



Cabarrus/Iredell/Rowan HOME Consortium

HOME Investment Partnerships Program Policies and Procedures Manual

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Lead Entity:
City of Concord
35 Cabarrus Avenue West
Concord, NC 28025

Cabarrus/Iredell/Rowan HOME Consortium
HOME Investment Partnerships Program~Policies and Procedures Manual

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I. INTRODUCTION

The HOME Investment Partnerships Program

The HOME Investment Partnerships Program (HOME) (24 CFR Parts 91 and 92) provides formula grants to states and localities that communities use – often in partnership with local nonprofit groups – to fund a wide range of activities, which includes building, buying, and/or rehabilitation affordable housing for rent or homeownership or providing direct rental assistance to low-income individuals and families. It is the largest federal block grant to state and local governments that is designed exclusively to create affordable housing for low-income households.

The Cabarrus/Iredell/Rowan HOME Consortium Program

The HOME Program is designed to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing. The national objectives of the program are to:

- Provide decent, affordable housing for low-income households
- Develop the capacity of nonprofit housing agencies to address the housing needs of low-income households
- Provide funding for state and local governments to address low-income housing needs
- Leverage private sector participation

The Cabarrus/Iredell/Rowan HOME Consortium represents a unique HOME collaboration between three (3) counties in North Carolina: Cabarrus County, Iredell County, and Rowan County. The City of Concord is the Lead Entity for the HOME Consortium, which also includes the City of Kannapolis, the City of Salisbury, Cabarrus County, Iredell County, the City of Statesville, Rowan County, and the Town of Mooresville. The Consortium enjoys the size and strength that a regional approach provides while remaining flexible enough to meet local needs.

Purpose of Policies and Procedures

This Policies and Procedures Manual is offered to provide an overview of the Cabarrus/Iredell/Rowan HOME Consortium policies and procedures that pertain to the federal HOME Investment Partnerships Program. This Manual is not a substitute for HOME Program regulations, but this information is provided in addition to the federal regulations. Although this Manual was developed with reasonable care and diligence, it is not fully comprehensive concerning all of the requirements that affect the used of HOME Program funds. HOME Consortium Members are encouraged to consult with the City of Concord's staff, as the Lead Entity, to verify the correct interpretation of policies and regulations. The Cabarrus/Iredell/Rowan HOME Consortium reserves the right to implement additional policies as needed.

This Policies and Procedures Manual addresses the following purposes:

- Provides a uniform guide for the administration of the Cabarrus/Iredell/Rowan HOME Consortium Program locally. Although the Program conforms to federal rules and guidelines, it focuses primarily on locally-crafted procedures.
- Ensures that all Consortium stakeholders, including applicants for funding, local jurisdictions and interested residents, have access to information about program administration.
- Demonstrates to HUD that the HOME Program is administered in a way that is consistent with federal regulations and guidelines.

Amendments to Policies and Procedures

As an administrative document, this Manual may be amended at any time with the approval of the Cabarrus/Iredell/Rowan HOME Consortium Members.

The latest version of this Manual will be distributed to key stakeholders prior to each funding cycle. The most recent copy may be found at <https://www.concordnc.gov/Departments/Planning/Community-Development/Plans-Reports>.

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Key Documents Governing the HOME Program

The HOME Program is administered in compliance with a complex structure of federal and local rules. The principal documents describing these rules, as well as the goals and performance of the Cabarrus/Iredell/Rowan HOME Consortium, are summarized in the table below.

Authority	Documents	Description	Links
Federal	HOME Regulations and Guidance	Provides the binding rules (Code of Federal Regulations), agency guidance and advice for the HOME program nationally.	Comprehensive source for HOME policy guidance, including laws and regulations, CPD Notices, HOME <i>FACTS</i> and HOMEfires: https://www.hudexchange.info/programs/home/ Training materials on HOME Program: https://www.hudexchange.info/trainings/building-home/
Consortium	Consolidated Plan	Required plan that contains needs assessment, housing market analysis, priorities and strategies for use of HOME funds over the five-year period ending June 30, 2025.	https://www.concordnc.gov/Departments/Planning/Community-Development/Plans-Reports
Consortium	Analysis of Impediments to Fair Housing Choice	Required assessment of Fair Housing issues in the tri-county region and measures to address them.	https://www.concordnc.gov/Portals/0/Documents/Planning/CD/Fair_Housing_Impediments_July_2_020.pdf
Consortium	Action Plan	Time-specific goals and annual budget describing how the available HOME resources will be spent.	https://www.concordnc.gov/Portals/0/Documents/Planning/CD/ConsolidatedActionPlanSummary2019-2020.pdf
Consortium	CAPER	Annual performance report on the actual use of HOME funds and what was produced.	https://www.concordnc.gov/Portals/0/Documents/Planning/CD/CAPER%202018-2019.pdf
Consortium	Policies & Procedures Manual	Information and rules about the administration of the Consortium's HOME Program (this document)	https://www.concordnc.gov/Departments/Planning/Community-Development/Plans-Reports

Contact Information

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II. CONSORTIUM GOVERNANCE

The Cabarrus/Iredell/Rowan HOME Consortium was created in 2005 to serve the housing needs of Cabarrus, Iredell, and Rowan Counties in North Carolina. The Cabarrus/Iredell/Rowan HOME Consortium receives an annual allocation of federal HOME funds which must be used to assist with the housing needs of households with an annual income below 80 percent of the area median income, as determined by the U.S. Department of Housing and Urban Development (HUD). Each Consortium Member within the three-county area must agree to be a part of the HOME Consortium. Each funding cycle, the Consortium Members receive Consortium Agreements that include the amount of the funding allocations, which is calculated based on the percentage of the population per area, the percentage of low- and moderate-income residents per area, and the percentage of citizens that considered to be in poverty in each area. Every three (3) years, each Consortium Member is asked to formally verify their continued participation by notifying the City of Concord if they no longer wish to continue their participation to receive HOME funding.

Composition of the Board

Each Consortium Member provides staff representatives that form the Cabarrus/Iredell/Rowan HOME Consortium Board. Each Consortium Member has only one vote on any issues, which ensures that decisions are made to the benefit of the entire consortium area. Other staff also may attend the meetings.

Lead Entity Responsibilities

The City of Concord serves as the lead entity for the HOME Consortium. As a Community Development Block Grant (CDBG) entitlement community, the City can receive the HOME funds and manage the Cabarrus/Iredell/Rowan HOME Consortium. The funds are disbursed through the lead entity. The City is responsible for the submission of the plan for expenditures to HUD and for reporting and drawing down funds spent for programs operated by the Consortium. The City of Concord is responsible for completing all administrative duties on behalf of the Cabarrus/Iredell/Rowan HOME Consortium, which is included in the list below:

- Preparing and submitting the Annual Action Plan and revises the Plan as required by HUD.
- Sending annual agreements to The Consortium Members for required signatures.
- Approving Environmental Review Records on behalf of The Consortium Members.
- Preparing and submitting the Request for Release of Funds to HUD.
- Setting up new files for each Consortium Member, based on the plans for each new fiscal year.
- Tracking the match liabilities and credits for each Consortium Member.
- Preparing and submitting the annual match report to HUD.
- Preparing and submitting the annual Consolidated Annual Performance and Evaluation Report (CAPER) to HUD.
- Preparing and processing all pay requests on behalf of The Consortium Members.
- Reviewing program activities and rules to ensure that money is being spent in support of an eligible project and in accordance with HUD rules.
- Setting up files in IDIS for each project.
- Tracking program income for each Consortium Member on a quarterly basis.
- Track Consortium Members' progress by addressing any slow progress or other problems.
- Sending letters and notices regarding any project issues to The Consortium Members.
- Preparing and updating Consortium forms and documents as needed.
- Holding annual Consortium Meetings.
- Responding to Consortium Members' inquiries concerning their projects.
- Providing technical assistance to Consortium Members as needed.
- Monitoring and inspecting all Consortium projects on an annual basis.

Written Agreements

The Cabarrus/Iredell/Rowan HOME Consortium requires execution of a written agreement **before any HOME funds are committed or disbursed to any entity**. As appropriate, the City of Concord will work with its Legal Department to draft all contracts, agreements and other legal documents. In addition, the City of Concord's staff will provide legal counsel with information to assist them in understanding HOME program rules and their intent.

Written agreements shall contain the following provisions:

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- **Use of Funds:** Description of the HOME-funded activities, tasks to be performed, schedule for completing tasks, a budget in sufficient detail to effectively monitor performance and the period of the agreement.
- **Reversion of Assets/Program Income Requirements:** States that program income proceeds, unexpended funds or other assets will be retained by the recipient for other eligible activities or the funds will be returned to the Cabarrus/Iredell/Rowan HOME Consortium.
- **Uniform Administrative Requirements:** Compliance with applicable federal administrative requirements (24 CFR Part 200 and applicable provisions of 24 CFR Part 85 for governmental entities 24 CFR Part 84 for non-profits.)
- **Other Program Requirements:** Requirements regarding non-discrimination and equal opportunity; affirmative marketing and minority outreach; environmental review; displacement, relocation and acquisition; labor standards; lead-based paint; and conflict of interest.
- **Affirmative Marketing:** Requirements for affirmative marketing in projects containing five (5) or more HOME-assisted units.
- **Requests for Disbursement of Funds:** Requirement that HOME funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before requesting HOME funds, if applicable.
- **Records and Reports:** Lists records that must be maintained and information and reports that must be submitted.
- **Enforcement of the Agreement:** Means of enforcing the provisions of the written agreement. This provision is in the agreement with all parties including owners.
- **Duration of Agreements:** The agreement must specify the duration of the agreement. If the housing assisted under the agreement is rental housing, the agreement must be in effect through the affordability period required by the PJ. If the housing assisted under this agreement is homeownership the agreement must be in effect at least until the completion of the project by the low-income family.
- **Amending the Documents:** Written Agreements may be amended by mutual agreement of the parties when regulations and requirements change, or when adjustment to funding levels or other condition related to a specific project are needed.
- **Fixed or Floating Units:** Fixed and Floating HOME Units: In a project containing HOME-assisted and other units, The Consortium Members may designate fixed or floating HOME units. This designation must be made at the time of project commitment in the written agreement between the Consortium Member and the owner, and the HOME units must be identified not later than the time of initial unit occupancy.
 - Fixed units remain the same throughout the period of affordability.
 - Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

III. GENERAL HOME PROGRAM POLICIES & PROCEDURES

Eligible Activities

Consortium HOME funds may be used to support the following activities:

- New construction
- Rehabilitation
- Reconstruction
- Homebuyer activities
- Conversion
- Site improvements
- Acquisition of property
- Acquisitions of vacant land
- Demolition
- Relocation costs
- Refinancing existing secured debt
- Initial operating reserve
- Capitalization of project reserves
- Project-related hard costs
- Project-related soft costs
- Tenant-Based Rental Assistance (TBRA)
- Lease-purchase programs
- Development of homeownership housing
- Development or acquisition of rental housing
- Community Housing and Development Organization (CHDO) operating support

Ineligible Activities

Consortium HOME funds may not be used to support the following activities:

- Acquisition of vacant land or demolition only
- Project reserve accounts
- Match for other programs
- Development, operations, or modernization of public housing
- Properties receiving assistance under 24 CFR Part 248 (Payment of Low-Income Housing Mortgages)
- Double-dipping
- Reinvesting HOME dollars during the affordability period
- Acquisition of PJ-owned property
- Payments for delinquent taxes, fees, or charges
- Project-based rental assistance
- Tenant-based rental assistance for certain purposes
- Match for other Federal programs
- Any activity or cost not permitted by the HOME regulations

The Notice of Funding Availability will identify which of these activities may be funded in that particular funding cycle. All applications must be submitted in the format and with the information prescribed by the program or Notice of Funding Availability (NOFA).

Eligible Applicants

Public agencies, nonprofit organizations, and for-profit entities are all eligible to apply to Cabarrus/Iredell/Rowan HOME Consortium for HOME funds. Fund recipients (hereafter called “Consortium Members”) are classified into one of three (3) categories:

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- **Subrecipients:** A subrecipient is a public agency or nonprofit housing service provider selected by the Cabarrus/Iredell/Rowan HOME Consortium to administer HOME Programs. A nonprofit organization that is administering HOME funds is considered to be a HOME subrecipient. Designated nonprofit organizations that are subrecipients (including a Community Housing Development Organization (CHDO) when acting as a subrecipient) must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.
- **Developers, Owners, Sponsors:** For-profit entities, housing authorities, nonprofit organizations, and CHDOs can receive HOME funds in the roles of developers, owners, and sponsors of eligible activities.
- **Community Housing Development Organizations (CHDOs):** A CHDO is a private nonprofit organization which meets certain specific criteria, including having 1) IRS tax exempt status, 2) a mission/purpose related to housing and service to a low-income community, and 3) a board composition which includes one-third low-income residents or their representatives.

Eligible Administrative and Planning Costs

Funds are provided for the administration of the HOME program. The City of Concord's staff is responsible for administering all aspects of the HOME program; coordinating activities for the HOME program, monitoring compliance with written funding agreements and federal regulations, administering grants provided by the City of Concord, and coordinating with HUD to ensure compliance with federal regulations. The City of Concord uses funds for a pro-rata share of the salaries, fringe, and overhead that can be directly attributable to the HOME Program. Adequate records are maintained to justify the allocation of HOME administration funds for these purposes.

- Eligible costs include the City of Concord's staff and overhead costs directly related to carrying out projects, such as work specifications preparation, inspections, lead-based paint evaluations (visual assessments, inspections, and risk assessments) and other services related to assisting potential owners, tenants and homebuyers.
- Staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling and other assistance necessary to minimize hardship.
- Costs may be charged as administrative costs or as project costs, at the discretion of the City of Concord; however, these costs (except housing counseling) cannot be charged to or paid by the low-income families.

Uniform Administrative Requirements

- 24 CFR Part 200
- Provisions of 24 CFR Part 85

Distribution of HOME Funding

As the Lead Entity for the Consortium, the City of Concord distributes HOME funds within the boundaries of the Cabarrus/Iredell/Rowan HOME Consortium area, and among different categories of housing need, according to the priorities of housing need identified in its approved Consolidated Plan.

HOME funds are provided to the Cabarrus/Iredell/Rowan HOME Consortium by HUD annually using a formula allocation. The Cabarrus/Iredell/Rowan HOME Consortium's distribution plan for HOME funds includes:

- **Administration (10%)** Funds are used by the Cabarrus/Iredell/Rowan HOME Consortium for planning, administration, allocation of indirect costs and monitoring of the program. Funds are also used to conduct training and technical assistance to entities interested in applying for and implementing HOME-funded projects.
- **CHDO Set Aside (15%)** In accordance with HOME regulations, a minimum of 15 percent of annual HOME funds are set-aside for use exclusively by HOME designated community housing development organizations (CHDOs) for specific allowable activities (housing owned, developed and/or sponsored by the CHDO). These funds are awarded to CHDOs by the Consortium annually via a competitive proposal process.

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- The HOME Final Rule has established a separate five-year deadline for expenditure of CHDO set-aside funds, which becomes effective January 1, 2015 and will impact all deadlines that occur on or after that date.

- **Balance of HOME Funds (75%):** The Cabarrus/Iredell/Rowan HOME Consortium distributes the balance of HOME funds to projects in Cabarrus County, Iredell County, and via a formulary process that calculates the percentage of the population per area, the percentage of low- and moderate-income (LMI) residents per area, and the percentage of citizens that are considered to be in poverty in each area of the above-named jurisdictions.

The Consortium Members may only invest its HOME funds in eligible projects within its boundaries, or in jointly-funded projects within the boundaries of the jurisdictions that serve residents within the jurisdictions. For a project to be jointly funded, all jurisdictions must make a financial contribution in the project. The financial contribution can be a grant or loan (including funds from other sources that are in the jurisdiction's control, such as relief provided through a significant tax or fee (i.e., a waiver of impact fees, property taxes, or other fees and taxes).

The Cabarrus/Iredell/Rowan HOME Consortium only invests HOME funds in eligible projects within the boundaries of Cabarrus, Iredell and Rowan Counties. Allocations to the Cabarrus/Iredell/Rowan HOME Consortium Members are automatic with no competitive process for funding. Before committing funds to a project, each Consortium Member will determine the eligible projects to undertake and provide all appropriate documentation to the City of Concord for review. HUD match conditions also must be met for these projects.

Matching Funds

The Consortium Members, excluding the CHDOs, are required to match at least 25% of the HOME funds that are spent on projects/programs. "Match" can be provided through cash, assets, services, labor, and other contributions of value to the HOME program.

Federal resources (i.e., CDBG funds) are not an eligible source of match. Match does not have to be provided on a project-by-project basis. The match requirement applies to the expenditure of HOME funds on projects/programs in a given federal fiscal year (July 1 - June 30). Match is tracked on an ongoing basis using a HUD provided (HUD form 40107). This information is monitored and maintained by the Consortium Members and the City of Concord. The Consortium Members will only commit HOME funds up to the percent that banked match will allow.

Eligible sources of matching funds include:

- Cash from a non-federal source
- Value of donated land
- Cost of infrastructure improvements
- 25% to 50% (depending on the type of bonds) of the proceeds of government issued housing bonds provided as a loan to a project
- Value of donated materials, equipment, labor, or professional services
- Sweat equity
- Cost of homebuyer counseling services. The Consortium Members are responsible for calculating match credits and providing the required information for HUD.

Subrecipient Application Process

Subject to availability, HOME funds may be made available to program subrecipients through an annual application process. If funds are made available to subrecipients, the Cabarrus/Iredell/Rowan HOME Consortium will issue a Notice of Funding Availability (NOFA) that provides information on how to apply for a grant and a timeline for submitting the application and all required attachments.

Applications will be scored based on a point system related to specific criteria that place an emphasis on revitalization of distressed neighborhoods and other community housing needs. Applications also are scored for clarity of the proposal, the likelihood of success, the project's financial feasibility, the funding need, the track record of the organization, the creditworthiness of the organization, and the ability to implement the project within one funding year.

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Multi-Family Projects

The HOME program permits less than all of the units in a project to be designated as HOME units. HOME funds may only be expended on the actual costs, up to the maximum per-unit subsidy limit, of units that meet HOME affordability requirements. Consequently, a Consortium Member must allocate development costs according to the actual costs of the HOME-assisted units. It is necessary for a Consortium Member to identify the number and type of HOME-assisted and unassisted units and make a comparability determination. The Consortium Member then uses the actual costs of the HOME units to ensure that at least the minimum required number of units will be designated as HOME-assisted units. A Consortium Member may always designate more units as HOME-assisted units than the number required based on the actual costs charged to the HOME program. In addition, the comparability analysis will help a Consortium member to determine whether to designate HOME units as fixed or floating during the period of affordability. Additional information concerning the adjusted Basic Statutory Mortgage Limits for Multifamily Housing Programs can be found in the Federal Register. The Federal Register is updated yearly, but the most recent information is included in the Federal Register, Volume 85, No. 108 that is dated Monday, June 4, 2020.

IV. Overarching Program Regulations and Requirements

Fair Housing and Civil Rights

Agencies must comply with federal, State, and local fair housing and civil rights laws, regulations, and Executive Orders, including Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq); the Fair Housing Act (42 U.S.C. 3601-3602); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259); and the Age Discrimination Act of 1975, as amended (42 U.S. C. 6101-6107).

Discrimination in the provision of housing is prohibited on the basis of a protected class; federal and North Carolina State protected classes include:

- Race
- Color
- National Origin
- Religion
- Disability
- Sex
- Familial Status

Affirmative Marketing and Outreach

All Consortium Members must undertake outreach efforts in accordance with state and federal fair lending regulations to assure nondiscriminatory treatment, outreach, and access to the Program.

The Consortium Members must inform potential applicants of the program via flyers, public notices, local media articles, or meetings with Subrecipient staff. The marketing information will include basic eligibility requirements, a general description of the Program, and the appropriate Fair Housing logo.

The Consortium Members' marketing approach must address: (1) how the program will be announced (i.e., which media and other sources); (2) where applications will be taken (i.e., at one site or more); (3) when applications will be accepted (i.e., daily, during normal working hours, or extended hours for a specified period); and (4) the method for taking applications (i.e., in person, by mail).

The Consortium Members must maintain a file that contains all marketing efforts (i.e., copies of newspaper ads, memos of phone calls, copies of letter, etc.) The records, which help assess the results of these actions, must be available for inspection by the Consortium.

The Consortium Members also has an obligation to assure that information about the program reaches the broadest possible range of potentially qualified applicants.

To further fair housing objectives, The Consortium Members should identify those households that have been determined to be "least likely to apply," and determine what special outreach activities, including placing advertising in minority-specific media, will ensure that this population is fully informed about the program. The Consortium Members should work with the Consortium to assure that all marketing initiatives and materials adequately reflect the available assistance types.

Conflict of Interest

In the procurement of property and services by the Consortium Members, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. Any person who exercises or has 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 not have an interest in any contract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

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Conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, board member, loan committee member, elected official or appointed official of the participating jurisdiction or the Consortium Member that is receiving HOME funds.

The Consortium Members shall ensure that officers, employees, agents or consultants will not occupy any HOME assisted affordable housing units in the project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the CHDO who occupies a housing unit as the project manager or maintenance worker.

As lead agency for the Consortium, the City of Concord may provide an exception to the provisions listed above on a case-by-case basis when the Consortium Members determine that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the Consortium Member's HOME-assisted project. For the City and the Consortium Members to provide this exception, The Consortium Members must make a written request and the City and the Consortium Members will make its determination based on the following factors:

- a. Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group;
- b. Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
- c. Whether the tenant protection requirements of Section 92.53 are being observed;
- d. Whether the affirmative marketing requirements of Section 92.351 are being observed and followed; and
- e. Any other factor relevant to the City and the Consortium's determination, including the timing of the requested exception.

The Consortium Members must maintain a written code of standards of conduct that will govern the performance of its officers, employees, or agents engaged in the award and administration of contracts funded with Federal dollars.

Program Accessibility

Section 504 of the Rehabilitation Act of 1973 requires that a HOME-funded activity, when viewed in its entirety, is usable and accessible to persons with disabilities. The obligation to provide accessible units, in accordance with 24 CFR 8.22 and 8.23 is broader and includes the following:

All program activities, including public hearings, homebuyer briefings, counseling sessions, and meetings should be held in locations that are accessible to persons with disabilities.

Information about all programs and activities should be disseminated in a manner that is accessible to persons with disabilities. Auxiliary aids and special communication systems should be used for program outreach, public hearings related to housing programs, and other program activities.

Reasonable steps should be taken to provide information about available accessible units to eligible persons with disabilities. Homebuyer projects are not required to produce accessible units but reasonable accommodations during the application process are required for any buyers with accessibility needs. Program advertising should acknowledge that the program will work with households with accessibility needs. Should a successful homebuyer applicant have a need for a unit with an accessible design, the program must accommodate those needs.

Information about the accessibility requirements of HOME-funded multifamily housing is included in the rental housing chapter of this manual.

Equal Opportunity

Federally-funded housing projects/programs are subject to Executive Order 11246, as amended, which prohibits agencies from discriminating against employees or applicants for employment on the basis of race, color, religion, national origin, citizenship status, unfair documentary practices regarding employment verification, sex, age, and disability. These requirements are included in all contracts with Agencies.

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- **Section 3 of the Housing and Urban Act of 1968 (Section 3):**
The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD financial assistance is directed to low- and very low-income persons to the greatest extent feasible. In accordance with the Section 3 Plan, solicitation of Section 3 businesses is required during procurement for any construction contract of \$100,000 or more and is encouraged for contracts of lesser amounts. The Section 3 Plan also requires contractors/subcontractors to follow a specific hiring plan in order to target Section 3 residents.
- **Women- and Minority-Owned Business Enterprises:**
The Consortium Members are required to take affirmative actions to allow Women- and Minority-Owned Business Enterprises (WMBE) to benefit from federal funds. The Consortium Members passes this requirement on to funded agencies, which must make a good faith effort to employ WMBE firms when implementing projects/programs. These efforts can include advertising for professional services or construction contractors in minority publications, notifying WMBE firms directly of employment opportunities, or requiring that contractors hire WMBE subcontractors. Solicitation of MBE firms is required during procurement for any construction contract of \$50,000 or more.

Non-Discrimination

No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity funded in whole or in part with HOME funds on the basis of religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status, physical or mental disability, gender identity or expression of a person, national origin, ancestry, military status, or other arbitrary cause.

Reasonable Accommodations for Persons with Disabilities

Employers receiving HOME funds may not discriminate against prospective or current employees with disabilities. Employers must remove physical and administrative barriers to employment and make reasonable accommodations for employees with known disabilities.

If a subrecipient has 15 or more employees, it must designate a Section 504 Coordinator and notify program participants and employees of its non-discrimination policies.

Business Enterprises Owned by Minorities, Women and Disadvantaged Business Enterprises

The Cabarrus/Iredell/Rowan HOME Consortium encourages participation by business enterprises owned by minorities and women, and disadvantaged business enterprises (M/W/D-BE). Contracts for the procurement of services should be awarded to the maximum extent possible to M/W/D-BE. Section 24 CFR 84.44(b) of the Uniform Administrative Requirements outlines recommended steps for achieving participation goals.

The Uniform Act and Section 104 (d)

HOME-assisted projects are subject to the Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655), and the government wide implementing regulations issued by the Federal Highway Administration at 49 CFR part 24. In addition, projects that include demolition or conversion of low-income housing are subject to Section 104(d) (also called the Barney Frank amendment).

Acquisition

The URA requirements apply to any and all real property acquisition for a project that receives any amount of HOME funding, regardless of whether the funds are used to purchase the property or for other project costs. The regulations may apply to any acquisition for which a purchase offer was made at any time after the date the applicant first *intended* to apply for HOME funds for the project.

Agencies are exempt from complying with most acquisition requirements of the Uniform Act (Subpart B) *only* if an identified site can be acquired “voluntarily” in accordance with Section 49 CFR § 24.101 of Subpart B.

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A “voluntary” acquisition requires the Agency (buyer) to inform the seller, prior to executing an agreement to purchase:

- That it does not have the power of eminent domain (buyers with eminent domain authority, must agree not to use it, and must not have specific site needs);
- That it will not be able to purchase the property if negotiations fail to result in an amicable agreement; and
- Of the buyer’s estimate of fair market value (FMV) of the property to be acquired.

Estimating Fair Market Value:

An appraisal is not required to establish the FMV of a property, but there must be documentation that includes an explanation, with reasonable evidence, of the basis for the estimate. A Comparative Market Analysis is acceptable for this purpose.

Section 104(d)

Section 104(d) of the Housing and Community Development Act of 1974, as amended (104(d)) requirements apply when HOME assistance is used for a project involving demolition or conversion.

Section 104(d) has two distinct components:

- **One for One Replacement:** Requires one-for-one replacement of lower-income dwelling units that are demolished or converted to another use. For Section 104(d) purposes, “conversion” is defined as: Altering a housing unit that would rent at or below the fair market rent (FMR) so that it is used for non-housing purposes, rents for above the FMR or is used as an emergency shelter.
- **Relocation of Lower-Income Tenants:** Requires relocation assistance for displaced lower-income residential tenants and does not provide protection or assistance for persons with incomes above the Section 8 Low Income Limit.

Housing Replacement

The City of Concord has adopted a “Residential Anti-displacement and Relocation Assistance Plan”, which addresses the Section 104(d) requirement for one-for-one replacement of low- income housing units:

Consortium Members may replace all occupied and vacant occupiable low- and moderate- income dwelling units demolished or converted to a use other than as low- and moderate- income housing as a direct result of activities assisted with HOME funds.

Replacement units do not need to be provided by the same fund recipient whose project resulted in the housing loss. The Consortium Members will count any net gain in units achieved through the investment of HOME funds as having met the one-for-one replacement requirement.

Relocation

The Cabarrus/Iredell/Rowan HOME Consortium strongly discourages the permanent displacement of low-income households by project and programs. The URA stipulates the content and timing of notices for residents of properties to be acquired with HOME funds. If residents will be displaced by the project, they must receive moving cost reimbursement, relocation assistance payments, and relocation assistance services. If an otherwise feasible and fundable project does necessitate permanent or temporary displacement and relocation, the relocation must be carried out in strict compliance with the URA. Prior to selection for funding, the Agency must demonstrate that:

- Both personnel and budget resources are available to implement relocation, and
- Such projects must have qualified County-approved relocation personnel as part of the development team.

A pre-application conference with staff is required for any project which may involve relocation to ensure that the Agency understands the URA requirements and that proper relocation notices are given.

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No relocation may be initiated prior to funding award except with the prior written approval of the Consortium Member. If relocation is required, a detailed **Relocation Plan** must be submitted with an application for HOME funds.

Temporary Relocation

All conditions of temporary relocation must be reasonable and tenant shall be provided with reimbursement for all reasonable out-of-pocket expenses incurred in connection with temporary relocation.

Tenant shall receive advisory services, including written notice of the date and approximate duration of the temporary relocation, address of suitable temporary unit, and the terms and conditions under which the tenant may lease and occupy the building/complex upon completion of the project.

Temporary relocation may not extend beyond one year before the person is returned to his or her previous unit or location. Any residential tenant who has been temporarily relocated for more than one (1) year must be offered all permanent relocation assistance which may not be reduced by the amount of any temporary relocation assistance previously provided.

If the project requires tenants to be temporarily relocated off site, a detailed **Temporary Relocation Plan** is required.

Financial Management

The Consortium Members that receive HUD funds must abide by the financial management requirements of the Federal Office of Management and Budgets found at 2 CFR part 200.

Audit Requirements

The Consortium Members must follow OMB Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards.

IDIS Drawdowns

A separation of duties has been established by the Cabarrus/Iredell/Rowan HOME Consortium, the City of Concord's Finance Department, and the City of Concord as the designated Lead Entity for the Consortium, in order to provide proper checks and balances from grant set-up, project and activity set-up, sub-funding, sub-granting and drawdown process in the following manner:

IDIS Administrator Procedures:

- The City of Concord submits completed IDIS Access Request Forms in the IDIS system to gain approval for access by function for all Consortium Members' projects.
- The City of Concord also maintains drawdown request vouchers with copies of deposit transactions and payment disbursement documentation.

Program Income

Some housing activities generate program income, which must be disbursed before seeking reimbursement/draw down of additional HOME funds. Program income is defined as "gross income received by the Consortium Members, or an agency, which was generated from the use of HOME funds or HOME matching contributions." Income generated by housing projects or programs would typically fall into one of the following categories:

- ***Income from the use or rental of HOME-assisted real property*** owned by The Consortium Members, or a public or nonprofit agency selected by The Consortium Members to operate a portion of its housing program minus the costs of generating the income.

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- *Payments of principal and/or interest on loans* made with HOME funds.
- *Proceeds from the sale of real property* that was purchased or rehabilitated with HOME funds.

For example, funds for housing are often provided as low-interest or deferred payment loans. The loan repayments are considered program income. The federal regulations require that:

- Program income be spent before drawing funds from the Consortium's HOME account;
- Program income be spent only for eligible activities; and
- Written agreements with agencies that will generate program income must specify whether program income must be returned to the Consortium's HOME account or be used by the Consortium Members for an eligible activity.

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 Consortium's HOME account or the Consortium Members. The Consortium Members are required to track and report program income that is generated during each fiscal year to the City of Concord's staff.

Procurement

All projects must comply with the most restrictive of the applicable federal or state, competitive procurement regulations or costs may not be reimbursable.

Federal procurement requirements at 2 CFR Part 200 apply to all non-profit organizations action as a Subrecipient and to all public entities. The Owners/Sponsors/Developers are not subject to the federal procurement requirements.

Nonprofit organizations receiving HOME funds must comply with the procurement requirements of 24 CFR Part 84, with the exception of currently certified CHDOs undertaking CHDO-eligible projects (as stated in HUD CPD Notice 97-11).

Procurement requirements are provided in the Consortium Members' funding notices and written agreements. The Consortium Members are encouraged to contact the City of Concord's staff if they have any questions regarding the procurement requirements that apply to a specific project. The Consortium Members will be expected to provide a copy of their procurement policies and procedures that meet applicable federal and state requirements. If a project includes any construction or rehabilitation, a required component of a completed application for funding will be a written description of how the Agency intends to procure prime or general contractors, subcontractors, architects, engineers, consultants, etc. in a competitive manner.

For construction or facility improvement projects exceeding \$100,000, minimum Federal requirements located in 24 CFR 85.36 or 84.48(c) for bid guarantees, performance bonds, and payment bonds must be met. Prior to publishing a Notice of Bid Opening in the local newspapers, as a minimum requirement, and through other approved forms of communication mediums, each Consortium Member must review and approve all bid documents to ensure that all federal, state, and program requirements are included.

Only contractors and subcontractors that are not federally barred or suspended and have current State of North Carolina business licenses with current Workers' Compensation accounts, including proper insurance and bonding, can work on capital construction projects. The Consortium Members will check the status of the general contractor and all subcontractors for federal debarment and suspension, licensing, insurance, bonding, and Workers' Compensation accounts for capital construction projects. The Consortium Members also are responsible for checking the licensing and debarment status for owner-occupied housing rehabilitation and minor home repair clients.

The Cabarrus/Iredell/Rowan HOME Consortium's subrecipients are subject to the procurement requirements of 24 CFR parts 84 and 85 as well as state and local laws and regulations. Subrecipients will be monitored annually to ensure compliance with these regulations. Owners and developers, including CHDO's, are not subject to federal procurement requirements.

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Environmental Review

Prior to entering into a contract with a Consortium Member, the City of Concord, as the Lead Entity for the Consortium, will review and approve a federal Environmental Review in compliance with the National Environmental Policy Act (NEPA) and other related federal and state environmental laws. No choice-limiting activities may be undertaken by the applicant for HOME funds during the time between the submission of the application and the completion of the Environmental Review (prior to the receipt by the Consortium Member and the City of Concord of the Authority to Use Grant Funds from HUD).

Tenant-Based Rental Assistance is categorically excluded and not subject to §58.5 authorities. Each Consortium Member will document this determination, provide a copy of the Environmental Review Record to the City of Concord's staff for review and approval, and keep the document in the Environmental Review Records files.

Public Records

Materials and information submitted to or received by the Consortium Members are subject to public disclosure unless otherwise exempt from disclosure under the North Carolina General Assembly's G.S. §132. No assurances can be given that any materials provided can be protected from public review and copying.

Recordkeeping and Retention of Records

Records related to HOME-funded projects and programs must be retained for at least five (5) years. For rental and homeownership development projects, general records must be kept for five (5) years after project completion, and tenant/homeowner data must be maintained for the most recent five (5) years, until five years after the conclusion of the affordability period.

ADDITIONAL GENERAL POLICIES AND PROCEDURES FOR DEVELOPMENT PROJECTS

The remaining provisions in this chapter apply to HOME-funded rental housing development, rental housing acquisition (no rehabilitation), and homebuyer development projects, collectively referred to as "Development Projects."

Applicant Standards

Applicants for HOME Development Funds will need to demonstrate, with a reasonable level of assurance, that the sponsoring organization is fiscally sound and has reliable systems to manage and account for public funds. The following documents will be submitted at the Consortium Member's request:

- Complete audit reports for each of the past two (2) years for the applicant, including an OMB circular A- 133 supplement as appropriate, any audit findings, corrective action plan, management letter and agency response.
 - If the applicant organization has not been audited, financial statements for each of the past two (2) fiscal years and a year to date statement certified by the applicant's Chief Financial Officer. Financial statements will include balance sheets and cash flow, revenue, and long-term debt statements.
- Nonprofit organizations will need to submit an IRS Form 990 for the prior two years.
- Outstanding HOME Annual, Close-out or Monitoring Reports.

Applicants must demonstrate that the skills and experience of the development team and the property management team, and the capacity of the organization are appropriate to the size and complexity of the project. If the applicant does not have prior experience in affordable housing development or has not had experience within the past ten (10) years, they must partner with a development consultant experienced in affordable housing development.

Applicants will need a signed board resolution or board minutes authorizing submittal of a Development application. If selected for funding, the organization's board must designate in writing the person(s) authorized to execute agreements on behalf of the organization.

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Eligible Development Costs

HOME development funds may be used for, but are not limited to:

- Site preparation or improvement, including demolition if construction begins within 12 months
- Securing buildings
- Construction materials and labor
- Onsite improvements in keeping with surrounding projects, including sidewalks, utility laterals, etc. Offsite infrastructure is not eligible as a HOME expense
- Relocation costs, including moving costs, replacement housing costs, advisory services, staff costs related to relocation assistance
- Financing fees
- Credit reports
- Title binders and insurance
- Recording fees and transaction taxes
- Legal and accounting fees, including project audit costs
- Appraisals
- Architectural and engineering fees
- Environmental reviews
- Developer fees (subject to a limit)
- Permit fees
- System development charges
- Affirmative marketing, initial leasing and marketing costs
- Initial operating deficit reserve during lease-up: limited to 18 months (new construction projects only)
- Homebuyer counseling to purchasers of HOME-assisted housing units only

Appraisal and Real Property Acquisition

If the applicant is proposing the purchase of real property and/or building(s), a full appraisal must support the purchase price. Appraisals and acquisition must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended. The URA generally applies to federally- funded projects involving acquisition, rehabilitation, or demolition, and requires compliance with the following real property acquisition process, unless the project meets the requirements of 49 CFR 24.101(b)(1)-(5).

Applicants must follow the procedures for a Voluntary Acquisition under the URA. Prior to making an offer for the property, the applicant must, in writing, advise the owner of the property that federal funds may be involved in the purchase of the property, let the owner know that the applicant does not have the power of eminent domain and that it will be unable to acquire the property if negotiations fail to result in agreement, and provide the owner with what it currently believes to be the market value of the property. If the applicant has not yet completed an appraisal of the property at the time of the offer, the statement of market value provided to the seller must have a reasonable basis (e.g., assessed value).

The application for HOME funding must include a current appraisal. An appraisal must be dated no more than 12 months prior to the application due date. A letter updating an appraisal completed more than 12 months prior to the application due date will be accepted. The appraisal must be conducted by someone with a current general appraisal certificate in the State of North Carolina.

Minimum Property Standards

New Construction Projects

All new construction projects within the Consortium service areas will meet local codes, ordinances and zoning requirements for the municipality or county in which the project is located. Projects also must comply with the *N.C. State Building Codes that are applicable to new construction, residential, and existing structures*, which the Cabarrus/Iredell/Rowan HOME Consortium has adopted as its construction performance standards. Housing must meet all applicable requirements upon project completion.

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All new construction HOME-assisted projects will also meet the requirements described below:

- **Accessibility.** All housing will 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 multi-family dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619).
- **Disaster mitigation.** Where relevant, housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with municipal, county, State ICC or IFC codes, or such other requirements as HUD may establish.
- **Written cost estimates, construction contracts and construction documents.** The Cabarrus/Iredell/Rowan HOME Consortium will ensure that construction contracts and construction documents describe the work to be undertaken in adequate detail to conduct inspections. The Cabarrus/Iredell/Rowan HOME Consortium Members must review and approve written cost estimates for construction and determine that costs are reasonable.
- **Construction progress inspections.** The Consortium Members conduct progress and final inspections of construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents (draw requests).

Rehabilitation Projects

For existing single-family rental properties assisted with the Consortium Members' HOME funds, the unit must meet local codes, ordinances and zoning requirements for the municipality or county in which the project is located. Projects must also comply with the *N.C. Building Code and the Concord Development Ordinance*, and must address the major systems of the unit in the following manner:

Structural support

- If the initial inspection by the Consortium Members or the approved designee shows any evidence of foundation, sill, joist or other structural support damage these items must be corrected as part of the initial rehabilitation of unit prior to lease.

Roofing

- If deemed as not meeting the five-year threshold of useful life, the roofing, including all wood sheeting, framing, boxing and fascia that is identified as compromised (rotted, missing, etc.) must be replaced along with shingles.
- If the roofing is deemed as meeting the five-year threshold of useful life, any specifically-identified issues (damaged fascia, guttering, boxing, etc.) must be corrected as part of the initial rehabilitation of the unit prior to lease.
- All attics must be vented.

Cladding and Weatherproofing (e.g., windows, doors, siding)

- If initial inspection by the Consortium Members, or approved designee, shows any evidence of specified damage, the items must be corrected as part of the initial unit rehabilitation prior to lease.
- If existing windows are single-pane and determined to be in working order, the Consortium Member/developer/subrecipient must ensure that all windows have been properly sealed, both inside and out, to remove any potential air leakage.

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Plumbing and Water Heater

- All plumbing issues identified in the initial inspection by the Consortium Members or approve designee must be corrected.
- If the water heater is deemed as not meeting the five (5) year threshold of useful life, it must be replaced.
- Water heaters must be placed in drain pans with drain piping plumbed to disposal point as per the latest approved addition of the International Plumbing Code, only if located in living space.
- Pipe all Water Heater Temperature & Pressure (T&P) relief valve discharges to disposal point as per the latest approved edition of the International Plumbing Code.

Electrical

- If deemed as not meeting the five-year threshold of useful life, the electrical system must be replaced as part of the initial rehabilitation of the unit prior to lease.
- If deemed as meeting the five (5) year threshold of useful life, any specifically-identified issues associated with the wiring must be corrected prior to lease.
- Wall switch-controlled Energy Star rated overhead lighting is required in all rooms.
- Each bedroom and hallway, etc. must have, as required by Code (local, state or Federal) a hard-wired or battery back-up smoke detector.

Heating, Ventilation, and Air Conditioning

- If the unit is not properly insulated, a minimum of R19 insulation must be installed under all living space flooring and a minimum of R-38 insulation must be installed above all living space ceilings.
- If the heating or air conditioning systems do not meet the five (5) year threshold of useful life, they must be replaced with proper-capacity, high efficiency system which are of proper seer capacity of heated and cooled space.

Site and Neighborhood Standards

A site for newly constructed housing must meet the following site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.
- The site must promote greater choice of housing opportunities.
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

Lead-Based Paint

The Lead-Based Paint Regulations described in 24 CFR Part 35 require that lead hazard evaluation and reduction activities be carried out for all single and multi-family residences constructed prior to 1978 that receive HOME Program assistance. Applications for rehabilitation funds for existing buildings constructed prior to 1978 must include a lead hazard evaluation by appropriate lead-certified personnel.

If lead-based paint is present in the unit, the application must also include a detailed lead hazard reduction plan, in accordance with the regulations, and separately identify within the rehabilitation budget, the costs associated with

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reduction of lead hazards in accordance with the regulation and guidelines.

All HOME program fund allocations are contingent upon the applicant agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. The Cabarrus/Iredell/Rowan HOME Consortium permits use of HOME funds for lead-based paint testing, assessment, abatement and clearance report. In a multi-family project where HOME Program funds will be used for only a portion of the units, lead-based paint requirements apply to ALL units and common areas in the project.

Accessibility

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

Disaster Mitigation

- Where relevant, the Cabarrus/Iredell/Rowan HOME Consortium requires housing to be improved to mitigate the impact of potential disasters (e.g., earthquake, hurricanes, flooding, and wildfires) in accordance with State and local codes, ordinances, and requirements.

Compliance with State/Local Codes, Ordinances, and Zoning Requirements

- The Cabarrus/Iredell/Rowan HOME Consortium standards require that rehabilitated housing meet all applicable State and local codes, ordinances, and requirements or, in the absence of a State or local building code, the International Existing Building Code of the International Code Council.

Uniform Physical Condition Standards

- The Cabarrus/Iredell/Rowan HOME Consortium will use the Uniform Physical Conditions Standards (UPCS), HUD's prescribed physical inspection procedures. UPCS requires that upon completion, all HOME assisted projects and units will be decent, safe, sanitary and in good repair.

Capital Needs Assessments

- For multifamily rental housing projects of 26 or more total units, the Consortium Members will determine all work to be performed on the rehabilitation of the housing and the long-term physical needs of the project through a capital needs assessment.

Construction Documents and Cost Estimates

- The City of Concord's staff will ensure that work to be undertaken meets the Cabarrus/Iredell/Rowan HOME Consortium rehabilitation standards. The construction documents (i.e., written scope of work to be performed) must be in sufficient detail to establish the basis for a uniform inspection of the housing to determine compliance with the Consortium Members' standards. The Consortium Members will review and approve a written cost estimate for rehabilitation after determining that costs are reasonable.

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Frequency of Inspection

- The Consortium Members must conduct an initial property inspection to identify the deficiencies that must be addressed. The Consortium Members' and the City of Concord's inspectors will conduct progress and final inspections to determine that work was done in accordance with work write-ups.
- All other existing housing that is acquired with HOME assistance for rental housing must meet the rehabilitation property standards requirements.
- The Consortium Members will document compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the property does not meet these standards, HOME funds will not be used to acquire the property unless it is rehabilitated to meet the standards.
- The Consortium Members will adhere to the following guidelines:
 - On-site inspections will be performed within one (1) year following project completion and every one to three (3) years during the affordability period.
 - Property owners must annually certify to the Consortium Members that each building and all HOME assisted units in the project are suitable for occupancy.
 - For projects with one (1) to four (4) HOME assisted units, 100% of the HOME assisted units will be inspected for site, building exterior, building systems, and common areas for each building that houses HOME assisted units.

Downpayment Assistance

- Existing housing acquired for homeownership, using down payment assistance, must be decent, safe, sanitary, and in good repair using the Consortium Members' established standards or HUD's UPCS, whichever is more stringent.
- The Consortium Members' inspector will inspect the housing and document this compliance based upon an inspection conducted no earlier than 90 days before the commitment of HOME assistance. If the property does not meet these standards, HOME funds will not be used to acquire the property unless it is rehabilitated to meet the standards.

Ongoing Property Condition Standards for Rental Housing

- As with all other types of HOME assisted housing, the Consortium Members' established construction standards will be used to ensure that owners of all rental housing maintain the housing as safe, decent, sanitary and in good repair throughout the affordability period.

Inspection Procedures

- The Consortium Members will establish written inspection procedures. The procedures must include detailed inspection checklists, description of how and by whom inspections will be carried out, and procedures for training and certifying qualified inspectors. The procedures must also describe how frequently the property will be inspected.

Contractor Procurement

The Consortium Members must require all subrecipients to obtain a minimum of two (2) bids on planned repairs, based on the preliminary work write-up prepared by the municipality, county code enforcement or the Consortium Members' inspector. Bids are to be returned on the specific due date. Subrecipient staff will record the total amount

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of the bid and the date and time the bid was received. The subrecipient will evaluate the bid documents to determine which bids are eligible. Bids are considered eligible when the following conditions are met:

- The submitting contractor currently meets all program requirements and is not debarred or suspended from participating in the HOME Owner-Occupied Rehabilitation Program.
- The contractor is not currently on probation, suspended or debarred by the state licensure board.
- The total dollar amount of the bid is within 10% of the total cost listed on the initial work write-up prepared for or by the Consortium Member.

Compliance and Monitoring

During the course of a project, monitoring shall be implemented through periodic on-site visits so that any problems that may occur will be resolved as soon as possible. The goal of monitoring is to assist and support recipients in complying with applicable State, Federal, and Local requirements and in implementing their project activities in a timely manner.

The Consortium Members are required to maintain complete financial and program files and to comply with program reporting requirements. Recipients must also provide citizens with reasonable access to records pertaining to the use of funds.

Technical Assistance Visit: A technical assistance visit is an informal visit. The intent of this meeting is to share information that will enable the Consortium Members to meet the various State and Federal requirements for their grant. A technical assistance visit could consist of explanations of project start-up requirements and the establishment of program files. The Consortium Members must demonstrate compliance with applicable regulations and document this by maintaining accurate and complete records and files. The filing system must provide a historical account of The Consortium Members' activities, be easy to use, and centrally located.

Monitoring Visit: A monitoring visit is more formal than a technical assistance visit. The monitoring visit is utilized to determine if the project is being conducted in compliance with applicable Federal and State laws and requirements. The review also determines The Consortium Members' ability to implement the program in a timely manner.

The monitoring visit consists of a review of project files, records and documentation, and may include a visit to the project site. The Consortium Members should have all records, files, and documentation available for review at the monitoring visit. If other public agencies, attorneys, or consultants have assisted in program implementations, these records must be available for review at the locality for the monitoring visit. Failure to produce such records upon request will result in issuance of either a program "concern" or "finding" of non-compliance, and will jeopardize the organization's eligibility for future HOME project funding. The issuance of a program "concern" or "finding" may, at the discretion of the City of Concord's staff, result in recapture of funds provided by the Cabarrus/Iredell/Rowan HOME Consortium.

Project Completion Deadline and Terminated Projects

As required in 24 CFR §92.205(e), the City of Concord's staff must be able to execute a written agreement with the Consortium Members for the project within 12 months of July 1 of the year in which funding is awarded. The Consortium Members must typically be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

When HOME funds are expended for projects that are terminated before completion, for whatever reason, the HOME funds that have been expended are ineligible and must be repaid. The Consortium Members must terminate any project that does not meet the HOME requirements for affordable housing (i.e., affordability provisions, income targeting, property standards, etc.) and repay HOME funds that are expended for the project.

Corrective and Remedial Actions

The inability to properly execute the terms of the contract and/or maintain records in the prescribed manner may result in a finding that the Consortium Member has failed to meet the applicable requirement of the contract. Remedial actions may include technical assistance to bring the project into compliance, or recapture of HOME funds.

HOME-assisted Development Projects must meet the following standards:

- **New construction:** New construction is required to meet all state and local codes and ordinances plus the Model Energy Code and all Handicapped Accessibility requirements. While new single-family homes are not required to comply with Section 504 accessibility standards, if the applicant for the housing is disabled, the home must meet their accessibility needs. Where it is practical to do so, new single-family homes should be constructed to be accessed by a person with mobility impairments and adaptable to the needs of future residents seeking to age in place. New construction of rental housing must meet HOME site and neighborhood standards, as described below.
- **Acquisition (no rehabilitation):** Acquired housing must meet applicable state and local housing quality standards, if relevant standards exist, including lead-based paint hazard requirements. If none exist, then acquired housing must comply with Section 8 Housing Quality Standards.

Construction contracts and construction documents must be provided in adequate detail and reviewed by The Consortium Members to ensure that the documents address minimum housing and property standards, as well as city and/or state code requirements. Applicants must also provide written cost estimates prior to execution of construction contracts to ensure that costs are reasonable.

Section 504 Barrier Removal Standards for Multifamily Housing

For new construction of rental or owner-occupied multifamily projects of four or more units, a minimum of 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2%, at a minimum, of the units (but not less than one unit) must be accessible to individuals with sensory impairments. The total number of units in a HOME-assisted project, regardless of whether they are all HOME-assisted, is used as the basis for determining the minimum number of accessible units. Also, in a project where not all the units are HOME-assisted, the accessible units may be either HOME-assisted or non- HOME-assisted. The standards for ensuring compliance with Section 504 are the Uniform Federal Accessibility Standards, although deviations are permitted in specific circumstances. Accessible units must be, to the maximum extent feasible, distributed throughout the projects and sites and must be available in a sufficient range of sizes and amenities so as not to limit choice.

Owners and managers of projects with accessible units must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps. They must also take reasonable non-discriminatory steps to maximize use of such units by eligible individuals. When an accessible unit becomes vacant, before offering the unit to a non-handicapped individual, the owner/manager should offer the unit first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.

Prevailing Wages and Labor Standards Requirements

Labor standards requirements may impact the cost of construction work and should be factored in during the development of the project budget. The labor standards processes may require additional reporting and documentation during construction. Monitoring for compliance with labor standards requirements will be performed by The Consortium Members.

Applicants should assume that state prevailing wage rates will apply and build the requisite costs into all project development budgets, unless they obtain a determination otherwise from the North Carolina Department of Labor (NCDOL). Applicants are advised to consult with the NCDOL and/or private legal counsel prior to applying for funding to determine whether prevailing wages must be paid and, if so, whether commercial or residential rates apply.

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If an applicant receives a loan that is incurring interest, is not forgivable, and is required to be repaid in full, such loan in and of itself is not expected to trigger a requirement that prevailing wages be paid on the project. However, if the applicant is receiving other public funds and/or is a public entity (e.g., housing authority), it may be required to pay state prevailing wages on the project. A definitive determination regarding the applicability of state Prevailing Wage law can only be obtained from the NCDOL.

Federal Davis Bacon prevailing wages apply to all projects with 12 or more HOME-assisted units regardless of whether HOME funds were used for construction or other projects costs. When triggered, Davis Bacon wages apply to the entire project. When federal funds trigger prevailing wages determined under the Davis-Bacon Act in a project, the higher of either the State Residential Prevailing Wage Rates (unless modified as stated below) or Davis- Bacon wage rates will apply to each job classification, unless applicable law requires otherwise. In cases where Davis-Bacon wages are triggered, Davis-Bacon monitoring procedures are followed.

Related Acts:

- The Contract Work Hours and Safety Standards Act (CWHSSA) requires contractors and subcontractors to pay laborers and mechanics one and one-half(1.5) times their standard rate of pay for all hours worked in excess of 40 hours in a workweek.
- The Copeland Anti-Kickback Act prohibits a contractor or subcontractor from coercing an employee into giving up any part of their earned wages.

Debarred Contractors

Prior to entering into a contract with contractor or subcontractor, the applicant must verify that they are not listed in the Federal publication of debarred, suspended and ineligible contractors. HOME funds may not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of a contractor during a period of debarment, suspension, or ineligibility.

Section 3 Economic Opportunity

Section 3 requirements apply to recipients of Housing and/or Community Development Assistance exceeding \$200,000 combined from all sources in any one year, per 24 CFR §135. Section 3 covers the expenditure of any portion of those funds for any activity that involves housing construction, rehabilitation, or other public construction. All contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3. The purpose of Section 3 to ensure that employment (e.g., new hires) and other economic opportunities generated by this HUD financial assistance shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

Affordability Period

At a minimum, all projects must comply with the following HOME affordability periods, during which HOME regulations apply:

- New construction: 20 years
- New construction of homeownership housing or acquisition of rental housing:
 - HOME investment of less than \$15,000 per unit: 5 years
 - HOME investment of \$15,000 - \$40,000 per unit: 10 years
 - HOME investment of more than \$40,000 per unit: 15 years

For new construction of rental housing, an extended Consortium affordability period of a minimum of 20 years applies and begins upon project completion and runs concurrently with the HOME affordability period. HOME regulations do not apply after the HOME affordability expires, but the project must still comply with local affordability requirements as established by the Consortium throughout the Consortium affordability period.

Site Control

Site control is typically required at the time of application for development projects. Site control documentation includes the following: a deed of trust, current option, current purchase and sale agreement, a current title report showing the entity holding fee simple title, an executed lease agreement for the length of the commitment to serve low-income households, or an executed disposition or development agreement.

Phase 1 Environmental Site Assessment

Development projects must provide a Phase 1 Environmental Site Assessment (ESA) at the time of application to ensure that any environmental hazards are recognized and mitigated. The Phase I ESA should be prepared in accordance with the requirements of ASTM E-1527 “Standard Practice for Environmental Site Assessments, Phase I Environmental Site Assessment Process,” and must clearly document compliance with 24 CFR 58.5(i)(2) or 50.3(i). Each assessment will include limited surveys of lead-based paint, asbestos, mold, and wetlands as applicable. If any hazards are identified, they will be abated or mitigated before occupancy. The Phase I ESA must be dated six months or less from the due date of the Consortium application. If, at the time that the Consortium Member undertakes the federal Environmental Review, the Phase I ESA is more than six months old, an update will be required. If the Phase I ESA is more than a year old at the time that the Consortium Member undertakes the federal Environmental Review, a new Phase I ESA must be completed. Development projects must also meet state requirements under the State Environmental Policy Act (SEPA) and federal environmental review requirements under the National Environmental Policy Act (NEPA) as applicable.

Relocation

HOME-funded projects are subject to relocation requirements contained in the Uniform Relocation Act (URA) and, in some cases, Section 104(d) of the Housing and Community Development Act (also known as the Barney Frank Amendments). URA relocation requirements are triggered whenever displacement occurs as a direct result of rehabilitation, demolition or acquisition of a HOME-assisted project. Displacement includes residential and commercial tenants and owners. More information is available in HUD Handbooks 1378 and 1374.

As a practical matter, the Cabarrus/Iredell/Rowan HOME Consortium discourages applications that involve permanent displacement because of the impact on residents, the cost, and the delay.

Subsidy Layering and Underwriting Guidelines

The Consortium must determine that no more than the necessary and allowable amount of HOME funds (in combination with other governmental funds), are invested in projects. The procedure for making this determination is the layering review.

The layering review will be conducted for those projects that include state or other public funds. It will take place as part of the review of applications for funding and again at the time of funding commitment. The review will consider the sources and uses of funds proposed for a project, the reasonableness of project development costs, the proposed project operating costs, and the amount of cash flow generated over time.

Subsidy layering also applies to homebuyer units with multiple government funding awards.

Before committing funds to a project, the Consortium Members must evaluate the project in accordance with the following guidelines that determine a reasonable level of profit or return on the owner's or developer's investment in a project.

- **Reasonable Costs:**
 - Rental Development Projects: Rental development project costs are considered reasonable if they are within the Total Development Cost (TDC) Limits set by the North Carolina Housing Finance Agency. If the project exceeds these limits, the owner or developer will be required to submit a waiver request that identifies project characteristics that create cost levels above these limits.

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- Homebuyer Projects: No housing purchase value, constructed or after-rehabilitation, may exceed 95 percent of the median purchase price of owner-occupied homes or exceed the maximum per unit HOME investment value.
- ***Debt Coverage Ratio for Rental Projects:*** Projects must have an overall Debt Coverage Ratio (DCR) that provides a cushion against risk that may result from unforeseen circumstances, including higher than anticipated vacancy rates. Deferred loans are not considered in the DCR calculation during the deferral period, only the year when they become due and payable. The annual contributions to operating and replacement reserves must be included in the operating expenses when calculating the DCR. Projects should have an overall DCR of at least 1.10:1. The Consortium Members reserve the right, during contract development, to direct the use of excess cash flow when a project has an overall DCR greater than 1.20:1.
- ***Developer Fee:*** A reasonable maximum developer fee is ten percent (10%). For projects serving homeless, special needs populations or with 12 or fewer units, a reasonable developer fee is 15 percent (15%).
- ***Project Contingencies:*** If a Consortium Member is providing funds for construction of housing, a 10% contingency for new construction is required, with the right to request an exception, if needed.
- ***Market Demand:*** Applicants must, at a minimum, describe efforts to identify properties that are within the proposed project's market area and are available to the target population. A third-party market study must accompany the application if the project involves low-income housing tax credits or if another funder requires a market study. Market studies are not required for the following projects:
 - Projects for persons with Developmental Disabilities (DD)
 - Projects for persons with chronic mental illness (CMI)
 - Projects for homeless persons
 - Domestic violence (DV) projects
 - Special needs projects for persons with chronic substance abuse issues combined with homelessness and/or other conditions requiring intensive support servicesIf the project does not meet any of the above criteria, a market study is required. The market study must be submitted with an application for funding if the applicant has site control. If site control has not been obtained, the market study must be submitted upon receipt of site control.
- ***Vacancy Rates:*** Applicants should use a 5% residential vacancy rate for rental projects and a 10% non-residential vacancy rate when preparing their operating pro forma. Exceptions will be allowed if adequate justification is provided, such as in the case of very small or special needs projects.

Anti-Predatory Lending Policy

The Cabarrus/Iredell/Rowan HOME Consortium supports the expansion of affordable and equitable homeownership, and recognizes that predatory lending practices are inconsistent with advancing homeownership. To discourage predatory lending practices, the Cabarrus/Iredell/Rowan HOME Consortium established this Anti-Predatory Lending Mortgage Policy (the "Policy").

A residential mortgage loan is ineligible for funding from the Consortium's HOME Investment Partnerships Program if it does not comply with all applicable federal, state and local predatory lending laws and other laws designed to prevent unfair or abusive lending practices (collectively, "Anti-Predatory Lending Laws"). Neither the Consortium Members, nor any of its funded subrecipients or CHDOs, will knowingly fund a Mortgage Loan that involves any of the following practices or characteristics:

- Requiring the borrower to obtain prepaid, single-premium credit life, credit disability, credit unemployment, or other similar credit insurance as a condition of the loan;
- Including in loan documents a mandatory arbitration provision with respect to dispute resolution;
- Charging prepayment penalties for paying off a loan;
- Lending without regard to a borrower's ability to make payments on the mortgage;
- Loans which violate the Home Ownership and Equity Protection Act of 1994 and its implementing regulations

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(collectively, “HOEPA Requirements”) or other Anti-Predatory Lending Laws;

- Loans that are ineligible for inclusion in a structured finance transaction due to a rating agency's determination that it cannot rate a transaction which includes such loans;
- Loans where the terms of , or practices in connection with, such loans do not comply with the provisions of Regulation Z (12 CFR Part 226) relating to Higher-priced Mortgage Loans; or
- Loans that fail to comply with any requirement of the MPF Program relating to predatory lending, including with limitation, Section 2.6 of the MPF Origination Guide.

Costs Associated with the Administration of Development Projects

The Consortium Members incur the costs associated with the oversight and administration of individual development projects, including both those that occur during the development phase (e.g., environmental review, underwriting, subsidy layering analysis, loan processing, and construction inspection/oversight) and those that occur during the affordability periods (e.g., monitoring and inspections). The Consortium Members may charge these costs to individual projects.

The costs incurred during the development phase will be included in the project’s per-unit subsidy and match calculations, but they will not be included in any indebtedness incurred by The Consortium Members and thus are not included in the loan amount.

Costs incurred during the affordability periods will be charged as they are incurred by The Consortium Members. The Consortium Members must include the estimated monitoring costs as an allowable operating expense in their operating budget for the project.

Definition of Income

HUD’s “Technical Guide for Determining Income and Allowances for the HOME Program” provides the method by which income for HOME-assisted projects must be calculated. Applicants must use HUD's "CPD Income Eligibility Calculator" to determine eligibility and document records. See <https://www.onecpd.info/incomecalculator/>

- For HOME Rental Housing projects and for new construction of owner-occupied housing using HOME funds, annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period, as defined in 24 CFR Part 5 (Part 5 annual income). This is called the “Section 8 income determination method.” For rental projects, initial income must be verified using source documentation. Income must be recertified annually and source documentation obtained every six years.

Mixed-Use Projects

The Cabarrus/Iredell/Rowan Home Consortium funds may be used in developing missed-use structures that contain residential and other uses (i.e., retail space, commercial office space, spaces for the provision of services). The inclusion of non-residential spaces for the exclusive use of the residents does not create a mixed-use project. Residential spaces include common area, corridors, stairways, laundry areas, storage areas, office space for management of the building, entry ways and lobbies.

HOME funds may only be used for costs associated with the residential portion of the building. The costs must represent a portion of the total development cost that does not exceed the proportion of residential space in the entire project.

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Lease-Purchase Programs

The Consortium Members also have the option of administering a lease-purchase program to assist potential low-income households that may need additional time and resources to purchase an existing home or for housing to be constructed. The housing must be purchased by a first-time homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the HOME affordability requirements for rental housing in §92.252 shall apply if the housing is not transferred to a homebuyer within 42 months after project completion. The Consortium Members must have lease-purchase policies and procedures and state that the Consortium Member will undertake lease-purchase programs in the Consolidated Plan.

V. COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDOs)

Overview

A Community Housing Development Organization (CHDO) is a private non-profit, community-based service organization that has significant capacity and whose primary purpose is to develop affordable housing for the community it serves.

HOME regulations require a 15% set-aside of the Cabarrus/Iredell/Rowan HOME Consortium (herein referred to as the Consortium) annual HOME allocation exclusively for qualified, eligible CHDO projects. Once an organization becomes a certified CHDO, it is eligible to take advantage of the HOME funds set-aside and financial support for a portion of the CHDO's operating expenses. The City of Concord will review and re-certify a CHDO's eligibility prior to the commitment of CHDO development set-aside funds.

Requirements for CHDO Certification

In keeping with the U.S. Department of Housing and Urban Development (HUD), The Consortium has established eleven (11) criteria for becoming a certified CHDO:

1. **Organized Under State/Local Law.** A nonprofit organization must show evidence in its Articles of Incorporation that it is organized under state or local law.
2. **Nonprofit Status.** The organization must be conditionally designated or have a tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c) of the Internal Revenue Code of 1986. A 501(c) certificate from the IRS must evidence the ruling.
3. **Purpose or Mission.** Among its primary purposes, the organization must have the provision of providing housing that is affordable to low- and moderate-income people. This must be evidenced by a statement in the organization's Articles of Incorporation and/or Bylaws.
4. **Board Structure.** The board of directors must be organized to contain no more than one-third representation from the public sector and a minimum of one-third representation from the low-income community.
5. **Prohibition of For-Profit Control.** The organization may not be controlled by, nor receive directions from, individuals or entities seeking profit from or that will derive direct benefit from the organization.
6. **No Individual Benefit.** No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization's Articles of Incorporation.
7. **Clearly Defined Service Area.** The organization must have a clearly defined geographic service area outlined in its Articles of Incorporation and/or Bylaws. CHDOs may serve individual neighborhoods or large areas. However, while the organization may include an entire community in their service area (such as a city, town, village, county, or multi-county area), they may not include their entire state.
8. **Low-Income Advisory Process.** A formal process must be developed and implemented for low-income program beneficiaries and low-income residents of the CHDO's service area to advise the CHDO in all its decisions regarding the design, location, development and management of affordable housing projects.
9. **Capacity/Experience.** The key staff and board of directors must have demonstrated experience and capacity to carry out HOME-assisted projects in its service area. At least one paid staff member must have demonstrated development experience.

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10. Community Service. Organizations applying for CHDO certification must have a minimum of one year of related experience serving the community where it intends to develop affordable housing.
11. Financial Accountability Standards. The organization must meet and adhere to the financial accountability standards as outlined in 24 CFR 84.21, "Standards for Financial Management Systems."

CHDO Organizational Structure Requirements

The HOME Program establishes requirements for the organizational structure of a CHDO to ensure that the governing body of the organization is representative of the community it serves. These requirements are designed to ensure that the CHDO is capable of decisions and actions that address the community's needs without undue influence from external agendas.

There are four specific requirements related to the CHDO board of directors, which must be evidenced in the organization's Articles of Incorporation and/or Bylaws. These are:

1. Low Income Representation. At least one-third of the organization's board must be representatives of the low-income community served by the CHDO. There are three (3) ways a board member can meet the definition of a low-income representative:
 - The person lives in a low-income neighborhood where 51% or more of the residents are low-income. This person does not necessarily need to be low-income; or
 - The person is a low-income (below 80% area median income) resident of the community; or
 - The person was elected by a low-income neighborhood organization to serve on the CHDO board. The organization must be composed primarily of residents of the low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations, and neighborhood watch groups.

The CHDO is required to certify the status of low-income representatives.

2. Public Sector Limitations. No more than one-third of the organization's board may be representatives of the public sector, including elected public officials, appointees of a public official or any employees. If a person qualifies as a low-income representative and a public sector representative, their role as a public sector representative supersedes their residency or income status. Therefore, this person counts toward the one-third public sector limitation.
3. Low-Income Advisory Process. Input from the low-income community is not met solely by having low-income representation on the board. The CHDO must provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing. The process must be described in writing in the Articles of Incorporation and/or Bylaws. Each project undertaken by the CHDO should allow potential program beneficiaries to be involved and provide input on the entire project from project concept, design and site location to property management. One way to accomplish this requirement is to develop a project advisory committee for each project or community where a HOME assisted project will be developed. Proof of input from the low-income community will be required at the CHDO's annual recertification.
4. For-Profit Limitations. If a CHDO is sponsored by a for-profit entity, the for-profit may not appoint more than one-third of the board. The board members appointed by the for-profit may not appoint the remaining two-third of the board members.

Experience and Capacity Requirements

CHDOs must demonstrate that their key staff and board of directors have the *relevant* experience necessary to perform the HOME-assisted activities they plan to undertake. CHDOs must provide resumes of key staff members that describe their experience with successfully completing projects in comparison with proposed projects.

- α. Requirements: The Consortium may not commit annual HOME funds to a CHDO for development activities unless the Consortium has determined that the CHDO has staff with demonstrated development experience. The Consortium must ensure that the current CHDO staff has experience developing projects of the same size, scope and level of complexity as the activities for which HOME funds are being committed. CHDO staff is defined as paid employees responsible for the day-to-day operations of the CHDO. Staff does not include volunteers, board members, or consultants (except for consultants engaged during a CHDO's first year of operation).
- β. Paid Staff: A person whose salary, payroll taxes, and unemployment insurance are paid by the organization and from whom the organization withholds payroll and income taxes is considered paid staff. Paid staff may be full or part-time depending on the needs of the project.
- γ. Use of Consultants: During the first year of a CHDO's operation, a consultant may be used to meet the staff requirement. However, the consultant must also train staff in housing development and management to ensure capacity is established after the first year.
- δ. Applicability to the Consortium Activities: This requirement applies to all commitments of CHDO set-aside funds made from the Consortium's annual HOME allocation in which the CHDO is acting as the developer.
- ε. HUD Implementation: Any time the Consortium sub-grants HOME funds from its annual CHDO set-aside fund to a CHDO for a project, the Consortium will certify in IDIS that it has carefully evaluated the development capacity of the CHDO staff and has determined that the CHDO staff has the knowledge, skills, and experience necessary to undertake eligible CHDO set-aside projects.

To ensure compliance with the HOME regulations, the recertification process will apply to CHDOs with active development projects including those under development and within the affordability period. Each CHDO will be required to submit specific information to City on an annual basis in conjunction with annual monitoring and compliance audits, including, but not limited to:

- The response to questions, numbered exhibits, and attachments listed in the City of Concord's CHDO certification application
- An updated **three-year** business plan and a description of how the low-income advisory process was implemented. If no HOME funds were used within the reporting period, a detailed description of all other affordable housing initiatives undertaken will be requested.

Recertification will be required annually when the City of Concord's staff monitors the CHDO for compliance. The CHDO must recertify as to its continued qualifications as a CHDO and its capacity to own, sponsor, or develop housing.

CHDOs that have not been allocated project funds from the HOME CHDO set-aside for three (**3**) consecutive years will be deemed inactive. At its discretion, the City may revoke the designation of inactive CHDOs based upon a review of other non-CHDO housing activities the organization has undertaken (if any), as well as other factors deemed appropriate by City.

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Financial Accountability

CHDOs must have financial accountability standards that conform to the requirements detailed in 2 CFR 200-Subpart D, "Standards for Financial and Program Management." This can be evidenced by:

- ϕ. A notarized statement by the president or chief financial officer of the organization.
- γ. Certification from a certified public accountant.
- η. Audit completed by CPA.

CHDO Service Area

CHDOs must demonstrate a history of serving the community where the HOME assisted housing will be located. The Consortium requires that organizations show a history of serving the community by providing:

- ι. A statement that documents at least one (1) year of experience serving one or more communities within the three-county area (Cabarrus, Iredell and Rowan Counties).
- ϕ. For newly created organizations, provide a statement that the parent organization (if applicable) has at least one (1) year experience serving the community.

CHDOs will be required to provide updates and documentation on how it is ensuring that it is active and visible in the communities included in its service area.

CHDO Development Set-Aside

HOME regulations (24 CFR Part 92.300) require the Consortium to set aside at least 15% of its annual HOME allocation for projects owned, developed or sponsored by CHDOs. A certified CHDO must serve as the owner, developer, or sponsor of a HOME-eligible project when using funds from the 15% CHDO set-aside. A CHDO may serve in one of these roles or it may undertake projects in which it combines roles, such as being both an owner and developer.

Eligible and Ineligible Uses of HOME CHDO Set-Aside Funds

Eligible Activities-Owners, Sponsors and Developers

Using the **15%** set-aside, a CHDO acting as an owner, sponsor, or developer may undertake any of the following activities:

- Acquisition and/or rehabilitation of rental property;
- New construction of rental housing;
- Acquisition, rehabilitation and resale of existing, vacant homebuyer property;
- New construction of homebuyer property;
- Direct financial assistance to purchasers of HOME-assisted housing developed by a
- CHDO with HOME CHDO set-aside funds.

Please note that to be considered a CHDO-eligible project, CHDO set-aside HOME funds must be used during the construction or rehabilitation of the project.

Ineligible CHDO Activities

Using the **15%** set-aside, a CHDO may not undertake any of the following activities:

- Rehabilitation of existing homeowners' properties;
- Tenant-based rental assistance (TBRA); or

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- Down payment and/or closing cost assistance to purchasers of housing not developed with HOME CHDO set-aside funds.

Eligible Activities-Subrecipients

CHDOs may also act as subrecipients with non-set-aside funds by undertaking other HOME- eligible activities such as:

- Tenant-Based Rental Assistance (TBRA);
- Owner-occupied rehabilitation of single-family dwellings; and
- Down payment or closing cost assistance in the acquisition of single-family units.

Optional Operating Expenses

From time to time, funds may be available to provide general operating assistance to CHDOs receiving CHDO set-aside funds for activities. When funds are available, certified CHDOs that are administering an eligible project funded from the CHDO set-aside may be eligible to receive funds to be used for operating expenses. The regulations allow the City to allocate no more than **5%** of its HOME allocation for CHDO operating expenses (Operating Assistance Grants). However, the City reserves the right to further restrict the amount of funds an entity may receive for CHDO operating funds. This allocation does not count toward the required **15%** CHDO set-aside funds that are to be used by CHDOs for projects.

The amount of the optional Operating Assistance Grants awarded will be based on, but not limited to, the following factors:

1. The total amount of HOME funds City has available to allocate for reimbursable CHDO operating expenses;
2. The anticipated completion date and size of your current CHDO set-aside project(s); and
3. The CHDO's past performance as a CHDO developer.
4. The CHDO's capacity to complete the project in a timely manner.
5. The ability of the CHDO to retain CHDO proceeds.

The City will allocate Operating Assistance Grants on annually. Operating Assistance Grants will be provided on a fiscal year basis (October 1 – September 30) provided funds are available and the CHDO has demonstrated acceptable performance.

Although the disbursement of CHDO operating funds is not tied directly to the drawdown of the CHDO project funds, the City of Concord reserves the right to delay disbursement of operating funds if it is evident that the CHDO project is experiencing excessive delays.

The City of Concord reserves the right to reduce the amount of, or not award, operating funds based upon its evaluation of the CHDO's production and overall performance.

Eligible operating expenses for which CHDOs may use operating funds include:

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

Because the purpose of providing CHDO operating support is to nurture successful CHDOs and ensure their continued growth and success, the City will periodically evaluate the performance of any CHDO wishing to receive CHDO operating funds.

Program Income

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All income derived from the Consortium's approved and funded projects must be used to further the goal of improving the availability and quality of low-income housing in the Consortium's geographically-defined jurisdictional region.

Proceeds generated from the investment of CHDO set-aside funds in a HOME-eligible project and that are retained by the CHDO **are not** subject to the requirements of HOME regulations, *except in the event of repayment or recapture*. Therefore, CHDO proceeds have no federal identity and are not subject to lead-based paint requirements, the Davis-Bacon Act, Uniform Relocation Act, etc. Once CHDO proceeds are used, there is no further HOME requirements which must be met. **Funds generated from the use of CHDO proceeds are not CHDO proceeds.**

If a CHDO is acting as a subrecipient, the funds generated from HOME-assisted activities are program income and are subject to the Consortium's program income requirements. In regard to administrative fees and CHDO proceeds, during the initial realization of CHDO proceeds, a CHDO may retain 10% for administrative costs. Thereafter, each time CHDO proceeds are realized, 20% may be retained for administrative purposes.

Unlike CHDO proceeds, program income earned for subrecipient projects never loses its federal identity and is always subject to HOME regulations. HOME funds that are a result of **repayment or recapture** are always considered program income, even if originally funded from the CHDO set-aside. **Repayment** occurs when a HOME-funded project, including CHDO set-aside, does not continue to be the principal residence of the HOME-assisted homebuyer for the full affordability period. No administrative fees may be retained on repaid or recaptured funds.

Income earned by CHDOs from THE CONSORTIUM MEMBERS-funded projects may be used in the following ways:

- a) Short-term new home construction or acquisition loans to qualified buyers.
- b) Maintenance and upkeep of the buildings, taxes, insurance, and other documented direct costs for low to moderate-income apartment complexes funded in whole or in part by HOME funds.

CHDO Procurement

As noted in HUD CPD Notice 97-11, CHDO organizations are not subject to the requirements of 2 CFR, Part 200 in regard to the procurement of goods and services. However, the City strongly encourages organizations to ensure that costs are reasonable and equitable. This exemption is only applicable to procurement associated with CHDO-eligible projects; CHDOs must still follow appropriate procurement procedures compliant with Part 200 for its non- CHDO projects. City may request a copy of the CHDO's procurement policy for any non- CHDO project funding proposals.

Effective Period of CHDO Certification

To maintain its CHDO certification, the CHDO must submit at least **30** days prior to its annual compliance and monitoring audit a copy of the most recent audit financial statements along with all required attachments listed in the City's CHDO Certification Application, which is attached to this manual as **Exhibit "A" – City CHDO Application**. If the CHDO fails to submit the recertification packet, the CHDO may no longer qualify as a CHDO. Prior to awarding any City CHDO funds, the CHDO must recertify that no changes have occurred within the agency that would disqualify the entity as a CHDO for the specific type of activity being undertaken.

How to Apply for CHDO Certification

Complete the City's CHDO Certification Application including all requested attachments, documentation, and forms. The applicant has **30** days to respond to any request for additional information. If information is not received within **30** days, the CHDO certification application will be denied.

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Probation/Suspension of CHDOs

Should a Cabarrus/Iredell/Rowan HOME Consortium-approved CHDO fail to achieve its stated objectives in using funds provided through the HOME Consortium, the City of Concord's staff may place the CHDO on probation. CHDOs on probation may not apply for new funds from the Consortium until their probationary status is lifted. The Consortium will provide any CHDO identified for probation with opportunity to respond in writing prior to placement on probation. The City of Concord's staff will provide notice in writing to the CHDO of placement on probation, as well as any subsequent decisions taken regarding the CHDO's probationary status.

The period of probation shall be determined by the Cabarrus/Iredell/Rowan HOME Consortium's Board and will be re-evaluated annually. The factors that will be used to consider removal of a CHDO from probation are:

1. Successful completion of any delinquent projects funded by the Consortium.
2. Demonstrated changes in the CHDO's policies or structure to address stated deficiencies.
3. Overall responsiveness of the CHDO to the Consortium Members or the City of Concord's staff.
4. Initiative taken to obtain technical assistance and training provided by HUD and/or the City of Concord's staff.

VI. DEVELOPMENT OF HOMEOWNERSHIP HOUSING

The Cabarrus/Iredell/Rowan HOME Consortium may fund the development of homeownership units for first-time homebuyers.

Please refer to the section entitled “General Policies and Procedures for Development Projects” for information related to:

- α. Applicant Standards
- β. Eligible Development Costs
- χ. Appraisal and Real Property Acquisition
- δ. Minimum Property Standards
- ε. Section 504 Barrier Removal Standards for Multifamily Housing
- φ. Prevailing Wage and Labor Requirements
- γ. Debarred Contractors
- η. Section 3 Economic Opportunity
- ι. Affordability Period
- φ. Site Control
- κ. Phase 1 Environmental Site Assessment
- λ. Relocation
- μ. Subsidy Layering and Underwriting Guidelines
- ν. Costs Associated with the Administration of Development Projects
- ο. Definition of Income
- π. Use of Combined Funders Application

Project Eligibility

- Eligible Activities
Activities allowed with the use of Consortium HOME funds are activities that support the development of affordable homes for first-time homebuyers and that address the needs identified in the Consolidated Plan.
 - New Construction:
 - ο Financial assistance provided for the construction of affordable housing units for first-time homebuyers.
 - Eligible Properties
 - Properties eligible for HOME development assistance must serve as the purchaser’s principal residence throughout the period of affordability.
 - Property types:
 - ο Single-family dwelling
 - ο Condominium
 - ο Manufactured Home
- b. Eligible homeownership types
 - Fee simple title to the property
 - Own a condominium
 - Housing located on land owned by a community land trust, for at least 50 years
 - Manufactured housing on a ground lease that is at least equal to the applicable affordability period.
- c. Homebuyer Eligibility
 - First time home buyer: Applicant must not have owned a home during the previous 3 years prior to receiving federal funds excluding:

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- A displaced homemaker who owned a home with his or her spouse or resided in a home owned by the spouse.
 - A single parent who owned a home with his or her spouse or resided in a home owned by the spouse.
 - Homebuyer households assisted must have incomes at, or below, 80% of the area median income (AMI).
- d. Maximum Property Value
- For new construction or acquisition of standard housing, to be considered an eligible property, the property must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area.
 - HUD establishes the median purchase price limits and these limits can be found on its website: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>. The Consortium Member will provide current and updated limits but the developer is responsible for confirming maximum property values for each transaction.
- e. Resale Policy

The Cabarrus/Iredell/Rowan HOME Consortium has elected to use a resale methodology for ensuring compliance with HUD homebuyer affordability requirements. The Consortium Member's resale policies and guidelines ensure that the HOME-assisted units remain affordable and owner-occupied over the entire affordability period. Before each HOME-assisted unit purchase, the resale restrictions and affordability period are set forth in a funding agreement and restrictive covenant. Upon sale of the property by the initial homebuyer(s) during the period of affordability, the subsequent homebuyer must be an income-qualified household that will occupy the property as their principal residence. The initial homebuyer must receive net proceeds from the sale that represent a fair return on their investment.

The Homeownership Development Program is designed to provide financial assistance to a developer who agrees to sell homes to income-qualified homebuyers, resulting in a direct benefit to the homeowner households. In this case, HOME funding, known as "Development Subsidy," is provided directly to a developer to assist with or reduce development costs, when the developer agrees to sell homes to income-qualified homebuyers under terms that make the monthly cost of the home affordable to the homebuyer. These funds are not provided directly to the homebuyer, but are a "development subsidy" that enables the homes to be affordable to a low-income homebuyer. This includes HOME assistance that helps to close the gap between the cost of producing the home and the market value of the property (i.e., the development subsidy where the cost of development is higher than that market price of the home), but excludes any additional public funds that will reduce the purchase price from fair market value to an affordable price. When HOME funds are used for the cost of developing a property and the unit is sold below fair market value, the difference between the fair market value and the purchase price is considered to be the HOME subsidy.

Enforcement of Resale Provisions

The resale policy is enforced through the use of a Written Agreement and Restrictive Covenant signed by the homebuyer, and developer if applicable, at or before the closing of escrow account for the sale of the home. The Written Agreement and Restrictive Covenant will specify:

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1. **Affordability Period.** The resale policy is enforced for the affordability period and is based on the total amount of HOME funds invested in the unit. The typical affordability period for HOME-assisted home purchases is ten years (\$15,000 to \$40,000 of HOME funds) but may be five years if less than \$15,000 or fifteen years if more than \$40,000. If more than one type of funding is used to assist the homebuyer, the home may be subject to multiple affordability periods. Where multiple affordability periods exist in a home, resale of the home will be restricted to the longest period set forth in the Funding Agreement and Restrictive Covenant.
2. **Initial Homebuyer Requirement.** The initial homebuyer must occupy the home as their principal residence, and permanent sublease or renting is not allowable.
3. **Subsequent Homebuyer Requirements and Reasonable Range of Low-Income Homebuyers.** When sold, the home must be made affordable to a reasonable range of low-income households. Affordable is defined as a monthly housing cost for mortgage principal, interest, taxes and insurance of not more than 30% of the gross monthly income for a household between 60% and 80% of the area median income, adjusted for household size.

The initial homebuyer may not sell the home during the affordability period except in a manner that results in a subsequent homeowner who will occupy the home as their principal residence and whose household income is between 60% and 80% of area median income, adjusted for household size. To accomplish this, proceeds from the sale that exceed the fair return on investment will be returned to the HOME account to be used to make the unit affordable for a subsequent homebuyer.

The Consortium Members will verify the subsequent buyer's income eligibility. To determine maximum purchase price paid by the subsequent homebuyer, the Consortium Member will use the HOME affordable homeownership limits for the area provided by HUD in accordance with 24 CFR 92.254(a)(2)(i).

4. **Security.** Any HOME funds invested in housing that does not meet the affordability and resale requirements must be repaid to the Consortium Member. The Consortium Member will secure its financial interest in the affordability requirements through a recorded Restrictive Covenant, a Recoverable Grant Agreement, a Deed of Trust and/or Promissory Note that will ensure repayment in the event that the affordability requirements are not met.

The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability.

In the event of foreclosure, the Consortium Member may be at risk of losing its HOME investment in the home and may be required to repay the funds to the HOME Investment Trust Fund Treasury account or the local Consortium Member's account. In order to minimize the Consortium Member's risk for repayment in the event of foreclosure, the Consortium Member will adhere to the following policies:

- a. If the Consortium Member's HOME investment is a development subsidy, the Consortium Member will require the developer to provide other suitable security or assurance that the funds will be repaid to the Consortium Member.

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- b. If the Consortium Member's HOME investment assists a homebuyer on property leased from a community land trust, the Consortium Member will require the community land trust to secure the HOME investment with a recorded Restrictive Covenant, Recoverable Grant Agreement, Deed of Trust and/or Promissory secured against the leased land.
- c. If the Consortium Member's HOME investment assists a homebuyer on property not leased from a community land trust, the Consortium Member will require the homebuyer to secure the HOME investment with a recorded Restrictive Covenant, Recoverable Grant Agreement, Deed of Trust and/or Promissory secured against the land.

In the event that the housing does not continue to be the principal residence of the family for the duration of the period of affordability, the housing can be made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as the family's principal residence.

- 5. Fair Return to Initial Buyer. A homeowner that sells HOME-assisted homes is provided a fair return on her/his investment. The homeowner that sells a home may receive from sale proceeds their original contribution (down payment), plus amounts paid towards mortgage principal, plus the value of any credit-eligible improvements paid by homeowner plus/less any agreed-upon appreciation/depreciation. The calculation is further described below:
 - a. Cash downpayment. The amount of cash paid by the homebuyer to acquire the property.
 - b. Amount paid to principal. The amount of cash paid by the homebuyer that is credited to principal on a mortgage on the property.
 - c. Capital improvements. The addition of livable space (bedroom, bathroom, finished basement, finished attic space, porch or deck, the addition of a garage (either attached or detached)) shall be considered a Qualified Capital Improvement. In order to receive credit for a Qualified Capital Improvement, the homebuyer must submit to the Consortium Member (or leaseholder if a community land trust), prior to commencing construction, detailed plans, itemization of expected costs and permits for the proposed construction. The Consortium Member (and leaseholder if a community land trust) may agree to the scope of the proposed construction and timeline for completion, in addition to the future affordability of the improvements for subsequent resale to qualified low-income homebuyers. Fifty percent of the value of the qualified Capital Improvements that is agreed to in advance by the Consortium Member (or community land trust) shall qualify as Capital Improvement Credit.
 - d. Capital Systems Replacement. For the purpose of qualifying as a Capital Systems Replacement, the roof, plumbing (excluding fixtures), foundation, electrical (excluding fixtures), heating, sewer line, insulation, or windows, shall be considered Capital Systems if at least fifty percent of the Capital System is replaced and the new Capital System has an expected life-span of at least thirty years. The addition of alternative energy production system(s) shall qualify for credit under this passage. In order to receive a credit for Capital Systems Replacement, the homeowner must consult with the Consortium Member (or community land trust) prior to replacing a Capital System, and an agreement must be reached between the homeowner and Consortium Member (or community land trust) regarding the scope and cost of the proposed replacement.

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The intention of this credit is to encourage and create incentives for homeowners to maintain the functionality of these systems and to increase the quality of energy efficiency, durability and ease of maintenance over time while simultaneously maintaining affordability. Provided all conditions of this paragraph and the agreement between the Consortium Member (or community land trust) and homeowner described herein are met, the following payment schedule shall apply:

If the home sale is less than 10 years from Capital System Replacement, 100 percent of the cost can be credited. If the home sale is between 10 and 20 years from Capital System Replacement, 50 percent of the cost can be credited. Replacement of less than fifty percent of any Capital System will be considered repair and the cost of such a repair will not be eligible for credit under this section.

- e. Appreciation/Depreciation. The Cabarrus/Iredell/Rowan HOME Consortium uses the housing price index (HPI) calculator, provided by the Federal Housing Finance Agency, to achieve its dual goals of providing a fair return to the original homeowner/seller at resale and ensuring an affordable price to the incoming, low-income homebuyer. The calculator can be accessed at the following link: <https://www.fhfa.gov/DataTools/Tools/Pages/HPI-Calculator.aspx>

The resale formula stipulates that the homeowner, should they choose to sell, will be able to sell the home for the original price paid (not including the HOME subsidy at the time of purchase) plus 25% of any increase in the combined value of the home and land based on the HPI during the time of ownership. Additionally, at resale, the homeowner is allowed to receive an equity "credit" for qualified capital improvements made, as follows: 100% of the increase in appraised value attributable to the addition of one (1) or more bedroom and one (1) or more bathroom and 50% of the actual cost for the work of other qualified capital improvements.

By using a market-rate appraisal conducted by an independent, state-licensed appraiser to establish the value of the property prior to the initial purchase of the home, the Consortium Member follows the standard practice for all real estate purchase transactions. By using the Housing Price Index to determine the value, upon notice of intent to sell by the homeowner, The Consortium Members ensure that the previous and prospective homeowners and the public have a transparent method of determining the home price. In this way, the market values are easily measured, professionally determined, and publicly accessible. No subjective judgments are made by The Consortium Members or the homeowner as to what constitutes value and how value is determined.

6. Resale Process. The homebuyer must notify The Consortium Members prior to offering the home for sale. The homebuyer will need to provide the Consortium Member with documentation of principal paid, capital improvements made, and capital systems replaced in order to help determine the homebuyer's fair return on investment. Within thirty days, the Consortium Member will provide a written response regarding the homeowner's fair return on investment.

Proceeds from the sale that exceed the fair return on investment will be returned to the HOME account to be used to make the unit affordable for a subsequent homebuyer.

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Termination of Affordability Restrictions:

The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD.

- The Consortium Members may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability.
- The affordability restrictions will be enforced according to the original terms if, during the original affordability period, the owner of record, obtains an ownership interest in the housing prior to the termination event.
- Under the following conditions, certain housing may be presumed to meet the resale restrictions during the period of affordability without the imposition of enforcement mechanisms by the Consortium Members:
 - The presumption must be based upon a market analysis/appraisal of the neighborhood in which the housing is located. The market analysis must include an evaluation of the location and characteristics of the housing and residents in the neighborhood (e.g., sale prices, age and amenities of the housing stock, incomes of residents, percentage of owner-occupants) in relation to housing and incomes in the housing market area.
 - An analysis of the current and projected incomes of neighborhood residents for an average period of affordability for homebuyers in the neighborhood must support the conclusion that a reasonable range of low-income families will continue to qualify for mortgage financing.
- The Consortium Members will periodically update its market analysis to verify continued affordability.

Recapture

Recapture Provisions: For all homebuyer down payment and closing cost assistance and housing development subsidies that cause the unit to be sold below fair market value projects, a recapture provision shall be utilized. These subsidies represent a direct subsidy to the homebuyer. If the home is sold during the period of affordability, the Consortium Members must be notified of the sale. The Consortium Members will execute written agreements that reflect the recapture provisions at or before the time of sale and will be enforced via a recorded lien. Affordability periods are based on the amount of HOME investment. Any CHDO's or subrecipients will be required to enforce these recapture provisions. The Consortium Members will allow a pro-rata reduction of the recapture amount during the affordability period. The reduction will be void if repayment is triggered. These provisions will be included in the loan documents.

Recapture Method: In the event of a voluntary or involuntary sale, the Consortium Members will recapture and retain all appreciation before the homebuyer receives a return. The recapture amount is limited to the net proceeds available from the sale. The homebuyer will then retain remaining funds after the Consortium Members retains its investment up to 100 percent (100%) including project related soft costs. The net proceeds are defined as the sales price minus superior loan repayment (other than HOME funds) and any closing costs.

If the property owner no longer uses the property as a principal residence, violates other HOME principal residency requirements of the property, is unable to continue ownership, or violates the affordability requirements of the HOME program, any outstanding amount of HOME assistance will be recaptured by the Consortium Members from the net sales proceeds. Any proceeds from the recapture of HOME funds will be used to facilitate the acquisition, construction and/or rehabilitation of housing for the purposes of promoting affordable housing.

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- The Consortium Members will structure its recapture provisions based on its Homeownership Program design and market conditions.
- Recapture provisions may permit the subsequent homebuyer to assume the HOME assistance (subject to the HOME requirements for the remainder of the period of affordability) if the subsequent homebuyer is low-income, and no additional HOME assistance is provided.

This assistance could be directly, in the form of down-payment assistance, a first or second mortgage, or indirectly, such as through the sale of the home to the buyer at less than fair market value.

Therefore, the borrower acknowledges that the affordability period information has been provided and is encouraged to read and understand the HOME Regulations.

Recapture Options: The Consortium Members can use the following options regarding the recapture of HOME funds:

- **Recapture Entire Amount:** The Consortium Members may recapture the entire amount of the HOME investment from the homeowner.
- **Reduction during Affordability Period:** THE CONSORTIUM MEMBERS may reduce the HOME investment amount to be recaptured on a pro rata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period.
- **Shared Net Proceeds:** If the net proceeds are not sufficient to recapture the full HOME investment, plus enable the homeowner to recover the amount of the homeowner's down payment and any capital improvement investment made by the owner since purchase, THE CONSORTIUM MEMBERS will share the net proceeds. Net proceeds equal the sales price minus loan repayment (other than HOME funds) and closing costs. The net proceeds may be divided proportionally as set forth in the following mathematical formulas:

$$\frac{\text{HOME Investment}}{\text{HOME Investment} + \text{Homeowner Investment}} \times \text{Net Proceeds} = \text{HOME Funds to be Recaptured}$$

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

- **Owner Investment Returned First:** THE CONSORTIUM MEMBERS may permit the homebuyer to recover the homebuyer's entire investment (down payment and capital improvements made by the owner since purchase) before recapturing the HOME investment.
- **Amount Subject to Recapture:** The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy).
- Recaptured funds must be used to carry out HOME-eligible activities in accordance with the requirements of this part. If the HOME assistance is only used for the development subsidy and therefore not subject to recapture, the resale option must be used.
- **Lease-Purchase:** HOME funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If the HOME funds are used to acquire housing that will be

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resold to a homebuyer through a lease-purchase program, the HOME affordability requirements for rental housing in §92.252 shall apply if the housing is not transferred to a homebuyer within 42 months after project completion.

- ***Preserving Affordability of Housing that was Previously Assisted with HOME Funds:*** To preserve the affordability of HOME-assisted housing, the Consortium Members may use additional HOME funds for the following costs:
 - Costs to acquire the housing through a purchase option, right of first refusal, or other preemptive right before foreclosure, or at the foreclosure sale. (The foreclosure costs to acquire housing with a HOME loan in default are eligible. However, HOME funds may not be used to repay a loan made with HOME funds.)
 - Costs to undertake any necessary rehabilitation for the housing acquired.
 - Costs of owning/holding the housing pending resale to another homebuyer.
 - Costs to assist another homebuyer in purchasing the housing.
 - When HOME funds are used to preserve the affordability of such housing, the additional investment must be treated as an amendment to the original project. The housing must be sold to a new eligible homebuyer within a reasonable period of time, typically nine (9) months or less.
 - The total amount of the original and additional HOME assistance may not exceed the maximum per unit subsidy amount.
 - The cost can be charged to the HOME program as a reasonable administrative cost so that the additional HOME funds for the housing are not subject to the maximum per-unit subsidy amount. To the extent administrative funds are used, they may be reimbursed, in whole or in part, when the housing is sold to a new eligible homebuyer.

Rehabilitation Not Involving Acquisition

Housing that is currently owned by a household qualifies as affordable housing only if:

- The estimated value of the property, after rehabilitation, does not exceed 95 percent (95%) of the median purchase price for the area; and
- The housing is the principal residence of an owner whose household qualifies as a low-income family at the time HOME funds are committed to the housing. The income of all persons living in the housing must be used to determine income eligibility.

Types of Ownership Interest

- ***Inherited Property:*** Inherited property with multiple owners is defined as: housing for which title has been passed to several individuals by inheritance, but not all heirs reside in the housing, sharing ownership with other nonresident heirs. (The occupant of the housing has a divided ownership interest.) The owner-occupant may be assisted if the occupant is low-income, occupies the housing as his or her principal residence, and pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).
- ***Life Estate:*** The person who holds the life estate has the right to live in the housing for the remainder of his or

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her life and does not pay rent. The person holding the life estate may be assisted if the person is low-income and occupies the housing as his or her principal residence.

- ***A Living Trust:*** A living trust is created during the lifetime of a person. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust must be valid and enforceable and ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life. The person holding the living trust may be assisted if the person is low-income and occupies the housing as his or her principal residence.
- **New Construction without Acquisition:** Newly constructed housing that is built on property currently owned by a family which will occupy the housing upon completion. The household must qualify as low-income and the housing must be their permanent residence.

Converting Rental Units to Homeownership Units for Existing Tenants

- The Consortium Members can allow the owner of the HOME-assisted rental units to convert the units to homeownership units by selling, donating, or otherwise conveying the units to the existing tenants to become homeowners. Refusal by the tenant to purchase the housing does not constitute grounds for eviction or for failure to renew the lease.
- If there are no additional HOME funds that can be used to assist tenants in becoming homeowners, the units are subject to a minimum period of affordability equal to the remaining affordable period if the units continued as rental units.
- If additional HOME funds are used to assist tenant to become homeowners, the minimum period of affordability will be based on the amount of direct homeownership assistance provided.

Homebuyer Program Policies

The Consortium Members will work to preserve and expand the area's affordable housing stock by providing grants, deferred loans and/or low-interest loans to housing partners including Community Housing Development Organizations (CHDOs) for the production of affordable housing units. The Consortium's HOME funds will be leveraged with other, non-HOME funding in order to maximize the numbers of units produced while minimizing cost burden to new homeowners.

To qualify for homebuyer assistance, individual participants must complete a comprehensive housing counseling program through a HUD-certified counselor or agency.

In addition to the educational resource on housing and financial literacy that the counseling program provides, home buyer assistance may also provide for gap financing to make purchases more affordable, closing costs and/or down payment assistance.

To qualify for first-time homebuyer assistance the person must:

- Be at or below 80 percent (80%) of area median income;
- Qualify for a first mortgage through a lending entity approved by the Consortium Members; and
- Have completed a qualified homebuyer education and counseling class, and be able to demonstrate ability to repay the loan.
- The maximum price of the purchased home cannot exceed those limits published by HUD.

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- The prospective homeowner's housing costs cannot exceed 30% of their gross income and debt to income ratio limits must meet standard underwriting guidelines.

These funds may be used with other available funding to assist the same segment of the regional population. As mentioned above, the Consortium Members may use local funds to directly assist homebuyers. The Consortium also may use de-obligated subrecipient funding for homeownership initiatives.

VII. DEVELOPMENT OR ACQUISITION OF RENTAL HOUSING

Please refer to the section entitled “General Policies and Procedures for Development Projects” for information related to:

- α. Applicant Standards
- β. Eligible Development Costs
- χ. Appraisal and Real Property Acquisition
- δ. Minimum Property Standards
- ε. Section 504 Barrier Removal Standards for Multifamily Housing
- φ. Prevailing Wage and Labor Requirements
- γ. Debarred Contractors
- η. Section 3 Economic Opportunity
- ι. Affordability Period
- φ. Site Control
- κ. Phase 1 Environmental Site Assessment
- λ. Relocation
- μ. Subsidy Layering and Underwriting Guidelines
- ν. Costs Associated with the Administration of Development Projects
- ο. Definition of Income
- π. Use of Combined Funders Application

Qualification as Affordable Housing: Rental Housing

All HOME-assisted rental units must be occupied by households that are low-income eligible with rents conforming to high and low HOME rents for the area median income and adjusted for household size.

- Rental units must have initial occupancy within 18 months of completion.
 - If at six (6) months a unit is still vacant, the Consortium may require changes to the marketing efforts.
 - If the unit is still vacant at 18 months, repayment of HOME funds invested must be made.

Rent Limitation (High HOME Rents)

The maximum HOME rents (High HOME Rents) are the lesser of:

- The fair market rent for units by number of bedrooms, and the HOME 65% rents for a comparably-sized unit. The lower of the two rents is the High HOME Rent.
- Rent plus monthly utilities, or the utility allowance, cannot exceed 30 percent of the adjusted income of a family whose annual income equals 65% of the area median income (AMI) for the area, with adjustments for number of unit bedrooms.
 - The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

Additional Rent Limitations (Low HOME Rents)

In rental projects with five or more HOME-assisted rental units, at least 20 percent (20%) of the HOME- assisted units must be occupied by very low-income families and meet one of the following rent requirements:

- The rent does not exceed 30 percent (30%) of the annual income of a family whose income equals 50 percent (50%) of AMI, as determined by HUD, with adjustments for smaller and larger families.

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

Additional Rent Limitations for Single Room Occupancy (SRO) Projects

- For SRO units that have both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent.
- For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent (75%) of the zero-bedroom fair market rent. The project is not required to have low HOME rents, but must meet occupancy requirements.

Initial Rent Schedule and Utility Allowances

- The Consortium Members will establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. The Consortium Members will use the HUD Utility Schedule Model <http://huduser.org/portal/resources/utimodel.html> to determine the utility allowance for the project based on the type of utilities used at the project.
- The Consortium Members will review and approve rents proposed by the owner for units designated as high or low HOME rents. For all units subject to the maximum rent for which the tenant is paying utilities and services, the Consortium Members will ensure that the rents do not exceed the maximum rents minus the monthly allowances for utilities and services.

AFFORDABILITY PERIODS

Rental Housing Activity	Maximum 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

Affordability Periods: HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in the table above, beginning after project completion.

- Affordability requirements will apply without regard to the term of any loan or mortgage, repayment of the HOME investment, or the transfer of ownership;
- The Consortium Members will impose affordability requirements through a deed restriction, a covenant running with the land, an agreement restricting the use of the property, or other mechanisms approved by HUD.
- Purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure can be used to preserve affordability.

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Subsequent Rents During the Affordability Period

For subsequent income determinations during the period of affordability, the Consortium Members will use one of the following methods:

- Obtain from the family a written statement of the amount of the family's annual income and family size, along with a certification that the information is complete and accurate. The certification must state that the family will provide source documents upon request.
- Obtain a written statement from the administrator of a government program under which the family receives benefits and which examines the family's annual income.
 - The statement must indicate the tenant's family size and the amount of the family's annual income; or
 - The statement must indicate the current dollar limit for very low- or low-income families for the family size of the tenant and state that the tenant's annual income does not exceed this limit.
- HOME rents for a project are not required to be lower than the HOME rent limits established for the project at the time of project commitment.
- Annually, the owners of rental properties must provide the Consortium Members with information on rents and occupancy for HOME assisted units to show compliance. Consortium Members will review and approve any rent increases.
- Owners must provide tenants of HOME-assisted units with 30-day prior written notice before implementing any increase in rents.
- HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the project's continued financial viability, and only by an amount that HUD determines is necessary.

Designating HOME-Assisted Units

The HOME Program distinguishes between the units in a project that are assisted with HOME funds and those that are not -- hence the term HOME-assisted unit. In deciding the number of HOME-assisted units to designate in a project, the following factors should be considered:

- θ. Maximum HOME assisted unit investment: HUD has established the maximum per-unit subsidy limit as 100 percent of the dollar limits for a Section 234-Condominium Housing basic mortgage limits, for elevator-type projects. These limits change annually and will be provided by the Consortium.
- ρ. If there are 12 or more HOME-assisted units in a project, Davis-Bacon wage rates apply.

All HOME-assisted units must be designated as "fixed" or "floating" at the time of project commitment.

- σ. 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.
- τ.
- υ. 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.

Most applicants will choose to designated HOME-assisted units as floating because it provides greater flexibility.

Maximum Incomes and Rents for HOME-Assisted Units

In projects of five or more HOME-assisted rental units, at least 20% of the HOME-assisted units must be occupied by households who have annual incomes that are 50% or less of median income. These very low-income tenants must occupy units with rents at or below the Low HOME Rent level. The balance of HOME-assisted units must be occupied by households who have annual incomes that are 60% or less of median income, and the rents must be at or below the High HOME Rent level. More than 20% of HOME-assisted may be designated as 50% or less of median income/Low HOME Rent units.

Site and Neighborhood Standards

New construction of rental housing must meet the site and neighborhood standards outlined in 24 CFR § 983.57(e)(2) and (3). The site must not be located in an area of minority concentration, except as permitted, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

Additionally, the applicant must demonstrate the residents will have access to core services, such as grocery, transportation, and relevant social services (homeless projects), within easy access. The Consortium will use a ½ mile radius to measure maximum distance to these services. If the development is within ¼ mile of a bus stop, this requirement may be waived.

Form of HOME Investment

The Consortium Members may provide rental housing development awards in the form of amortized loans, deferred loans, recoverable grants, grants or a combination of these.

Grants may be provided to housing projects serving the lowest income, highest need populations that require public operating subsidy to cover basic operating expenses. These projects will typically not have the cash flow or financial ability to service additional debt reflected in the operating pro forma submitted and reviewed as part of the application process. Grants may need to be structured based on the nature and additional sources being leveraged as in the case of HUD funded projects.

Loans may be amortized or deferred. Loans will be structured based on the project's operating pro forma. Deferred loans will have principal and interest, if interest is being charged, due and payable in full on or before the termination date of the contract. Loan terms may be set based on the needs of other funding sources such as the federal Low-Income Housing Tax Credit program. The Consortium Member's interest in the property will be secured by appropriate collateral and documentation. The Consortium Member may authorize deferred payment and/or forgivable loans for those projects with inadequate sources to repay the loans. Deferred payment and/or forgivable loans shall be secured in a manner to ensure that if the project no longer provides the benefits of affordable housing as approved by the Consortium Member, that the loan (with interest) would become due and payable.

Project Deadlines

HOME-funded projects must meet the following deadlines or face loss or required repayment of HOME funds:

- ϖ. Before the Consortium Member can enter into a HOME funding commitment, the Consortium Member must provide evidence of firm written financial commitments from all other funders for the project. Projects failing to obtain these commitments within twelve months from the time of award letter face loss of their preliminary allocation of HOME funds.
- ω. Construction must begin within twelve months of project commitment (Written Agreement signature).
- ξ. If the HOME-funded unit is not occupied by eligible tenants within six months following the date of project completion, the Consortium Member must submit marketing information and a marketing plan to the Cabarrus/Iredell/Rowan HOME Consortium. If the HOME units remain vacant after 18 months from the date of project completion, the Consortium Member will be required to repay the HOME funds invested in those units.

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Tenant Protections and Selections

ψ. Tenants must be offered written leases for a period of not less than one year, unless by mutual agreement between the tenant and the owner a shorter period is specified.

ζ. Lease terms must be consistent with the tenant protections set forth in the HOME Rules, 24 CFR § 92.253 (HOME Lease Addendum).

αα. Owners of rental housing must comply with the affirmative marketing requirements pursuant to 24 CFR § 92.351(a) and (b).

ββ. The owner must adopt and follow written tenant selection policies and criteria consistent with 24 CFR § 92.253(d).

- Project Owners must adopt written tenant selection policies and criteria. These policies and criteria must be based on local housing needs and priorities consistent with the Consortium's Consolidated Plan. Selection policies must:
 - Comply with the Consortium's affirmative marketing requirements
 - Limit housing to very low-and low-income persons
 - Not limit eligibility or give preference to a particular segment of the population unless specifically authorized in the written agreement
 - Not exclude applicants with vouchers or TBRA.

HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of §92.252 to qualify as affordable housing.

- Utility allowances must be calculated using the HUD Utility Schedule Model. This model can be found at <http://huduser.org/portal/resources/utimodel.html>
- Applicants for rental housing must submit, along with their application, the following documentation must be dated within a reasonable amount of time from the date that the application was completed and submitted:
 - Valid photo ID, such as driver's license, state photo ID or passport
 - Social Security Card
 - Most recent year's state and federal income tax returns (additional years may be required if a potential homebuyer is self-employed or had 1099 income).
 - Most recent year's W-2 statement
 - Two months of pay stubs
 - Last two (2) consecutive months of bank statements for all accounts
 - Proof of any additional household income that may include, but is not limited to: social security disability (for children as well as adults), veteran's pension or disability, social security retirement, child support payments or alimony, or TANF
 - Credit score and statement of current debts.

There must be a written lease for all HOME-assisted rental units, and the statutory tenant protections must be integrated into the lease.

- Mandatory supportive services: Lease terms that make tenant acceptance of supportive services mandatory are prohibited.
- Tenants in transitional housing may be required to accept supportive services as part of an overall program.
- Tenants must receive a 30-day written notice prior to evictions.
- Tenants must also receive a 30-day written notice prior to rent increases.
- Rental assistance subsidy holders cannot be turned down for HOME assisted housing because of the status of the

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prospective tenant as a holder of such a certificate, voucher, or comparable HOME tenant-based assistance document.

DISPLACEMENT, RELOCATION AND ACQUISITION

Minimizing Displacement

The Consortium Members will ensure that all reasonable steps are taken to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with HOME funds. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.

Temporary Relocation

The following policies will cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:

- Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.
- Appropriate advisory services, including reasonable advance written notice of:
 - The date and approximate duration of the temporary relocation;
 - The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
 - The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project.

Relocation Assistance for Displaced Persons

- A “displaced person” must be advised of his or her rights under the Fair Housing Act.
- In the event of any temporary or permanent relocation of residents as a result of HOME-funded activity, the Consortium Members will follow its policies on displacement, relocation, acquisition, and replacement of housing as applicable.

A person does not qualify as a *displaced person* if any of the following circumstances apply:

- The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State or local law, or other good cause, and the Consortium Members determine that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.
- The effective date of any termination or refusal to renew must be preceded by at least 30 days advance written notice to the tenant specifying the grounds for the action.
- HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.
- All prospective tenants, prior to signing the lease and beginning occupancy, must be informed and provided written notice of the displacement policy and all related rules.
- **Appeals:** A person who disagrees with the project owner’s determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be

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eligible, may file a written appeal of that determination with the Consortium Members. A person who is dissatisfied with the Consortium Member's determination on his or her appeal may submit a written request for review of that determination to HUD'S Columbia, SC Field Office.

Troubled Home-Assisted Rental Housing Projects

If rental housing is not fully leased by eligible tenants within six (6) months following the date of project completion, the Consortium Members will submit marketing information and, if appropriate, a marketing plan to HUD.

- If HOME- assisted rental units are not rented to eligible tenants 18 months after the date of project completion, the Consortium Members will be required to repay the HOME funds invested in any housing unit to HUD.
 - The Consortium Members will also implement the recapture of HOME funds from the grantee for any rental units that are not rented by 18 months after the date of project completion.
 - The affordability requirements also apply to the HOME- assisted non-owner-occupied units in single- family housing purchased with HOME funds in accordance with §92.254. The tenant must have a written lease that complies with §92.253.
 - 24 CFR §92.210 provides participating jurisdictions with flexibility to assist in averting foreclosures and would enable HUD to approve these actions without the process required to grant waivers, which can be time-consuming. However, 24 CFR §92.210 limits total investment in the project to the maximum per-unit subsidy in 24 CFR §92.250(a), and provides HUD with the option of requiring an extension of the period of affordability as a condition of permitting the investment of additional HOME funds in the project. 24 CFR §92.210 also permits a reduction in the number of HOME-assisted units, but only if the project contains more than the minimum number of units required to be designated as HOME- assisted units under 24 CFR §92.205(d).

Recordkeeping

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

χχ. 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). General rental housing records must be kept for five (5) years after the conclusion of the Consortium Member's/Project Owner's period of affordability.

δδ. 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 annual income recertification documents and the tenant's lease. Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the HOME affordability period.

Project Monitoring

Project owners must submit information on tenant incomes and rents annually on the form provided by the Consortium Member.

With advance notice to the project owner, the Consortium Member and possibly the City of Concord will conduct an on-site inspection of HOME properties at least as frequently as follows throughout the HOME affordability

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period:

- εε. Annually: Projects with 26 or more total units
- φφ. Every two years: Projects with 5 – 25 total units
- γγ. Every three years: Projects with 1 – 4 total units

The City of Concord will inspect at least 15 percent to 20 percent of the HOME-assisted units in a project, and a minimum of one unit in every building to ensure compliance with property standards. The City of Concord also will ask to see a sample of the files of residents of HOME-assisted units to review income documentation, rent calculations, HOME lease provisions and compliance with other HOME regulations.

VIII. TENANT-BASED RENTAL ASSISTANCE (TBRA)

OVERVIEW

The Tenant Based Rental Assistance (TBRA) Program provides targeted, very low-income households with utility, deposit, and rent costs for up to two (2) years.

Eligible Activities and Costs

- α. Up to 24 months of rent assistance per household to help pay the costs of monthly rent and utilities. A household may continue to receive assistance following the initial 24 months, dependent on available funding.
- β. Security deposits, regardless of whether the household will be receiving rental assistance.
- γ. Utility deposit assistance, **only** in conjunction with rental assistance.
- δ. Project delivery costs, which specifically includes administrative time determining income eligibility.
- ε. When HOME TBRA is combined with other subsidies, the HOME TBRA assistance may only be used as a supplement to further reduce the household rent payment to 30 percent of income.

Ineligible Activities

- φ. Project-based rental assistance. Households must be free to use the assistance in any eligible unit.
- γ. Rental assistance to a household already receiving rental assistance under another Federal program, or a state or local rental assistance program that reduces the tenant rent payment to 30% of income.
- η. Providing TBRA for overnight or temporary shelter.
- ι. Move-in costs and credit checks.
- φ. Case management and support services.
- κ. Utility deposits without rental assistance.
- λ. Payment of rent arrearages.

Subrecipient Eligibility

Eligible applicants are public housing authorities and nonprofit community-based organizations assisting households in areas throughout Cabarrus, Iredell and Rowan counties. Applicants must have prior experience administering a tenant based rental assistance program, unless an experienced entity has agreed to mentor the applicant for the term of the contract.

Target Populations

This program targets households that are literally homeless or exhibit characteristics that make them highly vulnerable to becoming homeless. Persons within the target population shall be identified through locally determined coordinated entry access and referral policies and procedures.

Eligible Beneficiaries

The following is an overview of criteria households must meet to be eligible for TBRA. Further details regarding eligibility verification and documentation can be found in Program Administration and Implementation: Eligibility Verification and Documentation.

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- μ. The household’s verified income must be below 50 percent of the area median income (AMI) for the area being served.
- v. The household must apply and be referred to the TBRA HOME program through the area’s local coordinated entry system, in compliance with all coordinated entry policies and procedures as established by the local continuum. Coordinated entry eligibility and referral must be clearly documented in the client file.

PROGRAM ADMINISTRATION AND IMPLEMENTATION

Tenant Selection

Tenants must be selected from the target population as detailed in the TBRA Overview. Within the target population, Subrecipients will use a vulnerability index or assessment tool to prioritize applicants for selection, as indicated by local coordinated entry policies and procedures. Subrecipients should not administer their TBRA program on a first-come, first-served basis.

The Subrecipient’s program cannot be administered in a manner that limits the opportunities of persons based on race, color, religion, sex, national origin, handicap, sexual orientation, gender identification, or familial status. A person selected for the TBRA program may not be prohibited from applying for or participating in other available programs or forms of assistance for which he or she might qualify.

Subrecipients must administer the TBRA HOME program in compliance with Fair Housing Law and the North Carolina Law Against Discrimination.

Eligibility Verification and Documentation

Initial eligibility documentation must be dated within 6 months of the lease start date, and must include the following:

1. Housing Status and Coordinated Entry Referral Verification
 - a. The Subrecipient must verify and document the housing status of the household, as well as coordinated entry eligibility and referral as determined by local coordinated entry policies and procedures.
 - b. The Subrecipient shall verify housing status per the following situations and documentation methods:

Situation	Documentation
Persons living on the street or in short-term emergency shelter	Information should be obtained to indicate that the participant is living on the street or in short-term emergency shelter. This may include names of organizations or outreach workers who have assisted them in the past, whether the client receives any general assistance checks and where the checks are delivered, or any other information regarding the participant’s activities in the recent past that might provide documentation. If unable to verify that the person is living on the street or in short-term emergency shelter, the participant or staff person may prepare a short, written statement about the participant’s previous living place. The participant should sign the statement and date it.
Persons coming from transitional housing for homeless persons	Obtain written verification from the transitional housing staff that the participant has been residing at the transitional housing facility. The verification should be signed and dated by the referring agency personnel. Also obtain written verification that the participant was living on the streets or in an emergency shelter prior to living in the

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	transitional housing facility (see above for required documentation for emergency shelter), or was discharged from an institution or evicted from a private dwelling prior to living in the transitional housing and would have been homeless if not for the transitional housing (see below for required documentation for eviction from a private dwelling).
Persons being evicted from a private dwelling	<p>Obtain evidence of formal eviction notice indicating that the participant was being evicted within a week before receiving homeless assistance. Also obtain information on the participant's income and efforts made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter.</p> <p>If the participant's family is evicting, a statement describing the reason for eviction must be signed by the family member and dated. In other cases where there is no formal eviction process, persons are considered evicted when they are forced out of the dwelling unit by circumstances beyond their control. In those instances, obtain a signed and dated statement from the participant describing the situation. The Subrecipient must make efforts to confirm that these circumstances are true and have written verification describing the efforts and attesting to their validity. The verification should be signed and dated.</p>
Persons from a short-term stay (up to 90 consecutive days) in an institution who previously resided on the street or in an emergency shelter	Obtain written verification from the institution's staff that the participant has been residing in the institution for less than 91 days and information on the previous living situation. See above for guidance
Persons being discharged from a longer stay in an institution	Obtain evidence from the institution's staff that the participant was being discharged within the week before receiving homeless assistance. Obtain information on the income of the participant, what efforts were made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter.
Persons fleeing domestic violence	Obtain written verification from the participant that he/she is fleeing a domestic violence situation. If a participant is unable to prepare verification, the grantee/recipient may prepare a written statement about the participant's previous living situation for the participant to sign and date.

2. Income Verification

- a. The Subrecipient must verify and document that the household income is below 50 percent of the area median income (AMI) for the area being served. Verification and documentation of income eligibility must be completed before assistance is provided.
- b. Updated income limits are published annually by the Department of Housing and Urban Development. The Consortium Members will distribute updated income limits as soon as they are available, which may be prior to the date of implementation for the updated area median income. The Subrecipient must implement updated income limits in accordance with "effective by" dates as published by the Department of Housing and Urban Development.
- c. Income must be counted for all household members, including nonrelated individuals, according to the requirements of 24 CFR 5.609.
- d. At least two months of source documentation (e.g. wage statements, interest statements, or unemployment compensation documentation) must be examined when determining household income for potential TBRA beneficiaries. A tax return is not an acceptable form of income documentation for the purposes of TBRA.
- e. The Cabarrus/Iredell/Rowan HOME Consortium TBRA program uses the Section 8 definition of income, also known as the Part 5 definition, found at 24 CFR 5.609.

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1. Use of the HUD exchange CPD Income Eligibility Calculator is now the required method for Subrecipients to determine and document income eligibility. This tool can be accessed by the following link: <https://www.hudexchange.info/incomecalculator/dashboard/>
 - i. Once income verification has been conducted using the CPD Income Eligibility Calculator, a hard copy of this income verification must be retained in the client file.
 - ii. Subrecipients should not record any identifying information in the CPD Income Eligibility Calculator.
 - iii. If a situation arises in which the CPD Income Eligibility Calculator cannot be used to verify the income eligibility of a household, the Subrecipient must communicate with the staff of the Consortium Member or the City of Concord regarding the situation. The Subrecipient must also clearly document in the client file the reasons for not utilizing the CPD Income Eligibility Calculator.

TENANT INCOME ELIGIBILITY

- Before a tenant occupies a HOME unit, the Consortium Members requires the project owner to determine that the tenant is income eligible with verification of household income documentation.
- Total household income includes the income of all persons, over the age of 18, who reside in the household.
- Required income source documentation includes 2 months of wage statements, pay stubs, or interest income (such as bank statements) which have amounts that can vary from month to month.
- Income sources also include pensions, social security disability and retirement, veteran's benefits, Supplemental Security Income (SSI) for children and adults, child support and alimony, and Temporary Assistance for Needy Families (TANF).
- Verification of all asset income

Over-income Tenants: HOME-assisted units can continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to THE CONSORTIUM MEMBERS and HUD are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.

- Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent (30%) of the family's adjusted income.
- Tenants residing in HOME units designated as floating, who no longer qualify as low-income, are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

UNIT SELECTION AND APPROVAL

Unit Type

Approved applicants may select units that are publicly or privately-owned and located within Cabarrus County, Iredell County or Rowan County, as determined by the Subrecipient's county of service. TBRA may not be provided to a family who proposes to rent a unit that receives project-based rental assistance through federal, state, or local programs, if the TBRA assistance would lower the household's rent and utility costs to less than 30% of the household income. Student housing units are not eligible for TBRA assistance.

Rent Reasonableness

Units must rent for a reasonable amount, compared to rents charged for comparable, unassisted units. Subrecipients must document the basis of their rent reasonableness determinations, using the Rent Reasonableness Checklist and Certification form. Although documentation of three (3) comparable units is preferable, in some rural areas this may

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be difficult or impossible. In these cases, comparable units from neighboring communities are acceptable if the rents are similar. Documentation of fewer than three (3) units is also acceptable with a written explanation.

A rental lease must be disapproved if the rent is not reasonable, based on rents charged for comparable unassisted units.

Housing Quality Standards (HQS)

All units must meet Section 8 Housing Quality Standards (HQS). Inspections must be made at initial occupancy and annually during the length of assistance. A copy of the inspection must be retained in the client file. If tenants are occupying a unit owned by the contractor, the unit must be inspected by a third party.

Units must comply with the North Carolina State Building Code Carbon Monoxide Alarm Laws (N.C. General Statute §143-138). Alarms must be located outside of each separate sleeping area, in the immediate vicinity of the bedroom and on each level of the residence. Single station carbon monoxide alarms must be listed as complying with UL 2034, and installed in accordance with code and the manufacturer's instructions. Combined CO and smoke alarms are permitted.

Lead-Based Paint

HUD Lead Regulation 24 CFR Part 35, Subpart M applies to the TBRA program. The regulation only applies to structures built before 1978 that house children under the age of six. Please consult the regulation itself to make sure that your agency implements this regulation fully and properly.

1. Evaluation

The Subrecipient must conduct a visual assessment of a unit prior to occupancy and at least annually thereafter. The visual assessment identifies deteriorated paint, dust, debris, and other residue. The visual assessment must be done by a person who is trained in visual assessment.

2. Paint Stabilization

The property owner must correct any conditions identified in the HQS inspection, including stabilizing deteriorated paint identified in the visual inspection. Paint stabilization can involve repairing the substrate, scraping and repainting the surface. All deteriorated paint must be stabilized by properly trained or supervised workers using lead-safe work practices.

Documentation of safe work practices is required, and consists of having copies of certificates of safe work practices training completion on file for those doing the lead reduction work.

When work is complete, the Subrecipient must ensure that the unit passes clearance and keep a copy of the clearance report. Failure to get clearance on any unit where lead hazard reduction activities have occurred will result in rental assistance being discontinued on the unit. Keep records of any unit where clearance is required but has not been obtained to ensure that the unit does not become rent assisted, even if another eligible household wants to live there.

3. Communication with Residents

The Subrecipient must ensure that residents receive the following communications:

- a. **Lead Hazard Information Pamphlet:** Prior to occupying the unit, the Subrecipient must provide the resident with the most up-to-date Protect Your Family from Lead in Your Home pamphlet. This document can be accessed in multiple languages at the following link: <https://www.epa.gov/lead/lead-safety-documents-and-outreach-materials>. The Subrecipient must retain in the client file documentation of receipt of this pamphlet by the resident prior to occupation of the unit, which must include a signature of acknowledgement signed by the resident.
- b. **Lead Disclosure Notice:** Residents must receive, from the owner, a Lead Disclosure Form notifying them of any known lead-based paint or hazards in the unit, prior to occupying the unit. The Subrecipient must retain in the client file documentation of any Lead Disclosure provided to the resident by the owner,

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- which must include a signature of acknowledgement signed by the resident.
- c. Notice of Lead Hazard Reduction: For instances in which visual assessment and lead hazard evaluation determines a need for paint stabilization and/or abatement, and the owner has conducted paint stabilization activities, the resident must receive a Notice of Lead Hazard Reduction within 15 days of the completion of paint stabilization and clearance. The Subrecipient must retain this documentation in the client file, which must include a signature of acknowledgement signed by the resident.
 - d. Notice of Lead Hazard Evaluation: Because a visual assessment is not a method of lead hazard evaluation, a notice of lead hazard evaluation is not required. However, if any lead hazard evaluation is conducted, for example in the event of a child with an Environmental Intervention Blood Lead Level (EIBLL), such a notice is required and must be posted at the applicable work site. The Subrecipient must retain all related documentation in the client file.

4. Child with an Elevated Blood Lead Level (EIBLL)

- a. Should the Subrecipient be made aware that a child less than 6 years of age living in a dwelling unit participating in the TBRA program has been identified as having elevated blood lead levels, the Subrecipient must conduct an inspection of the dwelling unit for Lead-Based Paint risk. The Subrecipient must immediately notify the household and the owner of the unit of the results of the inspection, and the owner must conduct paint stabilization and/or abatement in compliance with the requirements of 24 CFR Part 35, Subpart M. Hazard reduction must occur within 30 calendar days of notification to the owner. The Subrecipient must retain all documentation of the EIBLL, as well as subsequent inspections, notification, and stabilization and/or abatement in the client file.

Occupancy Standards

Occupancy standards are used to determine the unit size for which the household is eligible and thus, the amount of assistance to be provided. Fair housing rules permit a household to select smaller units that do not create seriously crowded conditions. Participants may also select larger units, but the Subrecipient is not required to increase the subsidy to cover the increased costs of a larger unit.

Subrecipients will use the Section 8 Housing Quality Standards (HQS) basic occupancy standard of two persons per living/sleeping area. This basic standard can be modified when a specific household composition or circumstance warrants the need to deviate from this standard. In conjunction with the annual re-examination of income, the Subrecipient should re-examine the household's size and composition to determine whether the current unit is still suitable and appropriate.

Unit and Lease Approval

In addition to ensuring that the unit selected by the household meets the above requirements for Rent Reasonableness, Housing Quality Standards, and Occupancy Standards, the Subrecipient must also ensure that the unit lease meets all requirements of the HOME program, as outlined in 24 CFR 92.253. The lease may not contain any of the provisions prohibited in 24 CFR 92.253(b):

- o. 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.
- π. Treatment of property: Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the right of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law.
- θ. 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.
- ρ. Waiver of notice: Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.

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- σ. 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.
- τ. Waiver of a jury trial: Agreement by the tenant to waive any right to a trial by jury.
- υ. Waiver of right to appeal court decision: Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- ϖ. Tenant chargeable with cost of legal actions regardless of outcome: Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- ω. Mandatory supportive services: Agreement by the tenant to accept supportive services that are offered.

Rent Standard

Rent standards are determined annually for each county based upon HUD's most recent fair market Rents. Current rent standards will be posted on **HUD's Fair Market Rent Documentation System's webpage**, located at the following: <https://www.huduser.gov/portal/datasets/fmr.html>

The rent study will typically be conducted in the fall to allow for the release of updated rent standards in January of each year. The Cabarrus/Iredell/Rowan HOME Consortium may choose to review the rent standard more frequently to assure that limits remain appropriate for the Consortium area.

Payment Standard

The Cabarrus/Iredell/Rowan HOME Consortium uses the Rent Standard for calculating the TBRA subsidy rather than using a separate payment standard. Utility allowances are deducted from the tenant portion of the monthly rent.

Subrecipient may exercise the option of recalculating beneficiary subsidies when rent standard updates are made available.

Calculating the Subsidy

Subrecipients of HOME Consortium funds must use a modified Rental Coupon Model to determine the household subsidy amount. While the Rental Coupon model assumes a fixed Subrecipient payment and flexible tenant payment, the HOME Consortium's calculations may result in variations in both the Subrecipient payment and household payment amounts depending on the utility allowance for a particular unit.

Use of the CPD Income Calculator is the required method for determining the household subsidy amount. This tool can be accessed by the following link: <https://www.hudexchange.info/incomecalculator/dashboard/>
Documentation from the CPD Income Calculator for the determination of adjusted income and the rental assistance payment must be retained in the client file.

Underwriting Standards

- Household income requires documentation of all persons living in the household over the age of 18.
- Applicants for homeownership assistance must submit, along with their application, the following minimum documentation must be dated within a reasonable amount of time from the date that the application was completed and submitted:
 - Valid photo ID, such as driver's license, state photo ID or passport
 - Social Security Card
 - Two (2) months of pay stubs

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- Last two (2) consecutive months of bank statements for all accounts
- Proof of any additional household income that may include, but is not limited to: social security disability (for children as well as adults), veteran's pension or disability, social security retirement, child support payments or alimony, or TANF
- Credit score and statement of current debts.

Deposit Assistance

Deposits will be provided as a grant. Subrecipients can decide to provide security and utility deposit assistance to eligible applicants. Security deposit payments may be made to the household or the owner; utility deposits to the household or the appropriate utility company.

ξ. Security Deposits:

The amount of security deposit paid should be based on the landlord's policies. However, the maximum amount of a security deposit is the equivalent of two months' rent for the unit. Only the prospective tenant, not the owner, may apply for TBRA security deposit assistance.

ψ. Utility Deposits:

Utility deposits must be in conjunction with rental assistance. Utility deposits may be paid for any of the tenant-paid utility services included on the utility allowance schedule. This includes fuel for cooking, heating and lighting (electric, gas, propane, etc.), water/sewer, and trash collection, if not provided as a city service, but does not include telephone, internet, or cable deposits.

Access to Rent Standard Exception

The Cabarrus/Iredell/Rowan HOME Consortium may allow an exception to the published Rent Standard for up to 30% of households on the TBRA program. Exceptions to the Rent Standard will be granted by the Consortium Member and must be requested on a case-by-case basis by the Subrecipient on behalf of the household. The rent standard exception cannot exceed the established rent standard for the unit size by more than 10%. To request a rent standard exception, the Subrecipient must submit an explanation to the Cabarrus/Iredell/Rowan HOME Consortium detailing the household situation and the unique circumstances of the household which merit consideration of a unit above the rent standard.

In instances in which the Consortium Member grants an exception to the rent standard for a household, the Subrecipient is not obligated to cover the additional unit cost above the rent standard. The Subrecipient must maintain policies and procedures that detail how the Subrecipient will determine if/when to bear responsibility for the additional unit cost associated with a household who is provided with a rent standard exception, and if/when the household will be responsible for the additional unit cost above the rent standard. If the Subrecipient elects to cover the additional cost of the unit under a Rent Standard Exception, the TBRA subsidy must not reduce the household's rent and utility costs below 30% of the household's adjusted income or 10% of the household's gross income. Documentation that the Consortium has granted a rent standard exception must be maintained in the client file.

ANNUAL ASSISTANCE RENEWAL

The Subrecipient may renew TBRA assistance after the conclusion of the first year of assistance for a household, so long as the annual renewal requirements detailed below are met.

Annual Eligibility Determination

Each household's eligibility to participate in the program and its share of the rent must be confirmed annually. If a participating household's income exceeds the HUD Income Limit the household's assistance must be ended. In order to assure that the re-examination is completed on time and that adequate notice is given to both the owner and the

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tenant of changes in the household's eligibility or share of the rent, the re-examination process should begin 60- 90 days in advance of the household's one-year anniversary.

Using the same basic procedures described previously to determine the household's initial eligibility and share of the rent, the Subrecipient must re-verify household size, composition, and income. The Subrecipient will exclude, from annual income, certain increases in the income of a disabled member of families who receive TBRA assistance in order to further their economic self-sufficiency. These include annual increases that result from:

- ζ. The employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment.
- αα. Increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program.
- ββ. Annual income documentation must be retained in the client file.

Annual HQS Unit Inspection

The TBRA Program regulation requires that all units assisted with TBRA funds meet Section 8 Housing Quality Standards (HQS). Each unit under contract must be inspected by the Subrecipient, at least annually, to assure that this requirement is met. Units may also be inspected as a result of housing quality complaints initiated by the owner or the tenant.

If a unit fails to pass inspection, the owner may be given a reasonable period of time to correct the deficiencies. If the owner fails to make the needed corrections, the Subrecipient has several options. The Subrecipient may, with adequate notice to the owner and household, terminate the TBRA Rental Assistance Contract and require the household to move to another location in order to continue to receive assistance. Inspection documentation shall be retained in the client file.

Processing Requests for Rent Increases

Typically, owners offer leases that specify the rent for one year. This means that, unless the Subrecipient has negotiated a two-year rent, most owners will request a rent increase at the end of the first year of the contract. The Subrecipient must again determine that the proposed rent is reasonable in comparison to rents charged for comparable, unassisted unit, and also that it is within any other limitations established in the Subrecipient's program.

Moves and Termination of Tenancy

Subrecipients should, at a minimum, require that owners comply with local landlord-tenant ordinances and may impose some additional requirements.

TERMINATION: Agency must notify tenant in writing when terminating tenant assistance. Agency must follow landlord tenant rules of the State of North Carolina.

- χχ. End of Assistance Time Period: Provide notice in writing to tenant and landlord. If deposit assistance was provided at the beginning of the lease term, all returned deposits shall belong to the tenant.
- δδ. Property Owner Termination: If a property owner terminates the tenancy through no fault of the tenant, and the tenant is still eligible for assistance, the Agency will work to find another unit. Any deposit assistance received at the beginning of the original lease term that is returned to the tenant must be applied to the new unit if assistance is continued.
- εε. Tenant Caused Eviction: If the tenant is evicted due to breaking the lease or participating in illegal activities, the agency is under no obligation to continue to provide rental assistance. If it is determined that the tenant may continue to receive assistance and is eligible to receive their security deposit back the returned deposit must be applied to the required deposits for the new unit.

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φφ. Tenant Moves: Tenant moves are accommodated only in rare instances such as family size, job change, unit not meeting annual HQS standards, or other extenuating circumstances that pose a threat to the tenant's health, safety, or wellbeing as documented by a case manager. Any deposit assistance received at the beginning of the original lease term that is returned to the tenant must be applied to the new unit if assistance is continued.

Notices of moves and Terminations of tenancy must be documented in writing and maintained in the tenant file. Acceptable forms of documentation include eviction letters issued by landlord, notice of lease ending, etc.

Documentation should detail why the tenant is moving or tenancy is being terminated. All types of deposits may only be provided using HOME funds twice during a 12-month period per household.

Progressive Engagement

Subrecipients are highly encouraged to consider the implementation of progressive engagement strategies in conjunction with the requirements of the HOME TBRA program. Progressive engagement can be applied to voluntary supportive services that may support the stability and progress of households on the TBRA program, and can be applied to the level of subsidy assistance provided with TBRA funds. For example, while HOME requires that households on the TBRA program be annually re-evaluated for income eligibility and the amount of subsidy assistance provided, Subrecipients may elect to more frequently evaluate the income and subsidy level of the household in the context of case management focused on increasing the household's income and independence. Any application of progressive engagement strategies utilized by Subrecipients in the TBRA program must be implemented in accordance with written policies and procedures, and must be consistently applied to all households on the program. For example, if a Subrecipient determines that it will re-evaluate income and subsidy level quarterly, the Subrecipient must have written policies and procedures documenting this progressive engagement strategy, and this strategy must be applied to all households on the HOME TBRA program.

Billing and Administration

Billing Procedures

The Subrecipient must bill the Consortium Member on a monthly basis for reimbursement of allowable costs. Invoice must be submitted within 30 days of the end of the month of service. Payment will be made within 30 days of invoice approval. In order to receive reimbursement, Subrecipients must also submit the TBRA Report on a monthly basis. Failure to submit a monthly invoice packet within a timely manner will result in delayed or withheld payment.

The Subrecipient must submit any billing adjustments within 60 days of the end of the month of service. All end of year billings must be submitted by the Subrecipient no later than the 10th of January.

The Subrecipient must maintain records that disclose all costs allowable for reimbursement.

Reports

The Subrecipient is responsible for submitting required reports by the dates due using required forms.

Report	Due Date
Quarterly Report	Due on the 15 th of the month following the end of the quarter. The Subrecipient will be notified of changes in report due date.
TBRA Beneficiary Record	Monthly on the 15 th of the month following provision of services. The Subrecipient will be notified of changes in report due date.

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Monitoring

The Consortium Member and possibly the City of Concord, as the Lead Entity, will monitor TBRA Subrecipients through data and documentation collected in periodic program reports and on-site monitoring. Subrecipients will also be subject to monitoring and evaluation by the U.S. Department of Housing and Urban Development.

Performance Measures

Subrecipients must perform services defined in the Subrecipient's TBRA Program Application (as updated) for the contract period, with amendments, if any; in accordance with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments. The Consortium Members reserve the right to modify the terms of the performance standards, measures, and outcomes by contract amendment at any time for the duration of the term of the contract.

Number of Households Served

The City of Concord and The Consortium Members will regularly monitor the number of households served by the Subrecipient. If the Subrecipient falls short of serving the number of households identified in their scope of work, The Consortium Members may request a written explanation for this shortfall. The Consortium Members may accept the explanation and require the Subrecipient to submit a revised Scope of Work for the remainder of the current contract, or choose to reduce any future requests for funding.

Fixed-Unit Projects

If a tenant's household income increases over 80 percent (80%) of AMI at recertification, the project owner should take the following steps to maintain the correct numbers of High and Low HOME rent fixed units:

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

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- If the person whose income went over 80 percent (80%) of median was in a High HOME unit and they elect to vacate the property, the new tenant must be at or below 80 percent (80%) of median income and rented at a High HOME rent.

Floating-Unit Projects

- The owner must use the following procedures to maintain the correct numbers of High and Low HOME rent floating units:
- The owner can draw on all the units in the property to designate High and Low HOME rent units. This means that the owner is not restricted to those units initially designated as HOME-assisted units when looking to re-designate a comparable unit as the new Low or High HOME unit.
 - At no point is the owner required to designate more HOME-assisted units than was agreed upon in the written agreement with the PJ.
 - When the income of a tenant occupying a Low HOME rent unit increases over 50 percent (50%) of the median, but **does not exceed 80 percent (80%)** of the area median income, the unit that is occupied by the over-income tenant is considered a Low HOME rent unit until a comparable unit can be substituted.
 - The rent of the tenant whose income has gone above 50 percent (50%) of median must not exceed the Low HOME rent limit while the unit has a Low HOME rent unit designation.
 - To replace the Low HOME rent unit, the project owner must rent the next available High HOME-assisted unit to a very low-income tenant. The newly designated Low HOME rent unit must be rented to a tenant whose income does not exceed the very low-income limit (50% of median), at a rent that does not exceed the Low HOME rent limit.
 - Once a new Low HOME rent unit has been designated, subject to the terms of the lease, the rent of the initial tenant whose income has increased may be increased to the High HOME rent for the unit. This process should not increase the number of assisted units.

Expenditures

The City of Concord and The Consortium Members shall review the Subrecipient's expenditures as reported on the monthly TBRA invoices and compare to the Subrecipient's expenditure projections. If a Subrecipient fails to expend TBRA funds at the projected rate, The Consortium Members may request that the Subrecipient submit a written explanation. The Consortium Members may accept the explanation and require an updated budget that reflects the Subrecipient's ability to spend down the grant before the end date stated on the contract, or choose to reduce any future requests for funding.

Unexpended Funds

The level of funds reduction for failure to meet performance standards, outcomes or expenditure projections shall be negotiated between the Consortium Member and the Subrecipient, with the Consortium Member retaining the authority to set the reduction level. Any unused funds will first be reallocated to other TBRA Subrecipients and then placed in the HOME General Fund for use in all HOME programs.

Repayments

HOME TBRA funds used to assist households who do not meet the eligibility requirements, or to lease units not in compliance with HOME requirements, must be repaid.

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Environmental Review

Because the proposed project involves the provision of rental assistance to private landlords on behalf of tenant, it is exempt from the National Environmental Policy Act (NEPA) requirements of 24 CFR 58. There are no circumstances that require compliance with laws and authorities in 24 CFR 58.5; therefore, the project is found to be exempt pursuant to Section 58.34(a)(10). The Consortium Members must certify that the proposed project is exempt from NEPA and SEPA requirements (RCW 43.21C.110).

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IX. APPENDIX A: GLOSSARY

Action Plan: The one-year portion of the Consolidated Plan (see below). It includes the Participating Jurisdiction's (PJ's) annual application for HOME funds.

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 used 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 a family's adjusted gross income.

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).

Annual Income: The HOME Program allows the use of two definitions of annual income: Section 8 annual income and adjusted gross income as defined for reporting on IRS Form 1040.

Commitment: Commitment means one of three (3) things: (1) The PJ has executed a legally-binding agreement with a State recipient, subrecipient, or contractor to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance; or (2) has executed a written agreement reserving a specific amount of funds for a CHDO; or (3) has met requirements to commit to a specific local project as defined below.

Commitment to a specific local project. Commitment to a specific local project means that a legally binding agreement was executed meeting one of the following sets of requirements: (1) For rehabilitation or new construction projects, the PJ (or other entity) and the project owner will execute an agreement for an identifiable project under which construction can reasonably be expected to start within 12 months of the agreement date. If the project is owned by the PJ or state recipient, the project must be set up in the disbursement and information system and construction reasonably expected to start within 12 months of the set-up date. (2) If the project consists of acquisition of standard housing by the PJ, the agreement must be a binding contract for the sale of an identifiable property and the property title must be transferred to the PJ (or other entity) within six months of the date of the contract. (3) If the project involves the acquisition of standard housing and the PJ is providing HOME funds to a purchaser, under the agreement, the title of the property must be transferred to the purchaser within six months of the agreement date. (4) If the project consists of TBRA, the PJ must enter into a rental assistance contract with the owner or the tenant in accordance with the provisions of 24 CFR Part 92.209.

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.

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.

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. A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs.

Draw-Down: The process of requesting and receiving HOME funds. PJs and authorized state recipients draw down funds from a line of credit established by HUD.

Final Rule: The Final HOME Rule was published at 24 CFR Part 92 on September 16, 1996 and became effective on October 16, 1996.

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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.

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.

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

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 PJ's HOME 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 or other returns on investment.

Household: One or more persons occupying a housing unit. Jurisdiction: A state or unit of general local government.

Low-Income Families: Families whose annual incomes do not exceed 80 percent of the median income for the area (adjusted for family size).

Match: Match is the PJ's contribution to the HOME Program -- the local, non-Federal contribution to the partnership. The PJ's match contribution must equal not less than 25 percent of the HOME funds drawn down for projects in that fiscal year.

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.

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.

Program Income: Gross income received by the PJ, state recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions.

Project: A site or an entire building or two or more buildings, together with the site 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.

Project completion: All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw-down has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD. For TBRA, project completion means the final draw-down has been disbursed for the project.

Reconstruction (also rehabilitation): The rebuilding, on the same lot, of housing standing on a site at the time of project commitment. 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.

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Single-Room Occupancy (SRO): Housing consisting of single-room dwelling units that is the primary residence of its occupant or occupants. The unit must contain food preparation and/or sanitary facilities if the project involves new construction, conversion of non-residential space, or reconstruction. If the units do not contain sanitary facilities, the building must contain sanitary facilities shared by the tenants.

Subrecipient: A public agency or nonprofit organization selected by a PJ to administer all or a portion of the PJ's HOME Program. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient.

Targeting: Requirements of the HOME Program relating to the income or other characteristics of households that may occupy HOME-assisted units.

Tenant-Based Rental Assistance (TBRA): A form of direct rental assistance in which the recipient tenant may move from a dwelling unit with a right to continued assistance. Includes security and utility deposits associated with the rental of dwelling units.

Very-Low-Income Families: Families whose annual incomes do not exceed 50 percent of the median income for the area (adjusted for family size).

Source: *Building HOME: A Home Program Primer-Training*,

<https://www.hudexchange.info/resource/2368/building-home-a-home-program-primer/>