
Tenant Based Rental Assistance 14
Prohibited Activities and Fees 15
Eligible Beneficiaries/Residents 17
Income Eligibility 17
Long-Term Affordability 18
Homeownership Projects 18
Rental Housing Projects 18
Enforcement of Affordability Restrictions 19
On-going Compliance during the Affordability Period 19
Mechanisms to Ensure Long-Term Compliance 19
Activity Specific Requirements 21
Housing Rehabilitation 21
Homebuyer 21
Rental 23
Tenant Based Rental Assistance 24
Lease Requirements (TBRA & Rental) 24
Property Standards by Activity Type 26
New Construction 26
Housing Rehabilitation 26
Acquisition of Standard Housing 26
Occupied Housing by Tenants Receiving HOME Tenant Based Rental Assistance (TBRA) 27
Manufactured Housing 27
Ongoing Property Conditions Standards: Rental Housing 27
Fiscal Policies 29
Other Federal Requirements 30
Recordkeeping 30
Environmental Review 30
Site and Neighborhood Standards 30

Lead Based Paint ... 30
Labor Requirements ... 30
Conflict of Interest ... 31
Fair Housing ... 31
Affirmative Marketing and Minority Outreach ... 32
Housing Accessibility ... 33
Additional Federal Requirements ... 33
Monitoring ... 35

Appendices

Appendix A – Macomb HOME Consortium Property Standards

Appendix B – Macomb County Housing Rehabilitation Standards

Appendix C – Macomb HOME Consortium Tenant Based Rental Assistance (TBRA) Program

Appendix D – Macomb HOME Consortium Jurisdiction Map

Appendix E – Macomb County Comprehensive Housing Rehabilitation Program Manual

Appendix F – Homeowner Housing Rehabilitation Written Agreement

Appendix G – Homebuyer Program Policies

Appendix H – HOME Program Homebuyer Written Agreement

Appendix I – Form HUD-52580 and Form HUD 52580-A

Appendix J –Subrecipient Monitoring and Management Policy

Introduction

The HOME Investment Partnerships Program (HOME) was created by the National Affordable Housing Act of 1990 (NAHA) and is designed to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing.

HOME provides formula grants to States and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. HOME is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.

HOME funds are awarded annually as formula grants to participating jurisdictions (PJs).The program's flexibility allows States and local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancements, or rental assistance or security deposits.

The program was designed to reinforce several important values and principles of community development:

- HOME's flexibility empowers people and communities to design and implement strategies tailored to their own needs and priorities.
- HOME's emphasis on consolidated planning expands and strengthens partnerships among all levels of government and the private sector in the development of affordable housing.
- HOME's technical assistance activities and set-aside for qualified community-based nonprofit housing groups builds the capacity of these partners.
- HOME's requirement that participating jurisdictions match 25 cents of every dollar in program funds mobilizes community resources in support of affordable housing.

Macomb HOME Consortium

Macomb County became a HOME participating jurisdiction (PJ) in 1992, and formed the Macomb HOME Consortium (MHC) in 2006, together with Roseville, Sterling Heights, and Clinton Township. Macomb County acts as the lead agency for the MHC. The MHC's annual HOME allocation is distributed to the member communities on a formula basis.

Definitions

1. **Action Plan:** The one-year portion of the Consolidated Plan. It includes the PJ's annual application for HOME funds.
2. **Adjusted Income:** Adjusted income is annual (gross) income reduced by deductions for dependents, elderly households, medical expenses, handicap assistance expenses and childcare (these are the same adjustment factors use by the Section 8 Program). Adjusted income is used in HOME to compute the actual tenant payment in TBRA programs and the low HOME rent in rental projects in which rents are based on 30% of the family's adjusted gross income.
3. **Affordability:** The requirements of the HOME Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME Final Rule. Affordability requirements vary depending upon the nature of the HOME assisted activity (i.e., homeownership or rental housing).
4. **Annual Income:** The HOME Program allows the use of two definitions of annual income: Section 8 (Part 5) annual income or adjusted gross income as defined for reporting on IRS form 1040.

   The MHC may use either of the allowable definitions of "annual income" to determine eligibility. However, the MHC will designate the method for each project and that method will be consistently applied to all for that given project.
5. **Commitment:** (1) The participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with a State recipient, a subrecipient, or a contractor to use a specific amount of HOME funds to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance; or has met the requirements to commit to a specific local project, as defined in paragraph (2) of this definition. (See §92.504(c) for minimum requirements for a written agreement.) An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating jurisdiction (e.g., an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment.
6. **Commitment to a specific local project:** If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date. If the project is owned by the participating jurisdiction or State recipient, the project has been set up in the disbursement and information system established by HUD, and construction can reasonably be expected to start within twelve months of the project set-up date.

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

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

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

7. **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 HOME.

8. **Consortium:** Geographically contiguous units of general local government consolidated to be in a single unit of general local government for HOME Program purposes when certain requirements are met.

9. **Community Housing Development Organization (CHDO):** A private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 CFR Part 92.2. The HOME New Rule requires that CHDO's have paid staff with demonstrated capacity appropriate to the CHDO's role (this requirement cannot be met through volunteer, donated staff, shared staff, or board members). A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs.

10. **Draw-Down:** The process of requesting and receiving HOME funds. The MHC draws down funds from a line of credit established by HUD.

11. **Final Rule:** The Final HOME Rule was published at 24 CFR Part 92 on July 24, 2013 and became effective on August 24, 2013.

12. **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 during the affordability period.

13. **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 remain constant.

14. **Group Home:** Housing occupied by two or more single persons or families consisting of common space and/or facilities for group use by the occupants of the unit, and (except in the case of shared one-bedroom units) separate private space for each family.

15. **HOME-Assisted Units:** A term that refers to the units within a HOME project for which rent, occupancy and/or resale restrictions apply. The number of units designated as HOME-assisted affects the maximum HOME subsidies that may be provided to a project.

16. **HOME Funds:** All appropriations for the HOME Program, plus all repayments and interest or other returns on the investment of these funds.

17. **HOME Investment Trust Fund:** The term given to the two accounts - one at the Federal level and one at the local level - that "hold" the MHC's funds. The Federal HOME Investment Trust Account is the U.S. Treasury account for each participating jurisdiction. The local HOME Investment Trust Fund account includes repayments of HOME funds, matching contributions and payment of interest and other returns on investment.

18. **Household**: One or more persons occupying a housing unit.

19. **Housing Quality Standard (HQS)**: minimum quality standards used to determine that housing meets the criteria necessary for the health and safety of the program participants. The key aspects of housing quality covered by HQS includes: sanitary facilities; food preparation and refuse disposal; space and security; thermal environment; illumination and

electricity; structure and materials; interior air quality; water supply; lead-based paint; access; site and neighborhood; sanitary conditions; and smoke detectors.

20. **Jurisdiction**: A state or unit of general local government.

21. **Low-Income Families:** means families whose annual incomes do not exceed 80 percent of the median income for the area, adjusted for household size.

18. **Match:** Match is a permanent contribution to affordable housing. The HOME Program requires that the MHC provide match in an amount to no less than 25 percent of the total HOME funds drawn down for project costs.

19. **New Construction**: The creation of new dwelling units. Any project which includes the creation of new or additional dwelling units in an existing structure is considered new construction.

20. **Participating Jurisdiction (PJ):** The term given to any state, local government or consortium that has been designated by HUD to administer a HOME Program. HUD designation as a PJ occurs if a state or local government meets the funding thresholds, notifies HUD that they intend to participate in the program and has a HUD-approved Consolidated Plan.

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

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

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

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

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

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

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

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

22. **Project:** A site or an entire building or two or more buildings, together with thesite or sites on which the building or buildings is located, that are under common ownership, management and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking. The HOME Final Rule eliminated the requirement that all buildings fall within a four block radius.

23. **Project completion:** All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw-down of

HOME funds has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 92.502(d) of this part, project completion occurs upon completion of construction and before occupancy. For TBRA, project completion means the final draw-down has been disbursed for the project.

24. **Reconstruction (also rehabilitation):** The rebuilding, on the same lot, of housing standing on a site at the time of project commitment. Except that housing that was destroyed may be rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction the number of housing units on the lot may not be changed as part of the reconstruction project, but the number of rooms per unit may change. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing.

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

26. **State Recipient:** State PJs can award their HOME funds to units of local government to run HOME locally. Any unit of local government designated by a state to receive HOME funds is called a "state recipient." The state is responsible for ensuring that HOME funds allocated to state recipients are used in accordance with the HOME regulations and other applicable laws.

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

28. **Tenant-Based Rental Assistance (TBRA):** is a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance under this definition also includes security deposits for rental of dwelling units.

29. **Transitional housing**: means housing that:

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

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

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

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

32. **Very-Low-Income Families:** Families whose annual incomes do not exceed 50 percent of the median income for the area, adjusted for household size.

General Eligibility Requirements

Eligible Activities

HOME funds may be used to develop and support affordable rental housing and homeownership affordability through:

- Acquisition (including assistance to homebuyers),
- New construction (includes adding additional units to an existing structure),
- Reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including related costs such as:
  - Real property acquisition,
  - Site improvements,
  - Demolition, and
  - Other eligible expenses including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations;
- Tenant-based rental assistance to eligible household(s), including security deposits;
- Operating expenses of community housing development organizations.

**All housing supported with HOME funds must be permanent or transitional housing.*

*** A HOME assisted project that is terminated before completion, either voluntarily or otherwise, constitutes an ineligible activity and will be subject to recapture.*

Eligible Properties

- 1-4 Single family unit homes
- Condominiums/Cooperatives
- Group Homes
- Transitional Housing & Single Room Occupancy Units
- Permanent Supportive Housing
- May be one or more buildings on a single site, but project must be assisted with HOME funds as a single undertaking.

Ineligible Property Types

- Properties previously assisted with HOME funds cannot receive additional assistance during the affordability period unless assistance is provided during the first year after project completion.
- HOME funds may not be used for development, operations, or modernization of public housing financed under section 9 of the 1937 Act.

- Projects assisted under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages) may not receive HOME funds, unless assistance is provided to “priority purchasers” of such housing.

Method of Assistance

- HOME funds may be provided through:
  - Interest-bearing loans or advances
  - Non-interest bearing loans or advances
  - Deferred loans (forgivable or repayable)
  - Grants
  - Interest subsidies
  - Equity investments
  - Loan guarantees and loan guarantee accounts
  - Other forms approved by HUD

Documenting Compliance: Project eligibility will be determined prior to commitment of funds. Documentation to verify project eligibility will maintained by the MHC in the project file.

Written Agreements

Recipients of HOME funds will be required to enter into a written agreement with the MHC. Written agreements will vary based on the activity type. The HOME Investment Partnership Policies and Procedures Manual provides general information regarding the MHC's HOME program. The information in this manual is not a substitute for a written agreement. Recipients of funds are responsible for compliance with program requirements as indicated in their written agreement with the MHC.

HOME recipients are encouraged to familiarize themselves with both this manual and the HOME regulations which can be found on the U.S. Department of Housing & Urban Development's (HUD) website at:

https://www.hudexchange.info/

Any violations of the requirements of the HOME program or policies or written agreement could result in the repayment of HOME funds received by the recipient.

NOTE: Policies and Procedures will be updated as the HOME program changes in the future or as needed.

Documenting Compliance: A written agreement will be executed by the MHC and the recipient of HOME funds prior to commitment of funds. A copy of the written agreement will be maintained by the MHC in the project file.

Underwriting and Subsidy Layering

The underwriting and subsidy layering requirements at 24 CFR 92.250 are applicable to all rental projects developed in whole or in part with HOME assistance. For projects which are only partially funded by HOME, the PJ must assess the financial viability of the entire project, not just the HOME-assisted units. This requirement is also applicable to HOME-assisted projects which seek to develop and sell units to homebuyers, whether scattered site or within a designated subdivision or target area.

While the underwriting requirements of 24 CFR 92 generally apply to all HOME-assisted projects, not all elements of the underwriting analysis are required for:

- Direct homebuyer assistance which is not part of a HOME-funded development activity; and
- Homeowner rehabilitation assistance activities

The MHC is required to evaluate a project using its underwriting and subsidy layering guidelines before committing HOME funds and is responsible for ensuring that the underwriting is revised in response to any changes that may occur in the project budget.

To implement the Underwriting and Subsidy Layering requirements the MHC will review the following which must be provided by the project applicant:

- Examine the sources and uses of funds for the proposed project to determine that all project costs are reasonable;
- Assess the current market demand in the area where the projects will be located;
- Assess the experience and the financial capacity of the developer or rental project owner; and
- Obtain documentation to show firm written financial commitments for the project.

A review of the above listed documents will be complete prior to commitment of HOME funds in HUD's Integrated Disbursement and Information System (IDIS). A summary of the review will be maintained in the project file.

While the MHC is ultimately responsible for the project underwriting, it may permit a subrecipient, State subrecipient or contractor working for the PJ to perform underwriting functions or services. The MHC may also choose to review the underwriting of other lenders. The MHC may also utilize underwriting completed by a state credit allocating agency for projects that combine HOME and LIHTC funds. If utilizing any of these options, the MHC will still be required to review the underwriting.

Minimum HOME Investment

The minimum HOME investment in a property is $1,000 per unit assisted. Note, that in a multi-unit property, any single unit may receive less than $1,000 but the overall investment in the property must average at least $1,000 per unit. For example, in a property with five HOME-assisted units, the total investment must be at least $5,000 regardless of how those funds are allocated across the units.

Maximum HOME Investment

Due to the discontinuation of the Section 221(d)(3) mortgage insurance program, alternate maximum per-unit subsidy limits must be used for the HOME Program. HUD is required to undertake rulemaking to establish new maximum per-unit subsidy limits for the HOME Program because it is no longer updating and publishing limits for the Section 221(d)(3) mortgage insurance program. Until a new rule can be published, HUD published a Notice establishing an interim policy that Field Office staff and participating jurisdictions (PJs) must follow directing PJs to use the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects, as an alternative to the Section 221(d)(3) limits in order to determine the maximum amount of HOME funds a PJ may invest on a per-unit basis in HOME-assisted housing projects. This interim policy remains in effect until the effective date of the new final rule provisions, amending the existing provisions of 24 CFR 92.250(a).

Note: projects containing both HOME and Non-Home Units: HOME funds may be used to assist one or more housing units in a multi-unit project that contains other non-Home units. However, the following additional restrictions apply:

- Only the actual HOME eligible development costs may be supported by the HOME program.
    - Actual Costs can be determined by the following:
        - If the assisted and non-assisted units are not comparable (non-HOME units may contain luxury materials, for example) 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.

Documenting Compliance: To demonstrate that the MHC's underwriting and subsidy guidelines have been applied to the project. Each project file must contain documentation and an evaluation signed and dated by MHC staff.

Eligible Project Costs

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

- Acquisition Costs
- Development Hard Costs
- Related Soft Costs
- Community Housing Development Organization Costs
- Relocation Costs

If a property supported (acquired, rehabilitated, etc) with HOME funds is ultimately unable to provide affordable housing in accordance with HUD regulations, the project will be deemed ineligible and subject to the recapture of HOME funds. These project costs are explained in further detail in the following pages.

Acquisition Costs

- Includes costs of acquiring improved or unimproved real property
- Acquisition of vacant land or demolition can only be undertaken for particular housing project intended to provide affordable housing.
- Costs to make utility connections to an adjacent street or to make improvements to the project site, in accordance with the provisions of § 92.206(a)(3)(ii) and (iii) are also eligible in connection with acquisition of standard housing.

Development Hard Costs

- Includes the actual cost of constructing or rehabilitating housing.
- New construction: project costs must meet the MHC's Housing Property Standards (Appendix A)
- Rehabilitation: Project costs must meet the Macomb County Housing Rehabilitation Standards (Appendix B)
- Demolition of Existing Structures (Remember that Uniform Relocation Act applies)
- Creation of utility connections including off-site connections from the property line to the adjacent street.
- Improvements to the project site (only property owned by the project owner, where the project is located) that are in keeping with improvements of surrounding, standard projects. Including:
    - On-site roads
    - Sewer Lines
    - Water lines

  ** Costs must be necessary to the development of the project.*
- Costs to construct or rehabilitate laundry and/or community facilities located in the same building as the housing for the use of project residents (only applicable to multi-unit RENTAL

housing).

- Manufactured Housing: HOME funds may be used to purchase manufactured housing units or purchase the land upon which a manufactured housing unit is located. MHC HOME funds shall not be used to rehabilitate manufactured housing units. Any manufactured housing unit purchased with HOME funds must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

Soft Costs

- Project related soft costs must be reasonable and necessary. Examples of eligible project soft costs include:
  - Finance-related costs;
  - Architectural, engineering, and related professional services (such costs may be incurred up to 24 months prior to the date that HOME funds are committed provided they are approved by the PJ and specified in the written agreement);
  - Tenant and homebuyer counseling, if the recipient of counseling ultimately becomes the tenant or owner of a HOME-assisted unit;
  - Project audit costs, including certification of costs (third party review to confirm that costs are eligible and reasonable) performed by a certified public accountant (CPA);
  - Affirmative marketing and fair housing services to prospective tenants or owners of an assisted project;
  - PJ staff costs directly related to projects (not including TBRA);
  - Costs of environmental review and release of funds in accordance with 24 CFR Part 58 which are directly related to the project;
  - Cost of funding an initial operating deficit reserve, not to exceed 18 months (ONLY eligible for new construction or rehabilitation projects):
    - Only can be used to pay project operating expenses, scheduled payments to a replacement reserve, and debt service.
    - Any HOME funds placed in an operating deficit reserve that remains unexpended after the period of project rent-up may be retained for project reserves.
  - Relocation costs (for persons displaced by the project):
    - Replacement housing payments
    - Moving expenses
    - Other reasonable out-of-pocket costs incurred in the temporary relocation of persons.
    - Staff time associated with providing relocation to displaced persons (including referrals housing search assistance, property inspections, counseling, and other assistance necessary to minimize hardship).
  - Payment of Construction Loan, Bridge Financing, or Guaranteed Loan (principle & interest), if:

- The project meets all HOME requirements and the loan was used for eligible costs specified in HOME Regulations and this policies and procedures manual; & the HOME assistance is part of the original financing for the project.

Community Housing Development Organization (CHDO) Costs

- A CHDO is defined as a private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 CFR Part 92.2.
- The HOME New Rule requires that CHDO's have paid staff with demonstrated capacity appropriate to the CHDO's role (this requirement cannot be met through volunteer, donated staff, shared staff, or board members).
- Up to 5 percent of a participating jurisdiction's fiscal year HOME allocation may be used for the operating expenses of community housing development organizations (CHDOs). This amount is in addition to amounts set aside for housing projects that are owned, developed, or sponsored by CHDOs as described in 24 CFR 92.300(a). These funds may not be used to pay operating expenses incurred by a CHDO acting as a subrecipient or contractor under the HOME Program. Operating expenses means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials; and supplies. The requirements and limitations on the receipt of these funds by CHDOs are set forth in 24 CFR 92.300(e) and (f).
- HOME funds may be used for capacity building costs under 24 CFR 92.300(b).

Tenant Based Rental Assistance (TBRA)

- Eligible costs include the rental assistance and security deposit payments made to provide tenant-based rental assistance for eligible households. MHC current TBRA program requirements provided as Appendix C.
- Administration of TBRA is generally eligible only under Administrative Expenses (subject to administrative CAP). Specific exceptions will apply where costs for income certifications and unit inspections can be directly assigned to individual projects.

Documenting Compliance: Cost eligibility will be verified prior to drawn down of funds from IDIS. Documentation to support project cost eligibility will be maintained MHC in the project file.

Prohibited Activities and Fees

HOME funds shall not be used to:

- Provide project reserve accounts, except as provided in 24 CFR 92.206(d)(5), or operating subsidies;
- Provide tenant-based rental assistance for the special purposes of the existing section 8 program, in accordance with section 212(d) of the Act;
- Provide non-federal matching contributions required under any other Federal program;
- Provide assistance for uses authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds);
- Provide assistance to eligible low-income housing under 24 CFR part 248 (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in 24 CFR 248.101;
- Provide assistance (other than tenant-based rental assistance, assistance to a homebuyer to acquire housing previously assisted with HOME funds, or assistance to preserve affordability of homeownership housing in accordance with 24 CFR 92.254(a)(9)) to a project previously assisted with HOME funds during the period of affordability established by the particular jurisdiction in the written agreement under 24 CFR 92.504. However, additional HOME funds may be committed to a project for up to one year after project completion (see 24 CFR 92.502), but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under 24 CFR 92.250.
- Pay for the acquisition of property owned by the participating jurisdiction, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project; or
- Pay delinquent taxes, fees or charges on properties to be assisted with HOME funds.
- Pay for any cost that is not eligible under 24 CFR 92.206 through 92.209.
- Participating jurisdictions may not charge (and must prohibit State recipients, subrecipients, and community housing development organizations from charging) servicing, origination, or other fees for the purpose of covering costs of administering the HOME program (e.g., fees on low-income families for construction management or for inspections for compliance with property standards) (see 24 CFR 92.206(d)(6) and 24 CFR 92.207), except that:
    - Participating jurisdictions and State recipients may charge owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability. The fees must be based upon the average actual cost of performing the monitoring of HOME-assisted rental projects. The basis for determining the amount of for the fee amount must be documented and the fee must be included in the costs of the project as part of the project underwriting;
    - Participating jurisdictions, subrecipients and State recipients may charge nominal application fees (although these fees are not an eligible HOME cost) to project owners to discourage frivolous applications. The amount of application fees must be appropriate to the type of application and may not create an undue impediment to a low-income family's, subrecipient's, State recipient's, or other entity's participation in the participating jurisdiction's program; and
    - Participating jurisdictions, subrecipients and State recipients may charge homebuyers a fee for housing counseling.
    - All fees charged under this section are applicable credits under 2 CFR 200.406.

- The participating jurisdiction must prohibit project owners from charging fees that are not customarily charged in rental housing (e.g., laundry room access fees), except that rental project owners may charge:
    - Reasonable application fees to prospective tenants;
    - Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and
    - Fees for services such as bus transportation or meals, as long as the services are voluntary and fees are charged for services provided.

Documenting Compliance: All projects proposals will be reviewed to ensure that the proposal does not include any of the above listed prohibited activities and fees prior to commitment of funds. All project vouchers will be reviewed to ensure compliance. Vouchers will maintained by the MHC to document compliance.

Eligible Beneficiaries/Residents

The HOME Program is designed to provide affordable housing to low-income households and individuals.

Eligible beneficiaries must meet the following requirements:

- Household must be at or below 80% of area median income (or applicable requirements for Rental Housing or Tenant Based Rental Assistance);
- Household must reside in or be relocating to the jurisdiction of the MHC. A map of the MHC jurisdiction is provided as Appendix D;
- Household must not be an agent, consultant, officer, employee, and/or elected official of the MHC or a HOME recipient of funds (household may still be able to receive assistance following the requirements of 24 CFR 92.356); &
- Household must meet all other requirements where applicable.

Additional restrictions apply when HOME is used for rental housing or HOME assisted rental units and households assisted with HOME funded TBRA (must have incomes that are 60% or less of area median income). Twenty percent of the units in each rental housing project with five or more HOME assisted units must be occupied by families with incomes at or below 50% of area median income. For specific requirements recipient should refer to their written agreement.

Income Eligibility

The HOME Program allows the use of two definitions of annual income: Section 8 (Part 5) annual income or adjusted gross income as defined for reporting on IRS form 1040. The MHC may use either of the allowable definitions of “annual income” to determine eligibility. However, the MHC will designate the method to be used for each project and that method will be consistently applied to all for that given project (same method for all tenants of the same property). When determining the annual income of an individual or family, the HOME recipient must follow the “Technical Guide for Determining Income and Allowances for the HOME Program” (HUD-1780- CPD). For specific requirements recipient should refer to their written agreement.

Documenting Compliance: Income eligibility must be determined prior to receipt of HOME assistance. Each project file must contain a copy of the applicant’s income eligibility review.

Long-Term Affordability

The HOME program requires that all assisted properties remain affordable for a specific period of time based on the amount of HOME funds provided to the project. To accomplish this, the MHC must enforce with resale or recapture provisions, per 24 CFR 92.254. The Macomb HOME Consortium uses the recapture provision for all homebuyer programs.

The following provisions will apply to subrecipients, consortium members, CHDO's, or other entities that currently provide homebuyer assistance with HOME funds provided through the Macomb HOME Consortium.

Homeownership Projects

Homeownership assistance HOME amount per-unit	Minimum period of affordability in years
Under $15,000	5
$15,000 to $40,000	10
Over $40,000	15

- The Macomb HOME Consortium will require full repayment of the assistance provided to the homebuyer if the home is sold during the affordability period. However, if there are no net proceeds or insufficient proceeds to recapture the full amount of the HOME investment due, the amount subject to recapture will be limited to what is available from the net proceeds. Net proceeds are defined as the sales price minus superior non-HOME loan repayments and any closing costs.
- If the value of assisted home upon completion is greater than the HOME Homeownership Value limit, the home must be sold to the buyer for no more than the applicable limit. The resale method at 92.254(a)(5) must be used in this circumstance, as the recapture approach will not capture the discount of the price from fair market value to the applicable limit, and therefore cannot be used.
- Written agreements will reflect the recapture (and when applicable, resale) requirement.
- Affordability provision will be enforced through a recorded mortgage. The mortgage must be recorded in accordance with State recordation laws. A copy of the recorded mortgage must be maintained in the project file.
- NOTE: the affordability requirements listed above do not apply to the County's HOME funded Housing Rehabilitation Program for owner-occupied properties.

Rental Housing Projects

The affordability requirements apply to HOME funded rental housing projects without regard to the term of any loan or mortgage, repayment of the HOME investment, or the transfer of ownership.

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

Notes:

- The MHC may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure in order to preserve affordability.
- The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.
- The termination of the restrictions on the project does not terminate the participating jurisdiction's repayment obligation under §92.503(b).

Enforcement of Affordability Restrictions

The HOME requirements that apply throughout the period of affordability for a rental project include:

- HOME rent restrictions;
- HOME income-eligibility of tenants;
- Maintaining unit mix;
- Affirmative marketing;
- Marketing accessible units to disabled tenants/applicants (if applicable);
- Tenant rights and protections;
- Tenant selection;
- Ongoing property standards; and
- Financial oversight for projects with ten or more units

On-going Compliance during the Affordability Period

HOME PJs are required to monitor HOME-assisted units that are subject to minimum affordability periods each year during the affordability period. The owner of rental property will be required to report to the MHC annually throughout the affordability period to ensure compliance with requirements regarding tenant incomes, allowable rents, and housing quality standards.

The owner's annual report to the MHC must include:

- Certified Rental Compliance Report
- Certificate of Compliance
- Copy of current lease agreement
- Affirmative marketing documentation
- For project with 10 units or more, an annual financial report including balance sheet of all operating and reserve accounts, an operating statement showing income and expense, and year-to-date monthly statements through the most recent available month per (now required under 24 CFR 92.504(d)(2).

Mechanisms to Ensure Long-Term Compliance

A written agreement will be executed between the MHC and the project owner, the HOME written agreement will provide specific information about the requirements that apply during the period of affordability; the enforcement mechanisms that the MHC will use to ensure compliance; and, consequences for non-compliance.

The affordability requirement will be enforced through a mortgage. The mortgage must be recorded in accordance with State recordation laws. A copy of the recorded mortgage must be maintained in the project file. For rental projects funded after January 1, 2016, the MHC will also record a HOME Regulatory Agreement. The mortgage and HOME Regulatory Agreement (when applicable) will be recorded prior to the first draw for the project.

Documenting Compliance: Each project file must contain documentation to support enforcement of the long-term affordability requirements and when applicable, the ongoing compliance requirements of this section.

Activity Specific Requirements

Each recipient of HOME funds will be required to enter into a written agreement. The information provided in this section is a general list of specific activity requirements that must be followed in addition to the requirements listed in the proceeding sections. However, this section should not be viewed as a substitute for the written agreement.

Homeowner Housing Rehabilitation

MHC HOME funds may be used to assist existing homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units. All properties assisted through this activity must comply with the guidelines provided in the "Macomb County Comprehensive Housing Rehabilitation Program Manual" (Appendix E), "MHC Property Standards" (Appendix A), and the "Macomb County Housing Rehabilitation Standards".

Other Homeowner Housing Rehabilitation Activity Requirements:

- *Maximum Property Value:* To use HOME funds, the value of the HOME assisted property after rehabilitation must not exceed 95 percent of the median purchases price for the area, as published by HUD for the jurisdiction of the MHC for existing single family housing. For owner-occupied housing rehabilitation projects, the MHC's chosen method of calculating the after rehabilitation value will be 2 times the State Equalized Value (SEV).
- *Long-Term Affordability: There are no long-term affordability requirements associated with owner-occupied housing rehabilitation projects.*
- *Homeowner Rehabilitation Written Agreement:* Assistance to the homebuyer must be documented through a MHC Homeowner Rehabilitation Written Agreement (Appendix F) signed by the homeowner(s).
- *Method of Assistance:* Assistance will be provided to the homeowner in the form of a no-interest, deferred payment loan. The amount of the assistance provided to the homeowner will be secured through a Mortgage and Note recorded against the property in accordance with State recordation laws

Homebuyer

Activities allowed with the use of City funds are activities that support the development of affordable housing and address the needs identified in the Consolidated Plan. The activities may include but are not limited to:

- Acquisition of existing structure(s) for rehabilitation of affordable homeownership housing
- Rehabilitation of existing structure(s) of affordable homeownership housing
- New construction of affordable homeownership housing

The MHC may engage with any number of other entities to deliver this activity including:

- Lenders;
- Non-profits;

- CHDOs; or
- Subrecipients and Contractors

Other Homebuyer Activity requirements:

- *Property Standards:* All housing assisted under this activity must meet the applicable requirements of “MHC Property Standards” (Appendix A).
- *Underwriting and Subsidy Requirements:* Sale of properties assisted under this activity must also follow the underwriting and subsidy guidelines provided in the MHC’s current “Homebuyer Program Policies” (Appendix G)
- *Counseling:* Homebuyers receiving downpayment assistance or homebuyers that reside in a HOME-assisted unit must receive housing counseling. The cost of the housing counseling can be charged as an eligible project cost. As a project cost, providing counseling is subject to the maximum per unit subsidy.
- *Maximum Property Value:* The value of the HOME assisted property after rehabilitation must not exceed 95 percent of the median purchases price for the area, as published by HUD for the jurisdiction of the MHC for existing single family housing. For homebuyer activities, compliance with this requirement must be documented through an appraisal used to determine the sale price to the homebuyer. If the value of assisted home upon completion is greater than the HOME Homeownership Value limit, the home must be sold to the buyer for no more than the applicable limit. The resale method at 92.254(a)(5) must be used in this circumstance, as the recapture approach will not capture the discount of the price from fair market value to the applicable limit, and therefore cannot be used.
- *Principal Residence:* The homebuyer must occupy the property as his/her principal residence.
- *Written Homebuyer Agreement:* Assistance to the homebuyer must be documented through a MHC HOME Program Homebuyer Written Agreement (Appendix H) signed by the buyer(s).
- *Long-Term Affordability* - The length of affordability will be based on the amount of the direct assistance to the homebuyer secured through a Mortgage and Note recorded against the property in accordance with State recordation laws. The chart below specifies the length of affordability period for varying direct assistance amounts:

Direct Assistance to Buyer (Recapture)	Affordability Period
<$15,000	5 Years
$15,000 - $40,000	10 Years
>$40,000	15 Years

- *Resale and Recapture Provisions*: When using HOME funds to assist homebuyers, the MHC has two options for ensuring long-term affordability during the affordability period – the recapture option and the resale option. The MHC has selected recapture is the chosen method (see above “Maximum Property Value” for instance of Resale).
- The Macomb HOME Consortium will require full repayment of the assistance provided to the homebuyer if the home is sold during the affordability period. However, if there are no net proceeds or insufficient proceeds to recapture the full amount of the HOME investment due, the amount subject to recapture will be limited to what is available from the net proceeds. Net proceeds are defined as the sales price minus superior non-HOME loan repayments and any closing costs.

- *Completion Date:* Homebuyer development projects must ensure the properties are sold to eligible homebuyers within nine (9) months of the date of completion of construction or rehabilitation. The MHC will consider the completion date to be the date that the MHC staff approved the final inspection of the property.

Rental Housing

HOME funds may be used for acquisition, new construction, or rehabilitation of affordable rental housing. The developers or owners of the rental housing may be small scale property owners, for-profit developers, non-profit developers, CHDO's, the local government, redevelopment organizations, or public housing authorities.

The following are general guidelines for HOME funded rental properties. Recipients of funds are responsible for compliance with program requirements and are encouraged to familiarize themselves with both this manual and the HOME regulations which can be found on the U.S. Department of Housing & Urban Development's (HUD) website at:

https://www.hudexchange.info/

The recipient of HOME funds should refer to their written agreement for specific requirements for their particular project.

Other Rental Activity requirements:

- *Cost Allocation in Rental Development Projects:* When rental projects include unit that are not HOME-assisted, the MHC must comply with the cost allocation requirement of 24 CFR 92.205(d).
- *Fixed and Floating Units*: For properties with both HOME-assisted and non-assisted units, the MHC will decide whether the units are "fixed" or "floating" units at the time of project commitment and prior to the subsidy layering and underwriting analysis, and cost allocation. The written agreement between the MHC and the owner, developer, or sponsor must specify whether the units are "fixed" or "floating". The specific HOME-assisted units must be identified no later than the time of initial occupancy.
- *Maintaining Unit Mix throughout the Affordability period:* The project owner must maintain the total number of HOME-assisted units, as required in the written agreement with the MHC.
- *Occupancy and Lease-Up Requirements*:
  - Within six months of project completion, if all the units in a project are not occupied by eligible tenants, the owner, developer, or sponsor must submit marketing information and, if appropriate, a marketing plan to demonstrate what steps will be taken to get the vacant unit(s) rented.
  - Within 18 months of the date of project completion, if the housing is not occupied by eligible tenants, the project will be considered ineligible and the owner, developer, or sponsor must repay to the MHC the HOME funds invested in the vacant units. If some of the units in the project are rented, this amount can be pro-rated.
- *HOME Rents:* Every HOME-assisted unit is subject to rent limits designed to make rents affordable to low-income households. These maximum rents are referred to as "HOME Rents".
- Occupancy and Lease-Up Requirements: The owner/developer must follow the occupancy and lease-up requirements of 24 CFR 92.252.
- Ensuring Affordability: The project owner must limit rents and verify incomes both initially (prior to occupancy) and annually thereafter throughout the affordability period. The MHC's approved method for determining income eligibility will be included in the written agreement.
- *Annual Recertification of Income:* Owners must establish a system to recertify tenant income

on an annual basis. The MHC's approved method for recertification will be included in the written agreement.

- *On*-Site *Inspections:* On-site inspections must occur within 12 months of project completion and at least once every three years thereafter during the period of affordability. If an inspection identifies any condition that the property does not meet the MHC's property standards for that project, the deficiencies must be corrected within the timeframe designated by the MHC provided in the inspection report.
  - *Sampling Units:* In projects with more than four HOME-assisted units, at least 20 percent of the HOME-assisted units in a project, and a minimum of four HOME-assisted units in each project, and at least one unit in every building must be inspected. In projects with four or fewer HOME-assisted units, all the HOME-assisted units must be inspected.

Tenant Based Rental Assistance (TBRA)

- TBRA programs must comply with 24 CFR 92.209. MHC current TBRA program requirements provided as Appendix C. Specific activity requirements will be included in the subrecipient's written agreement.

Lease Requirements (Rental & TBRA)

The lease between a tenant and an owner of rental housing assisted with HOME funds must be for not less than one year, unless by mutual agreement between the tenant and the owner.

Prohibited lease terms. The lease may not contain any of the following provisions:

- *Agreement to be sued.* Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- *Treatment of property.* Agreement by the tenant that the owner may seize or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This provision does not apply to disposition of personal property left by a tenant who has vacated
- *Excusing owner from responsibility.* Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- *Waiver of notice.* Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
- *Waiver of legal proceedings.* Agreement 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;
- *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury;
- *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenants's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees for other legal costs even if the tenant wins in court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- *Termination of tenancy.* An owner may not terminate the tenancy or refuse to renew the lease

of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing; or for other good cause. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

Documenting Compliance: Subrecipients should reference their written agreement with the MHC for specific requirements for their particular project. Each HOME project file will include documentation to support compliance with this section.

Property Standards by Activity Type

New Construction

Housing that is newly constructed (homebuyer or rental) with HOME funds must meet all applicable State and local codes, ordinances, and zoning requirements upon project completion.

A new construction housing project must also meet the following HUD requirements:

- *Accessibility.* The housing must meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. Covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619).
- *Disaster mitigation.* Where relevant, the housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.

The construction contract(s) and construction documents for new construction projects must describe the work to be undertaken in adequate detail so that inspections can be conducted. The MHC will review and approve written cost estimates for construction to determine that costs are reasonable.

The MHC will conduct progress and final inspections of the construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents. Inspections will be documented in the project file.

Housing Rehabilitation

All housing that is rehabilitated with HOME funds through the MHC must follow the MHC's current Housing Property Standards (HPS) (Appendix A) and Housing Rehabilitation Standards (HRS) (Appendix B).

A housing rehabilitation project must also meet the following HUD requirements:

- *Frequency of Inspections: The MHC or a representative approved by the MHC, will conduct an initial inspection to identify the deficiencies that must be addressed. The MHC or an approved representative will also conduct progress inspections and final inspections to determine that work was completed in accordance with work write-ups prior to payment of funds. Inspection results must be maintained in the project file to document compliance with this requirement.*
- *Capital Needs Assessment: For multifamily rental housing rehabilitation project of 26 or more total units funded after January 1, 2016,, the MHC must complete a capital needs assessment (CAN). The CNA must be maintained in the project file.*

Acquisition of Standard Housing

Existing housing that is acquired with HOME assistance for rental housing, and that was newly constructed or rehabilitated less than 12 months before the date of commitment of HOME funds, must meet the applicable property standards listed above. Compliance with this requirement will be based on a review of the approved building plans (permits) and Certificates of Occupancy, as applicable for the location of the housing, and an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance.

All other existing housing that is acquired with HOME assistance for rental housing or homeownership must meet the MHC's HPS. The MHC will inspect the property and document compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME funds. If the property does not meet the MHC's HPS then the scope of the project must include rehabilitation to meet those standards or it cannot be acquired with HOME funds. Compliance with this requirement must be documented in the file prior to commitment of HOME funds.

Occupied Housing by Tenants Receiving HOME Tenant Based Rental Assistance (TBRA)

All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the Housing Quality Standards in 24 CFR 982.401. Compliance with this requirement must be documented in the project file on the form HUD-52580 or form HUD-52580-A (Appendix I) prior to the commitment of funds.

Manufactured Housing

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

Ongoing Property Conditions Standards: Rental Housing

Rental projects to which HOME funds were committed before January 24, 2015 must meet the housing quality standards (HQS) in 24 CFR 982.401. For projects with funds committed after January 24, 2015 the property standard may be based on the HUD physical inspection procedures (Uniform Physical Condition Standards (UPCS)) prescribed by HUD pursuant to 24 CFR 5.705. The property standards are not required to use any scoring, item weight, or level of criticality used in UPCS. The required property standard will be included in the recipient's agreement with the MHC.

Additional Requirements:

- *Health and safety:* All housing must be free of all health and safety defects. The owner must correct life-threatening deficiencies immediately. The time frames for addressing these deficiencies will be included in the MHC's inspection report to the owner/developer.
- *Lead-based paint:* All housing to meet the lead-based paint requirements in 24 CFR part 35.
- *Inspections:* The MHC will undertake ongoing property inspections, in accordance with §92.504(d).
- *Corrective and remedial actions:* The owner must ensure that timely corrective and remedial actions are taken to address identified deficiencies by the deadline provided in the MHC's inspection report.
- *Inspection procedures:* The MHC will provide the owner/developer with inspection checklists, and whom the inspections will be carried out by. The owner/developer will also be provided with an inspection schedule consistent with 24 CFR 92.209 and 92.504(d).

Documenting Compliance: Each HOME project file will include a will include an inspection report completed by the MHC or an approved representative to document compliance with this section. Prior to project close-out, inspections will occur prior to drawdown for approved expenses. Ongoing inspections will occur based on the schedule provided in the written agreement.

Fiscal Policies

- Projects and programs receiving HUD funds must abide by the financial management requirements of the Federal Office of Management and Budgets which pertain to their particular type of organization, whether it is an institution of Higher Education, a hospital,other non-profit, a state, a local government, etc. For instance, a CHOO serving as a sub-recipient for the Consortium and as a development organization has different OMB requirements based on their activity.
- Recipients of HOME funds provided through the MHC must follow the requirements of 2 CFR 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS.
- All costs must be in direct relation to the MHC's HOME assisted unit and supporting documentation of all expenditures is required for all costs being paid for with HOME funding.
- HOME funds are available as reimbursement for eligible expenses. The MHC may consider an exception for acquisition and financing costs.
- Related soft costs must be necessary for the development of the HOME units, and documentation must be provided for any cost re-imbursement.
- 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 multiple units. All projects will be underwritten according to the HOME underwriting and subsidy layering guidelines. Individual homebuyers must also be underwritten per the guidelines.
- Before monies are committed, an agreement will be signed between the MHC 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 and all applicable regulations have been met (e.g. environmental review requirements).

Documenting Compliance: Requests for reimbursement will be reviewed to ensure that documentation has been submitted to verify compliance with this section prior to disbursement of funds.

Other Federal Requirements

Recordkeeping

The MHC, HUD, the Comptroller General of the United States or any of their authorized representatives, has the right to access the project and any books, documents, papers or other records of a HOME assisted unit.

Developers/owners/subrecipients will maintain all books and records (including project and tenant files) pertaining to HOME assisted units with the provisions of 24 CFR 92.508 for a period of not less than five (5) years after the affordability period ends and all matters pertaining to the project (e.g., audit, disputes or litigation) are resolved under applicable federal or state laws, regulations or policies.

Environmental Review

The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58.

Any funds committed to a HOME activity or project will be conditional on the completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR part 58. No HOME funds will be disbursed without the establishment of an Environmental Review Record and the appropriate level of review completed.

Site and Neighborhood Standards

Housing provided through the HOME Program must promote greater choice of housing opportunities. Specific rules are as follows:

- HOME-provided housing must be suitable from the standpoint of facilitating and furthering full compliance with the Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063.
- Home requires only new construction of rental projects to meet the site and neighborhood standard from 24 CFR 983.57(e)(2) and (3), which places limited conditions on building in areas of "minority concentration" and that are "racially mixed".

Lead Based Paint

The HOME Program requires owners/developers to take actions to reduce lead-based paint hazards in HOME-assisted units. Per 24 CFR 92.355, housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, M and R of this title.

Labor Requirements

HOME PJs, Developers, Subrecipients and CHDOs must comply with certain regulations on wage and labor standards including:

- Davis-Bacon and Related Acts (40 USC 276(A)-7): Ensures that mechanics and laborers employed in construction work under Federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance, and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs. In the case of Davis-Bacon and the Contract Work Hours and Safety Standards Acts, every contract for the construction of housing (rehabilitation or new) that contains 12 or more units assisted with HOME funds triggers the requirements.

- Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333): Provides that mechanics and laborers employed on Federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.

- Copeland (Anti-Kickback) Act (40 USC 276c): Governs the deductions from paychecks that are allowable. Makes it a criminal offense to induce anyone employed on a Federally assisted project to relinquish any compensation to which he/she is entitled, and requires all contractors to submit weekly payrolls and statements of compliance.

- Fair Labor Standards Act of 1938, As Amended (29 USC 201, et. seq.): Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work, and establishes child labor standards.

Conflict of Interest

No person who is an employee, agent, consultant, office, or elected official or appointed official of the MHC or a subrecipient which are receiving HOME funds who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

Per 24 CFR 92.356, upon written request of the PJ, HUD may grant an exception to this provision on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the program or project.

Fair Housing

Recipients of HOME funds are held to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601 et seq.), E.O. 11063 20Title VI of the Civil Rights Act of 1964, P. L. 88-352 and the regulations of HUD with respect thereto, including 24 CFR, Parts 1.

HOME recipients are prohibited from discriminating on the basisof:

- Race
- Ethnicity
- Color
- Religion

- National origin
- Disability Status (Including prior Alcohol & Illegal Substance Addictions)
- Familial status
- Gender
- Gender Identity
- Language(s) Spoken
- Literacy
- Sexual Orientation
- Veteran Status

Discrimination is prohibited in the assistance, tenant selection, sale, rental, and financing of dwellings. It is also prohibited in program administration and any enforcement mechanisms.

No person in the United States shall on the ground of race, color, national origin (or any of the other items listed above) be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal funding and/or assistance. Assistance includes:

- Grants and loans of Federal funds,
- The grant or donation of Federal property and interests in property,
- The detail of Federal personnel,
- The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
- Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

Affirmative Marketing & Minority Outreach

Each HOME developer must adopt affirmative marketing procedures and requirements for rental and homebuyer projects containing 5 or more HOME- assisted housing units.

HOME developers shall use the Equal Housing Opportunity Slogan, logo, or statement must in all advertisements, public service announcements, press releases, and information mailings. The HUD Fair Housing poster must be displayed in offices where rental activity takes place for all properties with five or more units.

Affirmative marketing steps consist of actions to provide information and otherwise attract eligible without regard to:

- Race
- Color
- National origin
- Sex
- Religion

- Familial status
- Disability

The affirmative marketing procedures do not apply to families with Section 8 tenant- based rental housing assistance or families with tenant-based rental assistance provided with HOME funds.)

The affirmative marketing requirements and procedures adopted must include:

- Methods for informing the public about Federal fair housing laws and the affirmative marketing policy;
- Procedures to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);
- Records that will be kept describing actions taken to affirmatively market units and records to assess the results of these actions; and

Developers to the maximum extent possible, will be inclusive of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

Developers will be required to submit Affirmative marketing compliance documentation annually.

Housing Accessibility

Most housing properties fall under several different laws. Federal programs and the age of the property determine which laws apply.

- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) protects race, religion, sex and national origin
- The Fair Housing Amendments Act of 1998 (Amendments Act - FHAA) added disability and familial status
- The Americans with Disabilities act (ADA) of 1990 addresses public accommodations (rental offices and common areas are considered public accommodations)
- Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to those receiving federal assistance

Additional Federal Requirements

The Federal requirements set forth in 24 CFR part 5, subpart A, are applicable to participants in the HOME program. The requirements of this subpart include:

- Nondiscrimination and equal opportunity;
- Disclosure requirements;
- Debarred, suspended or ineligible contractors; and
- Drug-free workplace.

The nondiscrimination requirements at section 282 of the Act are applicable. These requirements are waived in connection with the use of HOME funds on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

Documenting Compliance: Documentation to ensure compliance with this section will be maintained in the project file.

Monitoring

The MHC's overall monitoring approach includes the following:

- Project oversight on all active development projects;
- Implementation of the MHC's Subrecipient Monitoring and Management Policy; and
- Enforcement of long-term affordability restrictions

Project Oversight: The first line of approach for monitoring will be the maintenance of files and file checklists to assure that all required documentation is produced, reviewed andon hand as needed.

Subrecipient Monitoring and Management Policy: The policy provided as Appendix J was developed in compliance with 2 CFR 200.

Enforcement of long-term affordability restrictions: Analysis of required reports, reports from regular inspections, and documents submitted by the owner/developer to support compliance with long-term affordability restriction listed in the written agreement.

Documenting Compliance: The MHC will maintain monitoring files to ensure compliance with this section.