Affordable and Special Needs Programs

Program Guidelines

Funding Year July 1, 2010 – June 30, 2011

Virginia Department of Housing and Community Development
Main Street Centre
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Purpose

The Affordable Housing and Special Needs Program Guidelines provides program information to current and potential housing developers working with the Virginia Department of Housing and Community Development (DHCD) to produce affordable housing units for low income Virginians and affordable units for special needs populations (older adults, and individuals with disabilities and/or experiencing chronic homelessness).

This document is intended to provide guidance only. For more detailed information and for questions outside the scope of the guidelines please contact DHCD:

DHCD Affordable and Special Needs Housing Program Staff			
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Background

These programs are funded through the federal *HOME* Investment Partnership Program (HOME). This federal funding was created through the National Affordable Housing Act of 1990. Funds from the HOME program are made available annually through formula allocations to states and local governments (***Participating Jurisdictions*** or PJs).

PJs are responsible for conducting needs assessments and establishing priorities and goals, and developing and managing the programs that will help meet these goals. The Affordable Housing Program is one of the Commonwealth's HOME programs. For more information on program specific priorities and goals please go to the 2010-11 Action Plan, located online at http://www.dhcd.virginia.gov/ConPlan/2010-2011%20Action%20Plan.pdf

Through the Affordable and Special Needs Housing Programs, DHCD fills gaps in financing to make possible the creation and preservation of affordable housing for low income Virginians and Virginians with special needs. While these programs are statewide the program gives priority to areas not receiving a direct federal HOME allocation through a local PJ or HOME Consortium.

Through a competitive quarterly funding process housing developers, non-profits, and specifically ***CHDO****s* (certified Community Housing Development Organizations) submit project proposals. The project proposals that are determined to best meet critical affordable housing needs within the Commonwealth are then selected for funding.

Please note that CHDOs are state certified non-profit community-based housing developers that meet specific criteria. For more information on CHDO certification please see the *Resources and References* section of the guidelines.

Program Fund Availability
Developers may submit project proposals to DHCD for consideration on a quarterly basis. All proposals received by the deadline will be reviewed against established criteria to identify those projects best positioned to meet priority housing needs within Virginia.

Fund Distribution

- Quarterly competitive process.

- Total annual program allocation of $6,203,549 to be committed to projects selected through the quarterly competitive application process. Approximately a quarter, or about $1,550,000, committed every quarter. Any funding not committed during the quarterly competitive application process is carried forward into the subsequent quarter.

- Project proposals are rated through the quarterly review process based on:

  - Meeting local housing needs (40 percent),
  - Project feasibility (30 percent), and
  - Development team's capacity (30 percent) to successfully complete the proposed project.

- Proposal must receive a minimum of 60 points to be considered eligible for funding.

- For a proposal not selected for funding during the first, second, and/or third quarters the applicant may choose to carry-over the proposal "as is" to the next quarter for funding consideration or may re-submit with revisions. The carry-over option is not available between the fourth quarter and the first quarter of the next program year.

- For more details on the application/proposal process please contact DHCD at:

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- As with any federal funds projects, Fair Housing and other federal provisions apply to all federally funded projects including those funded through the HOME program.

- The type of assistance received through the HOME program is typically gap financing or, in other words, after all other financial commitments are received these funds are leveraged to close a financing gap in the affordable housing project. At all times the amount of HOME funds committed through these programs is the <u>minimum</u> amount needed.

- Assistance is generally structured as a three percent interest-only loan over a specified period of time.

- Any time funds are committed from these programs to a project it results in a mandatory ***affordability period*** on the property. This is the period of time that the unit or units must be maintained as affordable according to the agreement between the developer and DHCD. This affordability period is enforced through a restrictive covenant deed on the property. If the affordability period agreement is breached then the assistance received through these programs must be returned to DHCD. The affordability period is always based on the total amount of HOME assistance including both developer subsidies and homeownership assistance from all HOME sources including both state HOME funds and local PJ or Consortium HOME funds.

Affordability Requirements	
Assistance per HOME Unit	**Length of Affordability/Compliance Period**
Less than $15,000	*5 years*
$15,000 to $40,000	*10 years*
More than $40,000	*15 years*
Rental New Construction	*20 years*

- There is a ***local match requirement*** for all projects located in areas receiving an HOME allocation directly from the federal government. These localities are HOME entitlement areas or member jurisdictions of a HOME consortium. Projects proposed in these areas must have a local match for at least 25 percent of the total HOME Affordable Housing and Special Needs Housing Program request. Local match can include CDBG, HOME or other federal, state, or private funds that are administered on a local level. This match can also be met based on the waiver of locally collected fees directly associated with the specific development (e.g., water and sewer connection fees).

HOME Entitlements and Consortiums – 25 percent Match Required	
Winchester Consortium – including:	**Alexandria**
Winchester	**Chesapeake**
Fredrick County	**Danville**
Page County	**Hampton**
Clarke County	**Lynchburg**
Warren County	**Newport News**
Shenandoah County	**Norfolk**
Charlottesville Consortium - including	**Portsmouth**
Charlottesville	**Richmond**
Albemarle County	**Roanoke City**
Fluvanna County	**Virginia Beach**
Greene County	**Arlington County**
Louisa County	**Chesterfield County**
Nelson County	**Fairfax County** -including
New River Consortium– including	Fairfax City
Radford	Falls Church
Giles County	**Henrico County**
Montgomery County	**Prince William County** –including
Pulaski County	Manassas
Blacksburg	Manassas Park
Christiansburg	Bristol City (member of Tennessee consortium)
Suffolk Consortium –including	
Suffolk	
Isle of Wight	
Franklin City	
Southampton	

For actual 2010-11 total HOME allocations to specific entitlement areas and consortia please see the *Resources and References* section of the guidelines.

Who are Eligible Applicants?
Eligible applicants are housing developers, owners, and sponsors seeking to develop affordable housing projects within Virginia.

Eligible Applicants

- Non-profit or for-profit housing developers, ***CHDOs*** (certified Community Housing Development Organizations), and public housing authorities are eligible applicants.

- CHDOs are state certified community-based housing developers meeting specific criteria. For more information on CHDO certification please see the *Resources and References* section of the guidelines.

- Only CHDOs are eligible applicants for any homebuyer development proposals.

- The applicant must be the owner, developer, or sponsor of the proposed project:

    - Owner – holds valid legal title to, or long term leasehold interest in the property

    - Developer – owns the property and is developing the project, or has a contractual obligation to develop the project

    - Sponsor – project is owned solely or partially and the sponsor agrees to convey ownership to a second non-profit at a predetermined time prior to or during development or upon completion

- DHCD will not enter into funding agreements with any applicants with outstanding audit findings, IRS findings, DHCD monitoring findings or other compliance issues. Please note that DHCD will work with all interested parties toward the resolution of unresolved matters, where appropriate.

What are Eligible Projects?
Eligible projects produce or preserve affordable housing units for low to moderate income homeowners and low income renters. Projects must include a minimum of five units (except SRO and group homes) and must be under common ownership, management, and financing. The minimum total investment (total development costs) per unit is at least $15,000 or at least three out of five major systems (e.g., HVAC) but no more than the actual costs or the ***221 (d)(3) limit***. Selected projects will always be assisted with the minimum amount of HOME assistance needed.

Affordable Housing Project Definition

- Minimum five units per project (with the exception of SRO and group homes)
- Rental or Homebuyer (only CHDOs may produce units for homeownership)
- Units must be under common ownership, management, and financing
- Located on one or more non-contiguous sites
- Minimum of $15,000 per unit total development investment or the replacement of three out of five major systems (e.g., HVAC)
- Meet at least the minimum income targeting requirement

What are Eligible Costs?
In general this loan would be limited to $500,000 per project ($700,000 for project targeting at least 50 percent of units to special needs and/or at least 30 percent of units at 30 percent or below AMI) or maximum allowed based on HOME the maximum unit subsidies (the lesser of the two). Program dollars can never be used for luxury improvements or improvements that exceed the neighborhood standard. Minimum assistance needed is a key to determining total amount of financing received through these programs.

Eligible Costs

- Minimum of $15,000 per unit total development investment or the replacement of three out of five major systems (e.g., HVAC)
- The 221 (d)(3) limit or actual costs (lesser of the two) per unit are the upper maximum limits for assistance, however DHCD's goal is to maximize all program dollars. To that end DHCD will not invest more funding than is needed in any project.

221 (d) (3) limits (maximum HOME subsidy per HOME unit)	
O – Bedroom Units	$120,525
1 – Bedroom Units	$138,161
2 – Bedroom Units	$168,004
3 – Bedroom Units	$217,341
4+ - Bedroom Units	$238,575

- New construction, rehabilitation, and acquisition (only when combined with rehabilitation or new construction) are eligible project costs.

- Assistance can be used to acquire vacant land or improved land but construction MUST begin within 12 months.

- Project reserves (up to 18 months for lease-up period).

- General project development costs (e.g., environmental review, developer fees, legal fees).

- Developer fees (no more than 15 percent of total development costs for State-certified CHDOs and no more that ten percent for all other developers.

- Costs associated with utility connections including off-site connection from property line to adjacent street

- Relocation payments and other costs for relocation assistance to persons displaced by the project (note that the Uniform Relocation Act applies to all projects funding through this program).

- See the homebuyer and rental sections to follow for costs and program requirements specific to these particular types of development.

Ineligible Costs

- NO reserve accounts.

- Cannot be used as a match for another federal program (except ***McKinney Act Program***).

- NO ***land banking.***

- Cannot be used for assistance to public housing.

- NO additional investment in any project previously assisted with HOME funds during the affordability period.

- Cannot use funds to acquire PJ (State) owned property.

- No project based rental assistance.

- No paying of delinquent taxes on behalf of the owner.

- Any expense that would be considered a "luxury" item

Applicants are encouraged to refer to OMB circulars A-87, A-110, and A-122 for a more detailed explanation of generally ineligible expenses when using federal funds.

Homebuyer Development
The Affordable Housing Program provides gap financing for both homebuyer and rental development. Homebuyer development produces affordable units for income eligible first-time homebuyers within Virginia.

Specific Homebuyer Development Activities

- Only certified CHDOs (Community Housing Development Organizations) can undertake homebuyer development projects.
- The CHDO applicant must be the project owner, developer, or sponsor.
- New construction, rehabilitation, and acquisition (only in combination with new construction or rehabilitation), and *lease purchase* (specific time limits apply to lease purchase).
- If a lease/purchase project the lease period may not exceed three years.
- Site preparation, demolition, construction costs are eligible expenses.
- Five unit minimum per project.
- Property types include single family, two-four unit properties, condos, and manufactured homes (note there is a minimum of five units per project).
- The minimum investment per unit is at least $15,000 or three out of five systems (e.g., HVAC), but no more than the actual costs or the 221 (d) (3) limit. Selected project will always be assisted with the minimum amount of HOME assistance needed.
- Units must meet the DHCD's Minimum *Design, Construction, and Rehab Requirements* at the time of occupancy.
- Clients (homebuyers) must be income eligible (see below for more detail).
- Units must be maintained for a specific period of time as "affordable" based on the amount of the HOME investment in the unit (see below for more detail).
- Eligible applicants that are also Down Payment Assistance program administrators under DHCD's HOMEownership Assistance program must assure that downpayment assistance is provided to all eligible clients regardless of property location (not exclusive or limited to homebuyer units produced through the CHDO).
- All Home assistance regardless of program or funding source must be used in the calculation of affordability periods.

Homebuyer: Property Values

- Housing must be modest (based on property sales price or value). No luxury homes or amenities (based on neighborhood standards) are allowed for assisted units.
- The sales price can NOT exceed 95 percent of median area purchase price (use HUD 203 (b) limits of local market survey).

Homebuyer: Property Standards

- Property must be inspected and meet Housing Quality Standards (HQS) before occupancy (documentation must be maintained in client records and submitted to DHCD with Project Completion Reports)
- Must meet DHCD's Minimum *Design, Construction, and Rehab Requirements* at project completion and within two years of transfer
- All projects must be developed in harmony with the surrounding area and meet commonly accepted neighborhood standards.
- Must meet lead safe provision (see *Resources and References* section for more details)
- Fair Housing and other federal provisions apply to all federally funded projects

Homebuyer: Income Eligibility

- HOME-assisted units MUST be sold to households with incomes at or below 80 percent AMI (area median income).
- Must be sold to income eligible households who will be using the property as their primary residence.
- Income eligibility must be calculated using criteria established at 24 CFR 5.609 for the Section 8 program, must be determined at purchase for existing houses, at contract signing for new construction, or at signing of lease-purchase agreement.
- See *Resources and References* section to determine a specific locality's AMI.
- A minimum affordability period will be placed in each homebuyer development unit based on the total per unit amount of HOME assistance (from all HOME sources) and enforced through a restrictive deed of covenant.

- Homebuyers may receive HOME downpayment assistance to assist in the purchase of the home, but the total of all HOME assistance must be included in the calculation of the affordability period (see the following section for more details).

Rental Development

Rental development can be carried out by CHDOs, non-profit housing developers, or for-profit housing developers. While the guidelines differ slightly from homebuyer development, the ultimate goals are the same: to produce affordable housing units for low income and special needs households.

Rental: Eligible Projects

- Minimum of $15,000 per unit total development investment or the replacement of three out of five major systems (e.g., HVAC)

- If a project goes beyond of the footprint of the existing building or adds units then the project is considered new construction.

- All projects must be developed in harmony with the surrounding area and meet commonly accepted neighborhood standards.

- Moderate to substantial rehabilitation, historic preservation, reconstruction, or the conversion of a non-residential building to a residential use are all considered eligible project types.

- Acquisition is only an eligible project when it is in combination with new construction or rehabilitation.

- Assisted units must meet ALL HOME rules: including rent standards, affordability, income eligibility, quality and safety standards, and lease provision.

- When funding sources are mixed with assistance through this program then there needs to be a determination of the number of "HOME-assisted" (or program assisted) units within the project's total units.

- For new construction (rental) there is always a minimum 20 year affordability period.

- Affordability periods are enforced through a restrictive covenant deed.

- HOME funds can be used in combination with other funds to produce mixed income or mixed use projects, but HOME funds are limited to eligible HOME residential units.

- **Group homes, transitional housing, and SRO (single room occupancy)** are eligible projects

- Tenants must have a one-year lease or lease period mutually agreed upon by landlord and tenant

- The tenant must be income eligible

- Housing can not be conditional based on participation in service programs

- A *group home* is 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 group home, and (except in the case of shared one bedroom units) separate private space for each family. This includes group housing for elderly or disabled persons. These projects will be considered one unit projects with subsidy limits based on the Section (d) (3) limits for the number of bedrooms in the unit. Group Home project must house at least four households (includes single person households) in order to be eligible.

- *Single room occupancy (SRO)* housing is housing consisting of single room dwelling unit that contains either food preparation or sanitary facilities (or both). The number of units is based on the number of separate identifiable units in the project. The maximum per-unit subsidy limits are the 221 (d) (3) limits for zero-bedroom units. These projects must contain a minimum of five separate units.

- *Transitional Housing* is a type of housing program not a type of housing unit. This type of housing program which could be housed in a group home, SRO, single family rental units, or apartment buildings is designed to move homeless individuals and families to permanent housing.

Rental: Ineligible Projects

- No facilities (e.g., hospitals, emergency shelters, etc...).

- Cannot assist property that has been previously assisted with HOME funds during the affordability period.

- No public housing projects.

Rental: Eligible Costs

- Demolition costs are eligible costs, however construction must begin within 12 months.

- Construction, labor, and materials.

- Project development related costs (e.g., financing fees, legal fees, affirmative action marketing).

- Up to 18 months operating deficit reserve (new construction and rehab).

- Relocation (can pay for relocation costs for any household in HOME project as a part of the overall project development costs).

- Per unit costs can not exceed the 221 (d)(3) HOME maximum per unit subsidy limits – actual program assistance will be minimum needed to produce affordable units.

- Actual project investment will depend on proportion of total project cost that are eligible costs, the number of HOME-assisted units, amount of available funding, AND the financial needs of the project.

Rental: Ineligible Costs

- No other types of project reserves.

- Operating reserves are limited to 18 months - operating reserves beyond 18 months are ineligible.

- This assistance can not be used for the development, operation, or modernization of any public housing.

- Acquisition of PJ (State) owned property is prohibited.

- Project based rental assistance is a prohibited expense.

- Delinquent taxes, fees, charges can never be paid with funding received through these programs.

- Items not allowed under A-87, A-110, and A-122 or not deemed cost reasonable (see the *Resources and References* section for more details).

Rental: HOME Program Requirements

- Only HOME or program assisted units are subject to "HOME" requirements.

- If a property will have both HOME-assisted units and non-assisted units then must choose either ***"fixed" or "floating" units***; if floating units, the units MUST be comparable.

- All rental development must meet DHCD's Minimum *Design, Construction, and Rehab Requirements* at project completion.

- Owners must maintain properties in accordance with property standards throughout the affordability period. DHCD will conduct periodic inspections to determine compliance with this requirement.

- All units within the rental project must meet the accessibility requirements of the Fair Housing Act and ***Section 504***. Handicapped accessibility (section 504) may apply (see the *Resources and References* section for more details):

  - All units must be visitable
  - At least five percent (minimum of one) must be fully accessible for physically impaired
  - At lease two percent (minimum of one) must accommodate sensory impaired

- For new construction a project must meet any neighborhood standards. These vary and may be informal or formal standards that are established by a specific neighborhood or neighborhood association.

- All project rents must be approved by DHCD through out the affordability period

- Rental project must report annual rent and occupancy data to DHCD. Onsite inspection will verify rent and occupancy compliance.

- 20 percent of all units must be provided to households at or below 50 percent AMI; the remaining households served can be at 60 percent or below AMI; if Low Income Housing Tax Credits are used then 40 percent of all units MUST target 50 percent AMI.

- Initial income eligibility is calculated using criteria established at 24 CFR 5.609 for the Section 8 program

- Income source documentation MUST be obtained and verified for initial income eligibility (and recertified annually).

- Lease for tenants must be for at least one year, unless agreed upon by owner and tenant.

- If fixed units, affordability period stays with same units over the entire affordability period; if floating units then the same proportion of units will have the affordability restriction over the entire period (floating units must be comparable in terms of the number of bedrooms and baths, square footage, and amenities).

- DHCD will monitor all projects during the affordability periods to assure continued compliance with property standards, income eligibility, rent standards, and other program requirements.

- Monitoring is frequently based on a risk analysis or the minimum required by program regulations.

- Rent project property inspections are based on total number units in the entire project:

Rental Inspection	
Number of Units	*Frequency*
1 to 4 Units	At least every three years
5 to 25 Units	At least every two years
26 or more Units	Annually

- Initial and annual recertification of income eligibility is required.

- Project documentation should be maintained for at least five years after the end of the affordability period.

- Completion forms must be submitted to DHCD in a timely manner -for rental project prior to closing. The final ten percent of the funding for Homebuyer projects will be held until a satisfactory completion form has been received by DHCD for the project.

- All renter/client files should be maintained for at least five years after termination of occupancy.

- Lease up documentation as well as all inspection documents MUST be submitted to DHCD in order to close development phase of project and to assure eligibility of developer for funding of future projects.

- Non-compliance could suspend eligibility for additional HOME funds and could result in the repayment of funds to DHCD.

Overview of HOME Program Regulatory Requirements

The following provides a brief overview of relevant HOME regulatory requires that impact every project, unit, and applicant assisted through DHCD's Affordable Housing and Special Needs Housing Programs.

Compliance Monitoring

Program Rules:	24 CFR 92.504	Sub-Recipients and Developers
	24 CFR 92.504(d)	Rental Property Inspections
	24 CFR 92.508	Recordkeeping
	24 CFR 84.40-48	Procurement
	OMB Circular A-110	Procurement

A performance review of all project activities must be completed by DHCD at least annually during development and throughout the applicable compliance (affordability) period. Effective monitoring includes verification of compliance for all aspects of a project from development through continued occupancy, including contract management, procurement, labor relations and all applicable federal regulations.

In addition, rental housing projects are subject to on-site inspections of a "sufficient sample" of files and units to ensure compliance with property standards, rent limits and occupancy requirements in order to make a reasonable determination of compliance. The minimum frequency of these inspections is:

- Annually for projects with more than 25 units
- Every two years for projects with 5 to 25 total units
- Every three years for projects with less than 5 units

The frequency of inspections is determined through routine project risk analysis. However, the schedule of on-site inspections does not relieve the responsibility for completing annual reviews, annual income certifications of occupants, and maintaining the units to standards throughout the compliance period.

Certain federal procurement regulations apply to HOME funded activities. These can be found at 24 CFR 84.40-48 and in OMB Circular A-110. 24 CFR 84.40-48 defines a Sub-Recipient's responsibilities regarding conflict of interest, open and free competition in contracting for goods and services, procurement procedures and record keeping, cost/price analysis, required contract provisions and contract administration. Circular A-110 essentially sets forth standards for obtaining consistency and uniformity among Federal agencies in the administration of grants to, and agreements with, non-profit organizations. The provisions of the Circular are applied by HUD to DHCD who, in turn, applies them to Sub-Recipients performing substantive work through agreements awarded by DHCD.

Specific Monitoring Criteria
Household Eligibility

Program Rules:	24 CFR 92.203	Income Determinations
	24 CFR 92.252	Rent Limitations and Tenant Income
	24 CFR 92.504(d)	Rental Property Inspections
	24 CFR 5.609	Annual Income

All DHCD HOME assisted rental units are required to be occupied by low-income (LI) persons defined as households not earning more than 60 percent of the area median income (AMI), adjusted for family size, as determined by the U.S. Dept. of Housing and Urban Development (HUD). In the case of rental projects with five or more HOME-assisted units, at least 20 percent (1 unit) of total units must be occupied by very low-income (VLI) households, defined as households not earning more than 50 percent of AMI.

Annual income is based on the **gross** income of the household, or what is sometimes referred to as the "eligibility income" under the HUD Section 8 Program (Section 8). For the purpose of calculating income to determine whether a household is eligible for rental housing DHCD requires that the guidelines for Section 8 be used. This can be found at 24 CFR 5.609. Adjusted, or net, Section 8 income is **not** used for determining eligibility and is only used in the following circumstances:

- Determining rent payments for VLI only when the option of having the tenant pay 30% of their income is used;
- Computing the rent of an over-income tenant occupying a HOME-assisted unit
- Calculating certain relocation assistance payments under the Uniform Relocation Act

HUD updates the AMI and HOME Program income limits annually, typically in the winter. It is important that all project owners, developers, and sponsors confirm that they are using the most current information when determining household eligibility. DHCD recommends that all applications specifically identify all required income sources in order to avoid unintentional miscalculations and that verification documents and procedures comply with Section 8 rules, including use of signed authorization for release of information and consent to verification forms.

Project owners, developers, and sponsors can choose when to verify prospective household eligibility: at the time of application or at the time of selection for assistance. While verification at the time of application ensures that only eligible households are considered, the time between application and lease-up could exceed the six-month "shelf-life" of certifications, requiring the original certifications to be updated. An alternative is to accept applications based upon the applicant's representation that they are income eligible. Then after screening, only those households that are selected for assistance are put through the certification process. **Note:** Federal law requires that any tenant screening process does not violate fair housing laws and is the same for HOME-assisted households as it is for all other units.

Environmental Review

Program Rule:	24 CFR 92.352	Environmental Review
	24 CFR 58	Environmental Review
	24 CFR 58.35	Categorical Exclusions
	Flood Disaster Protection Act Section 202	

An environmental review is required before DHCD can release any HOME Program funding and therefore it is essential that project owners, developers, and sponsors **do not proceed** with any activity (e.g., acquisition, rehabilitation, demolition, construction, etc.) prior to the completion of an environmental review.

It is anticipated that most acquisition and rehabilitation activities undertaken through the HOME Program will not be subject to the full NEPA environmental assessment due to qualification for categorical exclusion. However, most activities are expected to be subject to the statutory checklist of non-NEPA statutes. Projects that are exempt or categorically excluded are still required to maintain an Environmental Review Record containing all relevant environmental documentation. Project owners, developers, and sponsors should be aware that the non-NEPA checklist will trigger a more detailed review if the property is:

- Located within designated coastal barriers;
- Listed on, or eligible for, the National Register of Historic Places;
- Located within a special flood hazard area,;
- Located near hazardous industrial operations (handling fuels or explosive/flammable chemicals);
- Contaminated by toxic or radioactive materials; or,
- Located within airport clear and military accident potential zones

Other Federal Requirements

Program Rule: 24 CFR 92.350-358 Other Federal Requirements

As a Federally funded program, the HOME Investment Partnership Program is subject to a variety of Federal regulations designed to ensure fair and equal treatment of all persons involved in the acquisition, development, and occupancy of all projects receiving funding. Following are brief descriptions of each regulation with an explanation of how they apply to the HOME Program. Project owners, developers, and sponsors are strongly encouraged to educate themselves to the greatest extent possible to ensure regulatory compliance with all Federal requirements.

Labor Relations Requirements:

Davis-Bacon and Related Acts
Contract Work Hours and Safety Standards Act (CWHSSA)
Copeland (Anti-Kickback) Act
Equal Employment Opportunity
Minority/Women's Business Enterprise
Fair Labor Standards

Section 3 of the Housing Act of 1968
HUD Handbook 1344.1

Davis-Bacon ensures that mechanics and laborers employed in construction work under Federally-assisted contracts are paid wages and fringe benefits not less than those that prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the requirements apprentices enrolled in bona fide apprenticeship programs.

CWHSSA provides that mechanics, laborers, security guards and watchmen employed on Federally-assisted construction jobs are paid time and one-half for work in excess of 40 hours per week and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.

The Copeland (Anti-Kickback) **Act** governs what deductions from paychecks are allowable. This law makes it a criminal offense to induce anyone employed on a Federally-assisted project to relinquish any compensation to which they are entitled and requires all contractors to submit weekly payrolls and statements of compliance.

Davis-Bacon and Related Acts, CWHSSA, and the Copeland Act apply to HOME funded construction contracts for 12 or more HOME-assisted units.

Equal Employment Opportunity prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding $10,000.

Minority/Women's Business Enterprises prescribe procedures acceptable to HUD for minority outreach programs to ensure, to the maximum extent feasible, inclusion of minorities and women, and entities owned by minorities and women, in all contracts.

Fair Labor Standards establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, (including HOME) to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Equal Employment Opportunity, Minority/Women's Business Enterprise, Fair Labor Standards, and Section 3 apply to all HOME construction and rehabilitation projects.

Tenant Participation and Accessibility

Section 504 of the Rehabilitation Act
Americans with Disabilities Act
The Fair Housing Act
Title VI of the Civil Rights Act
Equal Opportunity in Housing
Age Discrimination Act

Section 504 of the Rehabilitation Act of 1973 holds that no “qualified individual with disabilities” may be excluded from, or denied participation in, any Federally-assisted program or activity. For purposes of the HOME Program, Section 504 means that for all new construction multi-family rental housing with 5 or more units, and substantial rehabilitation of 15 or more units where project cost is greater than 75 percent of replacement cost, 5 percent (minimum of 1) of the units must be modified for full accessibility by the physically impaired and an additional 2 percent (minimum of 1) must be adapted to accommodate the sensory impaired, and to the best extent feasible, all units are to be “visitable”. Furthermore, the act also requires that access to the program itself be made accessible (intake procedures, office accessibility, etc.) and affirmatively promoted.

The Americans with Disabilities Act extended the requirement of equal opportunity for persons with disabilities to benefit from programs and activities to State and local programs.

The Fair Housing Act prohibits discrimination in the sale or rental of housing, the financing of housing, or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status.

Title VI of the Civil Rights Act states that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color or national origin.

Equal Opportunity in Housing prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property or in the use or occupancy of housing assisted with Federal funds.

Age Discrimination Act prohibits discrimination on the basis of age in programs receiving Federal financial assistance.

Relocation

Uniform Relocation Act of 1970
Housing and Community Development Act Section 104(d)

Uniform Relocation Act covers displacement of persons resulting from rehabilitation, demolition or acquisition carried out with Federal assistance. The level of assistance provided to a household depends upon whether the family was in occupancy more or less than 90 days prior to the execution date of the agreement. The URA is intended to provide affordable housing for 42 months and the level of assistance is calculated using the lower of the cost of the family's actual new unit or a comparable replacement unit.

Section 104(d) of the Housing and Community Development Act provides an extra level of relocation assistance that may be triggered for low-income households when units are converted or demolished with HOME funds. Section 104(d) only applies if the unit a low-income family occupies is demolished using HOME funds or the household is displaced as a result of a HOME-funded conversion under specific circumstances.

Glossary of Terms

221 (d)(3) Limit – The maximum per-unit HOME investment limit varies by PJ. HUD determines the maximum amounts, which are based on the PJ's Section 221(d)(3) program limits for the metropolitan area, each year. These limits are determined by HUD's Office of Multi-Family Housing Programs. Limits for certain "base cities" are issued. However, there is no comprehensive list of these limits for all jurisdictions. The latest limit for a particular jurisdiction must be obtained from the appropriate HUD Multi-Family Housing Hub Office or Program Center. The per-unit subsidy requirements are described in the HOME regulations at 24 CFR 92.250.

Affordability Period – To ensure that HOME investments yield affordable housing over the long term, HOME imposes rent and occupancy requirements over the length of an affordability period. For homebuyer and rental projects, the length of the affordability period depends on the amount of the HOME investment in the property and the nature of the activity funded. A table illustrates the affordability periods below:

HOME Investment per Unit	Length of the Affordability Period
Less than $15,000	5 years
$15,000 - $40,000	10 years
More than $40,000	15 years
New construction of *rental* housing	20 years
Refinancing of *rental* housing	15 years

AMI –Area Median Income divides family income distribution into two equal parts: one-half of the cases falling below the median household income and one-half above the median. (In other words, if we lined up all the household incomes from the smallest to the largest household income for this area, the median for this area would be the number right in the middle of that line-up of numbers. For households, the median income is based on the distribution of the total number of households including those with no income.)

CHDO – A Community Housing Development Organization (CHDO) is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves. PJs must set aside a minimum of 15 percent of their total HOME allocations for housing development activities in which qualified CHDOs are the owners, developers, and/or sponsors of the housing.

- A CHDO becomes certified by meeting certain requirements pertaining to their:
  - Legal status;
  - Organizational structure; and
  - Capacity and experience.

CHDO Legal Status – A CHDO must be organized under state and local law, incorporate a provision of providing decent and affordable housing to low- and moderate-income persons in its organizational purpose, have a clearly defined service area, be designated as a nonprofit, and not directly benefit any members, founders, contributors, or individuals by CHDO earnings.

Organizational Structure – The CHDO board must be composed as follows:

- A minimum of one-third must be representatives of the low-income community. Low-income neighborhoods are defined as neighborhoods where 51 percent or more of the residents are low-income. Residents of low-income neighborhoods do not have to be low-income themselves to represent the low-income neighborhood on the Board. Elected representatives of low-income neighborhood associations are eligible to represent the low-income community. Low-income residents from non-low-income areas may represent the low-income community, as well. Additionally, 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.
- A maximum of one-third may be public officials or employees of the PJ or State Recipient. This limitation is intended to ensure that separation exists between PJs and CHDOs, and that CHDOs are indeed community-based and community-controlled organizations. Public officials consist of elected officials, appointed public officials, public employees, and individuals appointed by a public official.
- The balance of the board is unrestricted, and may include people such as human and social service providers, lenders, individuals with access to philanthropic resources, or others willing to contribute their professional expertise.

Capacity and Experience – A CHDO must demonstrate it has at least **one year** of experience serving the community where it intends to develop the HOME-assisted housing. Newly created organizations can meet this criterion by demonstrating that the parent (or sponsoring) organization has at least a year of experience in the target community. Additionally, CHDOs must demonstrate that their key staff are capable to carry out the HOME-assisted activities they are planning by either 1) demonstrating that they have successfully completed ***similar*** projects to those proposed or 2) using experienced consultants for planning and development activities, as long as a plan is created for the consultant to ***train*** the key staff.

Consolidated Plan – The Consolidated Plan is designed to be a collaborative process whereby a state or local jurisdiction (PJ) establishes a unified vision for community development actions. It offers state and local jurisdictions the opportunity to shape the various housing and community development programs into effective, coordinated community development strategies. The vision outlines the respective state's overall policies and objectives for housing and community development. It also creates the opportunity for strategic planning and citizen participation to take place in a comprehensive context, serves to reduce duplication of effort at the state level, and serves as a management tool that helps the state, local governments, and citizens assess performance and track results.

Fixed or Floating Units – For properties with both assisted and non-assisted units, the program administrator must select “fixed” or “floating” units at the time of project completion.

- Fixed units –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.
- Floating units –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. If the floating unit designation is used, the owner must ensure that the HOME-assisted units remain comparable to the non-assisted units over the affordability period in terms of size, features, and number of bedrooms.

HOME – The Home Investment Partnerships (HOME) Program was created by the National Affordable Housing Act of 1990 (NAHA) to provide decent affordable housing to lower-income households. The program also seeks to expand the capacity of nonprofit housing providers, strengthen the ability of state and local governments to provide housing, and leverage private-sector participation. The HOME program is the federal source of funding for these two programs (Affordable Housing and Special Needs Housing) administered through DHCD.

Land Banking – A PJ ***may not*** use HOME program funds to reimburse itself for property in its inventory or property purchased for another purpose. However, in anticipation of a HOME project, a PJ may use HOME funds to:

- Acquire property;
- Reimburse itself for property acquired specifically for a HOME project with other funds.

Lease Purchase
The CHDO enters into a lease purchase agreement with a client that will be renting the homebuyer unit while working toward homeownership of the same unit. HOME program regulations mandate that sale of leased unit to the renter be within 36 months from the signing of the lease, or within 42 months of project completion; if the renter is unable to purchase at the end of 36 months the CHDO has six months to find another qualified homebuyer to purchase; if no eligible homebuyer purchases the unit by the end of 42 months, the unit converts to a HOME rental unit.

McKinney Act –The McKinney Act originally consisted of fifteen programs providing a range of services to homeless people, including the Continuum of Care Programs: the Supportive Housing Program, the Shelter Plus Care Program, and the Single Room Occupancy Program, as well as the Emergency Shelter Grant Program. These programs are all contained within Title IV. The Supportive Housing Program requires a match and in this case HOME funds may be used for a match.

Participating Jurisdiction (PJ) – HOME funds are allocated by formula to PJs. PJs are state and local governments (including consortia) that receive funds to operate the program. Forty percent of each annual appropriation is allocated by formula to state PJs and 60 percent to local government PJs. Local governments receive designation of PJ status from HUD or may choose to form a local consortium, particularly when one or more members (units of local government) are not eligible to receive a formula allocation. Areas not served by local PJs are served by a state PJ.

Project Reserve Accounts – HOME funds may ***not*** be used to provide project reserve accounts (except for initial operating deficit reserves) and may not be used to pay for operating subsidies.

Section 504 -Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency

Resources and References

2010 HUD Area Median Income Database:
https://www.efanniemae.com/sf/refmaterials/hudmedinc/

A-87 Allowable Costs:
http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html

Accessibility Notice: Section 504
http://www.hud.gov/offices/cpd/lawsregs/notices/2000/00-9.doc

Action Plan 2010-11:
http://www.dhcd.virginia.gov/ConPlan/2010-2011%20Action%20Plan.pdf

Allocating Costs and Determining HOME-assisted Units in Multi-family Projects:
http://www.hud.gov/offices/cpd/lawsregs/notices/1998/98-2.pdf

CHDO -Find out more about becoming a CHDO (Community Housing Development Organization):
http://www.dhcd.virginia.gov/HomelessnesstoHomeownership/CommunityHousingDevelopmentOrganizations.htm

Housing Quality Standards:
http://www.hud.gov/offices/adm/hudclips/forms/files/52580-a.pdf

HOME 2010-11 Allocation for Virginia Entitlement Areas and Consortiums:
http://www.hud.gov/offices/cpd/about/budget/budget10/index.cfm

HOME Rent Limits:
http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/2010/va.pdf

HOME Rent Limits with Housing Choice Vouchers:
http://www.hud.gov/offices/cpd/affordablehousing/library/pih9663.pdf

DHCD HOMEownership Assistance Program:
http://www.dhcd.virginia.gov/HomelessnesstoHomeownership/HOMEownership_Down_Payment_AssistanceProgram.htm

Using HOME funds for SRO housing:
http://www.hud.gov/offices/cpd/lawsregs/notices/priorto95/cpd9401.pdf

HOME Laws Subpart A:
http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/laws/home/suba/parta.pdf

HOME per unit Subsidy Limits 221(d)(3):
http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/subsidylimits.cfm

Lead Provisions -Summary of Lead-Safe Housing Rule Requirement:
http://www.hud.gov/offices/lead/enforcement/lshr.cfm

Property Owners Guide to HOME Program Compliance:
http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/2009homerentalpo.pdf