Beaver County, PA

HOME Investment Partnerships Program Policies and Procedures Manual

Prepared August 2021

Updated November 2023

Revised December 2023

Contents

Introduction/Purpose

The purpose of this manual is to provide a guide for the use of HOME funds provided to the County of Beaver, PA (County) by the Department of Housing and Urban Development. The County implements specific projects related primarily to rental housing development and homeownership development projects.

The HOME Program was created by the National Affordable Housing Act of 1990 (NAHA) and is designed to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing. HOME funds are used to achieve the following objectives:

- To provide decent affordable housing to lower-income households.
- To expand the capacity of non-profit housing providers.
- To strengthen the ability of state and local governments to provide housing.
- To leverage private sector participation.

The HOME regulations at 24 CFR Part 92 governs the use of these funds. Major regulatory framework changes were enacted in 2013 (and revised in 2017) and provided that:

- HOME projects must be completed within four years of commitment
- HOME-assisted rental projects must be occupied within 18 months of completion. After six months, the County must take steps to enhance marketing and consult with HUD.
- Homebuyer units must be sold within nine months of completion or repaid (or converted to rental units).
- CHDO projects must be committed within 24 months of the County receiving grant funds from HUD
- Qualifications for CHDOs were revised
- Monitoring and risk-based assessment could be used to adjust the schedule for compliance monitoring

The revised regulations also included measures to improve the performance in creating and preserving affordable housing. Measures included:

- Enhanced underwriting of all HOME projects to assess need and market sustainability
- Homebuyer guidelines must be written to determine appropriate level of assistance, sustainability of the financing and anti-predatory lending practices
- Property Standards were put in place to ensure the viability of the units
- Requirements for inspections and financial review over the life of a rental unit were also put in place to ensure continued unit viability

Another rule change, as a result of the Appropriations Act of 2017, removed the requirement for the County to commit non-CHDO funds to specific activities within twenty-four months. The County would have five years to expend funds for each fiscal year. (i.e.: FY 2014 funds will be recaptured by September 30, 2019). The *Consolidated Appropriations Act of 2019* includes a provision suspending the 24-month commitment requirement for Community Housing Development Organization (CHDO) set-aside funds, as well as continuing the suspension of the 24-month commitment requirement for regular HOME Investment Partnerships Program (HOME) funds. Both deadline requirements are suspended through 2025.

All HOME-funded projects must comply with all state and federal regulations related to the construction, rehabilitation, or provision of housing. These regulations include, but are not limited to:

- Home Investment Partnerships Program – HOME
- Title III of the Americans with Disabilities Act (ADA) of 1990
- Section 504 of the Rehabilitation Act of 1973
- Architectural Barriers Act of 1968 – ABA
- Fair Housing Act
- Davis-Bacon and Related Acts
- Copeland Anti-Kickback Act of 1934
- Conflict of Interest Requirements
- Identity of Interest Transactions
- The National Environmental Policy Act (NEPA) *
- The Lead-Based Paint Poisoning Prevention Act and Lead Safe Housing Rule
- Uniform Administrative Requirements (UAR) 2 CFR 200
- Section 3 - Economic Opportunities for Low and Very Low-Income Persons
- Uniform Relocation Assistance and Real Property Acquisition Policies Act – URA**

*Compliance with the National Environmental Policy Act requires the limitation of certain activities from the time of initial contact with the County to the completion of the environmental review process. Specifically, no activity shall be undertaken prior to completion of the environmental review that would have an adverse environmental impact or limit the choice of reasonable alternatives. Choice limiting activities include real property Acquisition, repair, Rehabilitation, construction, demolition, and site clearance.

**Compliance with the URA begins at the time of initial contact with the County. All projects involving Acquisition, Rehabilitation, or demolition are subject to the URA and Section 104(d). In order to avoid ineligibility for funding, Applicants are encouraged to schedule a pre- Application conference with County staff to discuss the project and the compliance requirements that may apply.

This Policy manual establishes the framework for guiding the use of HOME Program funds by the County for rental and homeownership projects. This HOME Program Policy Manual will be updated, as needed, as the County encounters situations which either need to be standardized, or in some cases, where there is an apparent need to ensure the limited resources of the program are prudently applied.

Eligibility

Eligible Activities

Funding will be available for the following project types:

- Acquisition with rehabilitation of existing units for homeownership or rental opportunities
- Rehabilitation of existing units for homeownership or rental opportunities
- New construction of housing for homeownership or rental opportunities

Eligible Applicants

The following organizations will be eligible for funding:

- Non-profit Affordable Housing Developers
- For-profit Affordable Housing Developers
- Certified CHDOs
- Public Housing Authorities (though public housing is not eligible)
- Joint Ventures formed by any of the above eligible Applicant types

Eligible Uses of Funds

Funds may be provided for the following uses:

- Construction Financing
- Permanent Financing
- Gap Financing (repayable)

Ineligible Activities & Uses of Funds

- Acquisition of vacant land (unless additional financing is committed for the construction of Affordable Housing)
- Demolition (unless new construction is also part of the project)
- Public housing
- Predevelopment Loans
- Payment of delinquent taxes or liens
- Developer Subsidies
- Transitional Housing

Eligible Properties

- Property must be located within the Beaver County limits.
- Property may be vacant land or a combination of multiple vacant parcels. All vacant land must be purchased with a specific plan for development. Development must begin within 12 months of land Acquisition.
- Property may be a single building or multiple buildings - on a single site or on scattered sites.
- Property may be privately or publicly owned (with the exception of public housing).

Ineligible Properties

- Public Housing
- Projects assisted under Title VI of NAHA (prepayment of mortgages issued by HUD)
- Commercial Properties (except when converted to residential)
- Homeless Shelters
- Transitional Housing
- Mobile Homes
- Properties previously assisted with HOME funds that are still under the HOME affordability period
- Student Housing

Eligible Costs

- Hard Costs: including Acquisition costs and construction costs.
- Soft Costs: architectural and engineering fees, financing costs, credit reports, title insurance, recording costs, transaction taxes, appraisals, environmental reviews and builder or Developer fees. Project-related soft costs may be awarded on a limited basis and will be at the recommendation of staff and based on need determined during the underwriting review.
- Operating deficit reserve for rental projects, during the initial rent-up period (up to 18- months). The reserve may be used to pay for project operating expenses, scheduled payments to a replacement reserve and debt service.
- Predevelopment Costs: It is outside current policy to deliver award proceeds prior to Acquisition or completion of construction/rehabilitation of the subject property. However, costs incurred prior to settlement of the award may be reimbursed under specific circumstances. If HOME funds are used to pay off a construction loan, bridge financing or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if:
    - The loan was used for Eligible Costs specified in this section AND
    - The HOME assistance is part of the original financing for the project and the project meets the requirements of the program.

Ineligible Costs

Project components may be deemed non-essential elements by the County and therefore removed from the total project cost. Such items may include, but are not limited to: carpeting for kitchens, bathrooms or patios; window treatments; dumbwaiters; greenhouses, hot tubs or whirlpool baths; outdoor fireplaces or hearths; swimming pools or swimming pool decks (except repair of existing); television antennae; tennis courts; or items deemed to be a luxury.

General Project Requirements

The following are general project requirements for all Applicants seeking funding from the City for housing related projects.

Threshold Requirements

- Site(s) must be located within the Beaver County limits.
- Project must consist of one (1) or more residential units.
- Site(s) must have adequate access to utilities.
- Acquisition and Rehabilitation or Rehabilitation projects must:
  - Meet the UPCS
  - Have amenities that will allow it to compete effectively in the local market area as determined by the County
  - Complete a third-party Capital Needs Assessment (CNA) for projects with twelve (12) or more units
- Project must meet HUD environmental review requirements.
- HOME assisted units must be made available to households with Housing Choice Vouchers.

Site Control

Project Applicants must have control of any site that will receive HOME funding for Acquisition, Rehabilitation and new construction activities. Site control must be documented at the time of Application. To document site control one of the following must be submitted: a deed or other proof of ownership; an executed lease agreement; an executed contract of sale; or an executed option to purchase or lease. Please keep in mind URA regulations apply and must be followed or Applications cannot be considered for funding.

Appraisal

A property appraisal will be required for projects that will receive HOME funding for Acquisition or where the value of donated land is being considered as part of the project costs. Additionally, all projects proposing homeownership must include an as-built appraisal for each of the proposed homeownership units. The appraisal(s) must be provided at the time of Application submittal. An appraisal cannot be more than six (6) months old. The appraiser must have a current Texas Appraisers License. Beaver County reserves the right to require an appraisal on completed activities.

Reasonable Costs

The County is responsible for ensuring that the costs are reasonable by examining the sources and uses for each project. Assessment may include comparison to similar projects within the local market, market trend analysis, survey of industry participants, County experience and other third-party sources.

Work Write-Ups

For Acquisition of existing buildings (not slated for demolition) and Rehabilitation, the County must approve work write-ups (i.e., plans and specifications) to determine compliance with HUD's Uniform Physical Conditions Standards and Beaver County Property Rehabilitation Standards. The project cannot be bid, and work cannot begin until approval from the County is received.

Cost Estimate

For Acquisition of existing buildings (not slated for demolition) and Rehabilitation, the County must approve written cost estimates to ensure that the costs are reasonable. The project cannot be bid and work cannot begin until approval from the County is received.

Procurement

Applicants must comply with all applicable federal, state and County procurement requirements. Executed copies of all contracts shall be forwarded to the County. Developers are **not** required to follow the procurement requirements of 2 CFR Part 200.

Debarment and Suspension

Developers, contractors or subcontractors working on a HOME funded project cannot be located on any federal, state or local debarment or suspension list. Prior to awarding a contract, the Developer must provide proof from the federal System for Award Management (SAM) website or secure approval from the County to ensure that the proposed contractor iseligible.

Davis Bacon Weekly Payrolls

If applicable, Davis Bacon payrolls must be submitted weekly on the most current Department of Labor form.

Marketing Plan

Developers must create an affirmative Marketing Plan to further the County's commitment to non- discrimination and equal opportunity housing. Affirmative marketing consists of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status, disability, sexual orientation, gender identity, or marital status. Records should be maintained describing actions taken by the Developer to affirmatively market units. Documentation is required by the Fair Housing Act and the County will review the documentation at each monitoring visit but may request to review the documentation annually. Applicants are required to use the most current version of HUD form 935.2a – *Affirmative Fair Housing Market Plan – Multifamily Housing*.

Waiver Requests

The County acknowledges that each project may face unique site, design, financing, population or market constraints for which full compliance may be difficult or impossible. It is intended that such unique constraints are identified during the design process and that the Applicant may request a modification or waiver to specific standards and requirements, which will be reviewed on a case-by-case basis to determine whether specific standards should be modified or waived for reasons and purposes acceptable to the County. Requests for modification or waiver to specific standards must be in writing and document the Applicant's need and unique situation. When such modifications or waivers are granted, additional requirements may be imposed by the County.

Application Submission and Evaluation Process

The project application and underwriting procedure follows these steps:

- ☐ Application Submission
- ☐ Application Evaluation
- ☐ Meeting(s) with applicant and staff
- ☐ Environmental Review
- ☐ Additional documentation needed for underwriting requested
- ☐ Contract negotiation and final underwriting
- ☐ Written Agreement/Commitment
- ☐ Disbursement
- ☐ Reporting
- ☐ Monitoring and Inspections

Applicants must submit a completed application workbook, all documents requested as part of the application checklist, and signed copies of the required forms.

Please refer to the Application checklist to ensure that a proposal is complete and please follow the submission requirements. Note that any commitments entered into by the Applicant prior to an award of funds do not constitute a rationale for an award. Applicants are therefore advised to ensure any and all agreements dependent on an award of County funding contain adequate escape mechanisms to minimize adverse consequences in the event funding is not available or the proposal is not awarded funds.

Application Evaluation

1. **Initial review.** County staff ensures that the application is complete and the basic mandatory evaluation criteria are met. The mandatory criteria are designed to meet local, state and federal compliance requirements and County objectives. Incomplete applications will be returned to applicants identifying the deficiencies. The application will not be eligible for further consideration until a complete application is submitted.

2. **Staff analysis.** County staff reviews the initial applications that meet mandatory evaluation criteria and prepares a staff analysis. Staff will meet with the applicant to ask clarifying questions and gather additional details concerning the project. Staff may conduct a tour of the subject site or property, obtain additional information from outside sources and/or consult with other departments within the County.

3. **Final Decision.** Applicants may then be considered for contract negotiations and final underwriting. **Applicants submit an updated application with final development plans and executed financial commitments for underwriting.** Applications are approved or denied by the Application Review Team, a panel of County staff knowledgeable in the development process. Final approval is subject to environmental clearance.

Relocation

The federal requirements for relocation of households or businesses are extensive and extremely complex. The County discourages permanent relocation of households or businesses.

Award Notification & Post Award Instructions

The County will notify the Applicant of a decision to enter into contract negotiations and final underwriting. Unless provided in writing by the County, no person or organization shall construe any discussions or written information provided by County staff to constitute an acceptable Application or an obligation or commitment for funding.

Written Agreement/Commitment

Once Applicants have been notified of funding approval, the County will complete the environmental review and provide notice of any required mitigation measures as a condition of the funding commitment. Applicants will be provided a copy of the draft agreement documents for review and comment.

A County funding agreement includes the following documents:

- HOME Contract
- Promissory Note
- Mortgage and Security Agreement
- Land Use Restriction Agreement (LURA)
- Inter-creditor Agreement

Developers that are required to comply with the Davis Bacon prevailing wage regulations as a condition of the commitment, must schedule a pre-construction conference to ensure the development team and contractor understand the prevailing wage monitoring and include the appropriate provisions in the construction contracts.

Conditional Commitment

Once a project application is received and reviewed for qualifying criteria, the County may issue a conditional commitment. The conditional commitment will provide a period not to exceed six (6) months for a developer or CHDO to finalize financing from all other sources, obtain land use approvals as needed, address any other conditions in the County's Conditional Loan Commitment and prepare for closing. During this period and prior to the expending of any HOME funds, the County must secure Part 58 ERR clearance and obtain release of funds from HUD for all federal funding sources and prepare any necessary underwriting and subsidy layering analysis for the project. The County has established an internal spreadsheet/tracking tool that will ensure ERR clearance is achieved prior to setup and funding the activity in IDIS.

Each project must be ready to close within 90 days of the County's receipt of HUD funding or approval of a Substantial Amendment if funded in mid-year. An extension may be granted for an additional 90 days if the developer can show substantial progress has been made to address the conditions outlined in the conditional commitment letter. Further, the project must be ready to begin construction within 90 days of closing.

If a project is not ready for closing within one year of receipt of the conditional commitment, other shovel-ready projects may be selected to replace it in that program year and the project may be reconsidered for the next annual funding.

Conditional Commitment as described in this part shall not be construed to meet the definition of HOME Commitment, as defined by 24 CFR Part 92.2. A formal commitment shall not be entered into until all funding sources are secured, completion of an Environmental Review and successful Subsidy Layering Review and Underwriting are completed.

Loan Closing

In preparation for loan closing, County staff will perform the following:

1. Verification of closing conditions: review the Contract, Promissory Note, Mortgage and Security Agreement, and LURA to ensure that the borrower has complied with all pre-conditions of funding and provided necessary documentation.

2. Circulate for signatures: The County will provide all documents required for the commitment of funds to the project, collect signatures from the borrower, and forward the documents to the appropriate County Official for final signatures.

3. Funding: prior to execution of the Funding Agreement, the Applicant must provide the County with the following:
   - Certified copies of executed loan documents from all funding sources
   - Proof of current property tax payments
   - Proof of insurance meeting County insurance requirements
   - Title insurance meeting County standards

Disbursement

Prior to the draw of any funds, County-required legal documents must be executed and the Applicant must demonstrate that all funding conditions have been satisfied. HOME funds will be released on a reimbursement basis only as will be outlined in the HOME Contract. The timing and method of disbursements will be determined through project underwriting and outlined in the Contract.

Reporting

HOME-assisted projects require long-term commitments by the owner/Developer. Reporting will be required during the contract period as well as through the affordability period for rental projects. These requirements will be outlined in detail in the HOME Contract. Should the Applicant fail to produce the required reporting in a timely manner or as prescribed, the County may consider this a default of the Contract and any associated loan documents.

General Administrative Requirements

Conflict of Interest (Appendix C)

HOME regulations (24 CFR 92.356) state that "no persons who exercise or who have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or with those with whom they have family or business ties during their tenure or one year thereafter."

County staff must review the development entity, whether non-profit or for-profit owner, developer, or sponsor, to determine if it is in compliance with conflict of interest rules.

Exceptions: Exceptions to this conflict-of-interest provision (governing owners, developers, and sponsors of HOME- assisted housing) may be granted by HUD on a case-by-case basis. However, these exceptions must be based upon the factors as set forth in the regulations and submitted to HUD for approval.

Developer Capacity and Contractor Debarment

The Developer must have the organizational capacity to implement the project. Developer capacity will be evaluated on information demonstrating experience and skills as provided in the funding Application.

Threshold Criteria

- Applicants and Applicant's team members must have met all contract terms related to previous grants, loans or loan commitments.
- Applicants must affirm that there are no defaults or negative collection actions relating to any financial obligation, either to Beaver County or to any other public agency or private lender.
- Applicant cannot be on any local, state or federal debarment list.
- An Applicant, Developer or contractor who is the subject of an open HUD finding must submit an explanation of the circumstances related to the finding and a timeline for resolution.
- The Applicant cannot be:
  - in breach of any prior donation agreement or County code provisions by which the County donated property to the Applicant for the development of Affordable Housing;
  - in breach of any of the conditions or requirements of a County grant award or program;
  - delinquent for Beaver County property taxes on any real properties owned by the Applicant.
  - be delinquent on payment of liens, including code enforcement, nuisance liens, demolition liens, or other county liens or fines, on real property owned by the Applicant and incurred after the Applicant took ownership of the real property;
  - in litigation against the County other than as an agent, attorney, guardian, or personal representative of an estate.

Experience

Considerations include, but may not be limited to, the following skills of the Developer and development team.

- Recent, similar, successful experience
- Similar project location, size and scope
- Years of experience developing Affordable Housing
- Managing affordable rental projects
- Using multiple funding sources
- Staffing

Development Skills

Considerations include, but may not be limited to, the following skills of a Developer and the development team:

- Project management
- Market analysis
- Site selection and control
- Property management
- Planning and construction
- Design, architecture, engineering
- Legal and accounting
- Federal funding rules
- Other funding source rules

Fiscal Soundness

The Applicant will be asked to provide evidence of financial ability to implement the project. Applicants will be required to provide proof of commitments from other funding sources, current financial statements and proof of sufficient reserves or a line of credit available, if necessary, to complete the project. The County will assess the financial capacity of the Applicant or Applicant group based on their financial statements. Submitted financial statements must meet the following:

a. Financial statements must have been compiled, reviewed or Audited by an independent CPA licensed by the State of Texas.

b. Financial statements must include a balance sheet dated within 90 days of the date of application.

c. An Applicant or Applicant group must have a minimum of unrestricted Liquid Cash Resources of 20% of the sum of all HOME funds requested in the current HOME cycle.

d. The County defines Liquid Cash Resources as cash, cash equivalents, an unrestricted line of credit and investments held in the name of the entities and/or persons, including cash in bank accounts, money market funds, U.S. Treasury bills, and equities traded on the New York Stock Exchange or NASDAQ. Certain cash and investments will not be considered Liquid Cash Resources, including, but not limited to: 1) stock held in the Applicant's own company or any closely held entity, 2) investments in retirement accounts, 3) cash or investments pledged as collateral for any liability, and 4) cash in property accounts including reserves. All Liquid Cash Resources must be identified in the submitted financial statement.

e. If no individual member of an Applicant group meets the minimum financial requirements, then members may combine assets to meet the requirements by including a combined schedule in addition to their individual statements.

The County reserves the right to verify information in the financial statements and all financial capacity statements made by Applicants, lenders, accountants, and others. If false statements are found to have been made at any point in time, all entities and/or persons associated with the Application will be debarred from all County programs for three (3) years.

The Federal requirements set forth in 24 CFR part 5, subpart A, are applicable to participants in the HOME program. An applicant may not receive County funds if any affiliated entity, board member, or member of the development team (including consultants) has been debarred and listed as shown on the federal System for Award Management, available at https://www.SAM.gov. All parties to a development must be identified and cleared before moving forward with a project.

HOME Funds may not be used to directly or indirectly, employ, award contracts to or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension, or placement of ineligibility status. The County must check all contractors, subcontractors, lower-tier contractors, and subrecipients against the Federal and State listings that list debarred, suspended, and ineligible contractors. The Debarment list is found at www.SAM.gov

Drug Free Workplace Certification

All organizations which receive County HOME funds must agree to comply with the federal drug free workplace regulations and sign a Drug Free Workplace Certification prior to receiving any HOME funds. A copy of this certification is included in Appendix C.

Other Federal Requirements Review

In addition to the qualifying criteria and the HOME program requirements, the project must also meet a number of other Federal requirements including:

- Environmental Review
- Labor Standards
- Section 3
- Handicapped Accessibility Section 504
- Lead-Based Paint
- Relocation/Displacement
- Procurement/Contractor Selection
- Prohibited Activities
- Matching requirements
- Compliance with 2 CFR Part 200 requirements

County staff must ensure that each project complies with the applicable requirements.

Environmental Review

In accordance with the regulations of the HOME Investment Partnerships Program authorized by Title II of the Cranston Gonzalez National Affordable Housing Act and the National Environmental Policy Act of 1969, all projects funded with HOME funds will require the preparation of a project Environmental Review Record and environmental clearance before funds are committed or expended. This includes activities for which the County intends to incur pre-award costs. The County's activity tracking tool will ensure environmental review requirements are completed prior to committing funds or making choice limiting actions on a project. The environmental review process covers all phases of the project, whether the project is funded in whole or in part by HOME funds. The process for undertaking the environmental review process is as follows:

A summary of the steps required for environmental review for the typical project includes:

1. Establish Environmental Review Record
2. Determine level of notice and review required (Exempt, Categorically Excluded, Categorically Excluded/Exempt, Environmental Assessment)
3. Contact State Historical Preservation Office (SHPO) and other outside sources that require documentation and compliance under Part 58.
4. Complete Environmental Review Record documentation
5. For new construction or substantial rehabilitation, publish a Combined Notice for Finding of No Significant Impact and Notice of Intent to Request Release of Funds (RROF) and receive comments
6. Submit RROF to HUD
7. Receipt of Authority to Use Grant Funds from HUD (Form 7015.16)
8. Start project

For environmental review purposes, Beaver County is the "responsible entity" (RE) referred to in 24 CFR Part 58. In this capacity, the RE is responsible for ensuring that the environmental review process is satisfied before HOME funds are committed to non-exempt projects. The RE is also responsible for ensuring that the property owners carry flood insurance on HOME-assisted properties that are located in a 100- year floodplain.

Of particular importance to the County is that the scope of work described in the ERR is specific and any variation from the initial scope of work must be approved by the County as consistent with the Release of Funds before authorized by the County.

Development of newly constructed housing (both rental and homebuyer) will require an Environmental Assessment which the County will complete.
A First-Time homebuyers program providing only down payment or closing cost assistance to housing not otherwise assisted with federal funds is considered Categorically Excluded, Not Subject to the requirements of Part 58. The "CE/Not Subject to" form will be filed for each unit.

If the County undertakes a scattered site rehabilitation program, a tiered review may be established. Such a program will be Categorically Excluded Subject to Part 58 and will require a site-specific environmental screening to ensure that surrounding conditions are safe and free of hazards, are outside the floodplain and that rehabilitation of any units deemed to have historic value are treated in accordance with the Secretary of the Interior's Guide to the Rehabilitation of Historic Properties, among other statutory requirements.

Davis-Bacon (Federal Prevailing Wage Requirements)

Every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis- Bacon Act (40 USC 276a-276a-5) to all laborers and mechanics employed in the development of any part of housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 USC 327-332).

Section 3

Beaver County and its contractors will ensure that economic opportunities, most importantly employment, generated by the receipt of HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Section 3 requirements are applied to Section 3 projects, which means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of $200,000. The threshold is $100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

It is the policy of Beaver County to utilize Section 3 Workers and Section 3 Business concerns in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). The County will comply with Section 3 benchmarks as mandated by 24 CFR 75.23. The current benchmark[1] established by HUD for Section 3 Workers is 25 percent or more of the total number of labor hours worked by all workers on a Section 3 Project. Targeted Section 3 Workers is set at five percent or more of the total number of labor hours worked by all workers on a Section 3 project.

Handicapped Accessibility 504/ Americans with Disabilities Act (ADA)

The County must ensure they are following the 504 ADA requirements.

- For new construction of multifamily projects, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairment, and an additional 2 percent of the units (but not less than one unit) must be accessible to individuals with sensory impairments.

- The Section 504 definition of substantial rehabilitation multifamily projects includes construction in a project with 15 or more units for which the rehabilitation costs will be 75 percent or more of the replacement cost. In such developments, 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 percent (but not less than one unit) must be accessible to individuals with sensory impairments. When rehabilitation is less extensive than substantial rehabilitation, alterations must, to the maximum extent feasible, make the unit accessible to and usable by individuals with handicaps, until 5 percent of the units are accessible to people with mobility impairments. Alterations to common spaces must, to the maximum extent feasible, make the project accessible.

Lead-Based Paint (Housing Built Before 1978) 24 CFR Part 35

For all rehabilitation projects on units constructed before 1978 the developer must address lead-based paint. All HOME projects must be in compliance with the Lead Safe Housing Rule. The amount of work required will depend on the amount of Federal assistance per unit or the rehab hard costs per unit, whichever is lower. Each household receiving rehabilitation assistance will receive the EPA brochure "Protecting Your Family from Lead."

Relocation/Displacement

The County will ensure that HOME-assisted projects avoid, whenever possible, and in all cases minimize, the displacement of residents from their homes as a direct result of HOME-assisted activities.

The County will ensure that federally-assisted projects replace all occupied and vacant occupiable low/ moderate-income dwelling units demolished or converted to a use other than as low/moderate- income housing in connection with an activity assisted with funds provided under the Cranston- Gonzalez National Affordable Housing Act (42 USC 12705(b).

Procurement/Contractor Selection

The County will ensure that the procurement proposed by the applicant follows County policies as outlined below. Subrecipients are required to competitively bid for a construction contract. Developers, including CHDOs, are not required to bid but are expected to bring a development team to the project and document cost reasonableness.

- **Equal Employment Opportunity.** The County must comply with the following to ensure equal opportunity in employment and contracting. Equal Employment Opportunity, Executive Order 11246, as amended: 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. Implementing regulations may be found at 41 CFR Part 60.

- **Minority Business Enterprise/ Women Business Enterprise.** The County and all subrecipients must comply with the regulations governing employment and contracting opportunities. The regulations cover equal opportunity, labor requirements, and contracting and procurement practices. Minority/Women's Business Enterprise outreach is governed by Executive Orders 11625,12432, and 12138. In addition, the County must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts. (See 2 CFR 200.321 for standards for contracting with small and minority businesses, women's business enterprises, and labor surplus area firms).

- **Build America, Buy America Act (RE CPD-2023-12).** The Build America, Buy America (BABA) Act was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58) also known as the Bipartisan Infrastructure Law. BABA establishes a domestic content procurement preference known as the "Buy America Preference" (BAP) for Federal infrastructure spending. The BAP requires that all iron, steel, manufactured products, and construction materials used in infrastructure projects funded with Federal financial assistance must be produced in the United States.
    - Developer must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver. (See Exhibit K)

Eligible Forms of Subsidy

The HOME Program allows the following types of subsidy:

Interest Bearing Loans or Advances
This subsidy is an amortizing loan, with regular repayments and interest rates below the prevailing market rate. The property to be assisted or some other asset (or combination of assets) is used as collateral. The term of the loan may vary.

Non-Interest-Bearing Loans or Advances
This loan requires regular repayments and the property to be assisted or some other asset or combination of assets used as collateral. The term of the loan may vary.

Deferred Loans (Forgivable or Repayable)
These loans are not fully amortized. Instead, some or all of the principal and any interest are deferred to some point in the future. The loan can be structured as a forgivable loan (either incrementally over time or forgiven in full at some point in the future). If repayable, repayment may be required at sale or transfer of property. Deferred loans do require the property assisted or some other combination of assets to be used as collateral.

Grants
Grants require no repayment or expectation of repayment. Grants require no liens on the property (except as necessary to secure the affordability period).

Interest Subsidies
This type of assistance is an up-front discounted payment to a private lender in exchange for a lower interest rate on a loan. An interest subsidy may also be a deposit in an interest-bearing account from which monthly subsidies are drawn and paid to a lender along with the homeowner's monthly payment.

Equity Investments
An equity investment is an investment made in return for a share of ownership. In this instance, the County acquires a financial interest in the assisted property and is paid a monetary return on investment if money is left after expenses and loans are paid.

Loan Guarantees and Loan Guarantee Accounts
HOME funds may be used to guarantee loans or to capitalize a loan guarantee account. A loan guarantee is a written promise to pay the lender some percentage of the outstanding principal balance of a loan in the event the borrower defaults. It may be held for a specified period of time or reduced by a specific amount over time as the loan principal is repaid.

A loan guarantee account is a loan loss reserve held by the lender in an amount equal to some percentage of the outstanding principal. HOME rules require that the amount of money in a loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans, and may not exceed 20 percent of the total outstanding principal guaranteed, except that the account may include a reasonable minimum balance.

Forms of Assistance
Generally, for homebuyer activities, the County will utilize grants, deferred-payment loans, below-market-rate loans and loan guarantees to ensure affordability for the buyer. The County will also consider the following types of assistance.

Down Payment and Closing-Cost Assistance
HOME funds can be provided in the form of a grant or a deferred-payment loan to homebuyers who have sufficient income to make monthly payments, but do not have the means to save for an up-front cost of purchasing a home. All recipients of this assistance shall be evaluated according to the County's Underwriting guidelines outlined in Section B of this document.

Gap Financing
For homebuyers that do not have sufficient income to cover the total monthly payment, HOME funds may be used to provide gap financing to reduce the monthly carrying costs. This is often provided in the form of a deferred payment or below market rate loan or grant to reduce the principal amount to be borrowed. If provided as a loan, the assistance may be repaid in small monthly installments (if below market rate loan) or at the sale of the property (if a deferred-payment loan)

Development Subsidy
If the HOME program provides a subsidy to the developer of the housing, the developer can pass that subsidy to the buyer in the form of a lower sales price to the buyer. The developer subsidy is generally a grant to the developer.

Prohibited Activities
Funds may NOT be used to pay for any cost that is not eligible under the HOME program (as outlined in 24 CFR Parts 92.206 and 209), which include delinquent taxes, fees, or charges on properties to be assisted. Development of student housing and dormitories (including farm worker dormitories) is an ineligible activity.

Match [§92.218]
As a HOME PJ, the County must contribute or match its annual HOME allocation with no less than 25 cents for each dollar of HOME funds spent on affordable housing. The County will issue annual guidance related to the current year HOME match requirement and apply to that FY's HOME funding allocation. The County's current match requirement is 25%.

The County will maintain a HOME match log to document match that is applied to County projects. At least once a year, the County will review its match log to ensure all eligible matching contributions are recorded in the match log. As the County draws funds from the HOME Investment Partnership Program, a match liability is incurred which must be satisfied by the end of each Federal fiscal year. The HOME match must come in the form of a permanent contribution to affordable housing. Generally, investments from State or local governments or the private sector qualify as matching contributions, whereas Federal funds (such as CDBG) or equity provided to a project as part of a LIHTC project do not qualify. Eligible sources of a match for HOME funds include:

- Cash
- Donated construction materials or volunteer labor
- Value of donated land or real property
- Value of foregone interest, taxes, fees, or charges levied by public or private entities
- Investments in on-or offsite improvements
- Proceeds from bond financing
- The cost of supportive services provided to families living in HOME units
- The cost of homebuyer counseling to families purchasing HOME-assisted units

The match requirement is not triggered for administrative and planning costs or for operating expense and capacity building assistance provided to CHDOs.

The County will record match as defined in 24 CFR Part 92.218-222, HUD HOME Fires Vol.3 No. 6 and CPD Notice 97-03.

Pre-Award Costs

Though rare, the County may incur costs prior to the effective date of its HOME Agreement that may be charged to the HOME allocation after award. Eligible administrative and planning costs may be incurred as of the beginning of the participating jurisdiction's consolidated program year (see 24 CFR 91.10) or the date the consolidated plan describing the HOME allocation to which the costs will be charged is received by HUD, whichever is later.

Eligible project costs may be incurred during the current program year in an amount not to exceed 25% of the current HOME allocation amount, that may be charged to the following year's HOME allocation. Before incurring the pre-award costs, the County will comply with its citizen participation plan requirements. In lieu of a full action plan, the participating jurisdiction may develop a mini-action plan which describes the proposed pre-award projects and costs in accordance with 24 CFR91. The mini-action plan will state that HOME funding for the project(s) is subject to the future availability of HOME funds. The subsequent action plan (i.e., action plan for the HOME allocation to which the costs will be charged) will also include the use of HOME funds contained in the mini-action plan.

Subsidy Layering and Underwriting

A HOME subsidy layering review of the project must be conducted to ensure that the project is not "over-subsidized" and that only the amount needed to keep the project affordable is met with HOME funds. The County's HOME Program policy requires that project subsidy layering/underwriting analysis be completed, with appropriate supporting documentation, prior to formally committing HOME funds to a project.

The subsidy layering and underwriting will be prepared according to 24 CFR Part 92.250, 92.254, and CPD Notice 15-11, and will include the following elements:

- Market Assessment
- Assessment of Developer Capacity
- Project Financial Underwriting

A copy of the County's complete Underwriting and Subsidy Layering Policy is attached at Appendix G.

Market Assessment

The County will conduct a review of the current market conditions specific to the neighborhood in which the project will be located. This analysis will include a definition of the market area and justification for the prescribed boundary and evaluation of market need for the project including a quantified pool of eligible tenants or buyers likely to seek the project. The County will also examine the area's vacancy rates and review the neighborhood comparable. Most recently available Census and/or American Community Survey Data will be sufficient for this review.

Rental Projects

The County will also assess local demand for the housing type as well as projected absorption period and capture rate. This will demonstrate whether the developer can reasonably lease the HOME-assisted units within 6-18 months. Developers should provide a marketing plan to the County to demonstrate that lease up will occur within 18 months, or sale within nine months, in the case of a homebuyer project. Rental projects with a capture rate of less than 25% are generally considered feasible.

All new multi-family construction projects must include a written determination evidencing the proposed location and site for the rental development project meets the HOME Program requirement that housing assisted with HOME Program funds promote greater choice of housing opportunities.

- 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 neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively, in progress, a concerted program to remedy the undesirable conditions.
- 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.
- Except for new construction housing designed for elderly persons, travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers must not be excessive.

Current Fair Market Rent will be used as a baseline for rent and whether the proposed rents will be affordable to the market defined in the analysis.

In many cases, rental projects will receive a larger subsidy from Pennsylvania Housing Financing Agency (PHFA) (if awarded through the LIHTC program), in which case the County may accept the state underwriting and market analysis of the project, as long as it was completed within one year of commitment of HOME funds by the County. At a minimum, the County will confirm that any market analysis submitted with developer's application for LIHTC or other funding contains evidence that the vacancy rates versus the pool of qualified applicants is sufficient to fill the proposed HOME-assisted units within 18 months of project completion; evidence that the market capture rate does not exceed 25%; the proposed rents are reasonable and consistent with current Fair Market Rents and HOME rents for the market area.

A market analysis is not required for homeowner occupied rehabilitation projects or down payment assistance-only projects. Program participants seeking down payment assistance will be underwritten separately as outlined in Section B.3 of this Policy.

Homebuyer Projects

For homebuyer projects, the developer should provide sufficient information regarding the sales market, including supply, listing times and foreclosure inventories so that the County can determine stability of the housing market. The County should also consider other affordable housing options already available when determining feasibility of sale within nine months of completion.

Assessment of Developer Capacity

The County will review the experience and capacity of the developer (staff and project team) to implement the project in a timely fashion as well as the fiscal soundness of said developer to meet the financial obligations of the project. Note that proposed Community Housing Development Organization (CHDO) projects will be evaluated against specific CHDO criteria as established in 24 CFR Part 92.2 and 92.300. The County's CHDO Certification Policy and Procedures manual is included in Appendix F of this document.

Developers should submit evidence of a minimum of three projects of similar size and scope successfully completed within the previous two years, along with project budget and project schedule. A development team profile demonstrating sufficient organizational capacity for property and asset management (if applicable), and financial reports indicating fiscal strength (liquid assets exceeding debt). Homebuyer projects must demonstrate capacity to market and sell the completed units, which may be evidenced by a real estate professional on staff or on the development team or demonstrated staff capacity to perform the function of a real estate professional.

Financial Capacity

The County will assess the reasonableness of profit or return to the owner or developer, for the size, type, and complexity of the project. Further, the County will examine the financial position of the developer and its commitments of other funding to ensure that there will be sufficient cash for the developer to complete the project in a timely manner. This will be completed by a review of the total development costs, the amount of investment made by the owner/developer, a review of the annual and 15-year operating budget to determine if the project has sufficient cash flow to remain stable through the affordability period, and/or excessive cash flow that could be used to repay debt and other similar analysis. The operating budget will also be reviewed as part of the project's financial underwriting.

The County will also review the proposed developer fee in relation to size, scope and complexity of the project to determine if the fee to be retained by the developer is reasonable. Other factors for consideration include risk assumed by the developer and any costs incurred by the developer that are to be paid by the fee.

Project Financial Underwriting

Rental Production and Homebuyer Development

The County will conduct a review and analysis of the sources and uses of funds for each project and a determination of whether the proposed costs are eligible, reasonable, necessary, and within industry standards. This includes a review of acquisition costs (supported by an independent appraisal), hard construction costs, soft costs, evidence of firm funding commitments other than HOME, and the overall financial soundness of the transaction. The County may review cost comparable, similarly funded and completed projects within the previous two years, and industry cost indices to determine cost reasonableness.

The minimum HOME subsidy per HOME assisted unit is $1,000. The County will conduct a review of the amount of HOME funds to be invested in the project, per unit and bedroom size, to ensure that the HOME funds being invested will not exceed the maximum allowable HOME subsidy limits as published by HUD annually for the County. HUD issues these limits annually and the County will update the limits each year once they are issued by HUD.

To ensure applicants are aware of the current limits, the application instructions and pro-forma will contain the most current HUD published maximum subsidy limits. All staff administering the HOME program are encouraged to subscribe to the HOME Program mailing list at www.hudexchange.info which provides updates on HUD programs. This information will be documented for each project in the subsidy layering analysis prior to the commitment of HOME funds.

The HOME maximum per-unit subsidy limits apply to rental and homebuyer units. The actual subsidy provided will depend on the following factors:

- For rental project, the proportion of the total project cost that is HOME-eligible, as some planned project costs may not be eligible expenses under the HOME Program.
- The number of units in the project that are HOME-assisted, as projects may have a mix of HOME- and non- HOME assisted units.

In order to complete the assessment, the County will request, from all developers, evidence of firm commitments with terms and conditions of all other funding sources, both public and private. Projects receiving tax credits must provide a copy of the Tax Credit Reservation Letter and good faith offer of equity investment from the investor partner prior to issuance of a commitment of HOME dollars. Projects involving a limited partnership or limited liability corporation should provide a copy of the partnership or operating agreement, including cash contributions made by each partner or member. The timing of these commitments should coincide with the project schedule, and the County will evaluate to ensure sufficient funding will be available to complete the project according to schedule. The County will conduct a review and analysis of the sources and uses of funds for each project and a determination of whether the proposed costs are eligible, reasonable, necessary, and within industry standards. This includes a review of acquisition costs (supported by an independent appraisal), review of the plans and specs, cost estimates and construction contract. The County will also review soft costs, evidence of firm funding commitments other than HOME, and the overall financial soundness of the transaction. The County may review cost comparable, similarly funded and completed projects within the previous two years, and industry cost indices to determine cost reasonableness.

The County will also review the project's operating proforma to ensure the project will remain viable through the affordability period. This review includes examination of all revenue streams into the project as well as all expenses and required debt service to be paid on the project. The County will review the following when considering financial feasibility of a project: gross rent, allowance for rent loss (due to vacancy, bad debt), reasonable operating expenses, reserves for capital needs/replacement, and debt service coverage. The proforma should include a reasonable increase in revenue and expense throughout the affordability period, as well as a conservative estimate of vacancy to account for potential losses in revenue through this period. The County will determine based on this review whether or not the project can be self-sustaining, while not providing windfall rates of return to developers.

The HOME Program permits the funding of one or more units in a project, including mixed-income and mixed-use properties. However, HOME funds may only be used to pay eligible costs for HOME assisted units. Should the County designate fewer than 100% of a project's units as HOME-assisted, the County will calculate the eligible costs that are allocable to the assisted units and will only pay the actual costs related to those HOME-assisted units, capped by the maximum subsidy limits described above. Thus, cost allocation requirements affect project underwriting by dictating either the maximum amount of HOME investment the County may provide, or the minimum required number of units that must be designated as HOME-assisted.

- Should the applicant expand the number of HOME units in a project after being awarded HOME funds and thus become eligible for a higher HOME project funding cap, the applicant must submit a new, complete application for the additional funds. Additionally, a new Subsidy Layering analysis must be completed to show compliance with the HOME program and CPD Notice 15-11.
- Should the applicant have to reduce the number of HOME units for any reason the HOME award may be reduced if the change impacts the funding caps as specified.

If the number of HOME-assisted units is less than the total units within the project, the developer must inform the County which units will be HOME assisted units and if these units are Fixed (specific units) or Floating (specific unit types). The County will confirm, via its cost allocation, whether the proposed Fixed or Floating designation is appropriate.

- Fixed: When HOME-assisted units are "fixed," the specific units are listed by address that are HOME-assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change.
- Floating: When HOME-assisted unit location within the development may change over time as long as the total number of HOME- assisted units in the project remains constant. The County will also ensure that floating units represent an adequate mix of units based on size and amenities.

The County's written HOME agreement with the developer will specify whether the HOME units are fixed or floating. For projects where fewer than 100% of the units will be HOME-assisted, the County will allocate costs based on either the Standard, Proration or Hybrid models of cost allocation as described in Notice CPD 16-15, and determine if the number of HOME-assisted units is adequate to make the project financially feasible and sustainable while being within appropriate subsidy limits. For rental projects, the County will ensure the proposed rents do not exceed the HOME Rents published annually by HUD for the Pittsburgh, PA HUD Metro Area. Further, for projects containing more than five units, the County will ensure at least 20% of the units are reserved for households earning less than 50% AMI.

Under the HOME Rule, the County is no longer permitted to use the utility allowance established by the local Public Housing Authority (PHA) for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013. As such, the County will also verify the use of the HUD Utility Model (HUD-52667) when calculating utility allowances for the project units, or that some other method established in HOMEfires Vol. 13 No. 2, May 2016 was utilized. Annually, the County will update project owners in writing when new rent and income limits are published by HUD. Owners will also be notified in writing that full source documentation is required to verify income every six years. Source documents include those outlined in HUD's Technical Guide for Determining Income and Allowances for the HOME Program and the HOME Final Rule located at 24 CFR Part 92. These requirements will also be outlined in the Written Agreement between the County and the project owner/developer.

For homebuyer development projects, the County will also ensure the developer has sufficient funds available to carry the units through the projected absorption period.

For homebuyer rehabilitation projects, an assessment will be completed to evaluate the useful life of the major systems, based on age and condition. At a minimum, major systems will have a five-year useful life; preferably the useful life will extend through the affordability period. For rental projects where the analysis determines useful life will not exceed the affordability period, the development must demonstrate adequate replacement reserves in the operating/development budget to address replacement during the affordability period if needed. For rental developments of more than 26 units, a Capital Needs Assessment is required to be prepared for the project by the developer/owner.

Direct Homebuyer Assistance

Beaver County currently does not utilize HOME funds for down payment and closing cost assistance; however, if in the future the County would establish HOME funds for this purpose, the guidelines in this section will use the following standards to evaluate the subsidy to the buyer to ensure it is sufficient to make the home affordable to the buyer.
The prospective homebuyer's gross annual income must be equal to or less than 80% of the area median income level for the Pittsburgh, PA HUD MSA, based on the "HUD Part 5" definition of income (120% for the Neighborhood Revitalization Strategy Area). Household income includes the earnings of all persons over the age of 18 who will be residing in the home.

Additionally, asset income is calculated and added to regular income in order to project anticipated annual income. In order to do this, Beaver County collects two full months of paystubs and 6 months of bank and asset statements.

The goal of Down Payment Assistance Programs supported by the County is to ensure a buyer has a minimum of $500 liquid assets to put toward the purchase of the home. Buyers may not have liquid exceeding $10,000. Assets include cash, checking and savings accounts. Down payment and closing will be provided as a forgivable 0% interest rate deferred loan and will be determined based on the buyer's need as underwritten in accordance with the guidelines of this section.

Upon application, a buyer must have a minimum Credit Score of 640. Potential buyers cannot carry more than 42% of their monthly income in total debt (known as the back-end ratio), including mortgage payment and other recurring monthly costs. The intent of the assistance is to provide enough subsidy to ensure the homeowner's monthly housing payment (including mortgage principal, interest, property taxes and homeowner's insurance) does not exceed 30% of their monthly income.

The County will ensure that the buyer has completed pre-purchase counseling offered by a HUD-certified counselor prior to purchase of the property.

Requirements for Rental Housing Projects

The County may invest a portion of its annual HOME funds in rental development projects. These projects require a detailed layering and underwriting process which is summarized below. The County also has a specific layering and underwriting policy. If the developer is a CHDO and CHDO funds will be used to fund the project, there are additional underwriting requirements.

HOME funds may be used to provide incentives to develop and support affordable rental housing through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, and demolition. HOME funds may not be used to support the development nor rehabilitation of public housing. The County will select eligible projects and perform monitoring and oversight of the implementation of each project.

County staff will review each application to determine if the form of assistance requested is consistent with HOME Program requirements. Under HOME, housing projects may receive grants, deferred payment loans, below-market rate loans, or loan guarantees. HOME funds may also be used to refinance existing debt, if the HOME funds are used to rehabilitate the existing property and the refinancing is necessary to permit or continue affordability. Refinancing activities automatically trigger a rule of a 30-year affordability controls. Certain restrictions will apply.

Eligible Costs

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

Acquisition Costs

- Includes costs of acquiring improved or unimproved real property.
- Acquisition of vacant land or demolition can only be undertaken for particular housing projects intended to provide affordable housing.
- Costs to make utility connections to an adjacent street or to make improvements to project site, in accordance with the provisions of 92.206(a)(3)(ii) and (iii) are also eligible in connection with acquisition of standard housing.
- If HOME funds are used for acquisition, an independent and current (conducted within one year of the proposed acquisition date) property appraisal is required to support the proposed acquisition cost.

Development Hard Costs includes the actual costs of constructing or rehabilitating housing. New construction and rehabilitation project costs must meet the local jurisdiction's construction standards. In the absence of local standards, ongoing property standards to be inspected and maintained should meet HUD's Uniform Physical Conditions Standards, in accordance with 24 CFR Part 92.251.

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

- Architectural Services;
- Engineering Services;
- Preparation of plans, drawings, specifications, or work write-ups;
- Costs to process and settle the financing for a project;
- Private lender origination fees;
- Credit reports;
- Fees for title evidence;
- Fees for recordation;
- Filing of legal documents;
- Building permits;
- Attorney fees;
- Private appraisal fees;
- Fees for an independent cost estimate;
- Builders or developers' fees;
- Costs of a project audit;
- Affirmative marketing and fair housing to prospective homeowners and tenants

County staff will review each application and identify and verify eligible project costs to be financed with HOME funds. Any costs proposed in the application that are not eligible under HOME must be covered by another source.

The file must contain a statement that all costs were reviewed and are reasonable and customary for this project (subsidy layering analysis). There also needs to be a statement that the amount of HOME funds committed to the project is the amount needed to keep the units affordable.

Relocation Costs: If occupants must be temporarily or permanently displaced from their living unit, the owner is responsible for relocation costs. These costs are eligible as part of the project financing. Permanent relocation may be subject to the Uniform Relocation Act and require specific notifications and relocation payments.

Subsidy Limits

The County shall conduct an underwriting and subsidy review in accordance with Section B of this document to ensure no excess subsidy is provided.

Affordability Period

As part of the subsidy layering analysis performed for each project, the amount of HOME assistance on a per unit basis will be determined. The period (number of years) that the HOME-assisted units must remain affordable per the HOME regulations at 92.252 will be fixed based on the regulations and as shown on the table below. These requirements will be made part of each HOME agreement. In addition, the period of affordability must be secured with either a deed restriction or covenants running with the land that are formally recorded against the property.

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

Tenant Income and Rent Limit Requirements

For all HOME assisted projects to which funds are committed, the County will ensure that the contract specifies the composition of High and Low rent units throughout the project and that the project qualifies as affordable rental housing as described below.

The HOME- assisted units in a rental housing project must be occupied by households that are eligible as low- income families (households with gross annual income below 80% AMI for the Pittsburgh, PA HUD Metro Area, published annually by HUD) and must meet the requirements of this section to qualify as affordable housing. Ninety percent of the County's HOME-assisted rental units must be rented to households earning below 60% Area Median Income for the Pittsburgh, PA HUD Metro Area, adjusted for family size and published annually by HUD.

The County will require the developers of any HOME assisted project to repay HOME funds invested in any housing unit that has not been rented to an eligible tenant within 18 months of the date of the project completion. The tenant must have a written lease that complies with §92.253 and must be for a period of no shorter than (1) year unless otherwise approved by the County's Department of Real Estate and Housing.

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

1. The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
2. A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of median income for area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

The most current HOME Rent Limits can be found here: https://www.hudexchange.info/programs/home/home-rent-limits/

The County may designate (in its written agreement with the project owner) more than the minimum HOME units in a rental housing project, regardless of the project size, to have Low HOME Rents that meet the requirements of 24 CFR 92.252(b). In rental projects with five or more HOME-assisted rental units, at least 20 percent of the HOME- assisted units must be occupied by very low- income families (households earning less than 50% AMI adjusted for household size) and meet one of the following rent requirements:

1. The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent Limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under paragraph (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a) of this section.
2. The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low- income family pays as a contribution towards rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project – based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

For Single Room Occupancy (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 of the zero-bedroom fair market rent.

Temporary Exceptions to Rent Limitations

The following are exceptions to the rent restrictions stated above:

- **If the project is occupied at the time HOME assistance is awarded to the project, existing tenants who earn more than the Income limits stated above must pay no more than 30% of their Adjusted Income in rent and utilities.**
- **If a tenant is residing in a designated HOME assisted unit and the tenant's Income increases to more than the unit's Income restriction during the term of the lease, the tenant must pay no more than 30% of their adjusted gross income in rent and utilities. The rent must be adjusted at the annual recertification.**
- **Only when the tenant chooses to leave or not renew the lease, the unit must then be rented to a new tenant who meets the Income limits. Vacancies should be filled with Income qualifying tenants to bring the project back into compliance with the affordability requirements. County policy is that tenants should not be displaced if their Income increases to a level higher than the eligible household Income during the lease term.**

Property Standards

Rehabilitation: Housing that is being rehabilitated must meet rehabilitation standards and ordinances. If no state and local codes apply, the property must meet one of the national model codes. All units will be rehabilitated in a manner consistent with the lead-based paint regulations. Property Standards are the housing quality standards used to determine whether a housing unit is decent, safe and sanitary. They are the standards against which the actual physical condition of a property is judged in the inspection process. Using the property standard as a baseline, a housing inspector determines the scope of rehabilitation necessary to address the physical deficiencies of a unit.

The County has adopted the following, written rehabilitation standards to provide a common basis for contractor bids. This ensures that all contractors are bidding work using identical methods and material.

Attic and Crawl Spaces

Access to attics shall be provided by means of conveniently located scuttles or disappearing or permanently installed stairways. For crawl space, the minimum access opening shall be 18 inches by 24 inches. For attics, the minimum access opening shall be not less than 22 inches by 30 inches with a clear height of over 30 inches. However, if either are to contain mechanical equipment, the access opening shall be of sufficient size to permit the removal and replacement of the equipment, and shall have a means of access provided, i.e., ladder of steps.

Basements, Cellars

The floors of all basement or cellar furnace rooms, or basements shall be covered with a concrete slab with a minimum 3.5-inch thickness. Habitable rooms in basements or below grade, intended for occupancy, shall comply with all local codes and zoning regulations.

Basement and Foundation Walls

All foundation walls shall be able to carry the safe design and operating dead and live loads. Basement and foundation walls shall prevent the entrance of water or moisture into a basement or crawl space area. Cracks in the walls shall be effectively sealed and loose or defective mortar joints replaced. Where necessary, interior or exterior face of the wall shall be damp proofed by bituminous coating or cement parging.

Bath Facilities

Complete bathing and sanitary facilities shall be provided within each living unit. They shall consist of a water closet, a tub or shower, and a lavatory and provide an adequate supply of hot water to the tub or shower stall and lavatory and cold water to all fixtures. Arrangement of fixtures shall provide for the comfortable use of each fixture. Each installation in a living unit shall be installed in a manner as to afford privacy to the occupant. A bathroom shall not be used as a passageway to/or a habitable room, or exit to the exterior. Each building and living unit, within the building, shall have domestic hot water in quantities sufficient for needs of the occupants. Existing water heaters shall be in good serviceable condition. The minimum storage capacity shall be 30 gallons or the equipment shall be replaced. No water heater shall be installed in any room used or designed for sleeping purposes. No water heater shall be located in a bathroom, clothes closet, under any stairway, or in a confined space with access only to the above locations. All fuel burning water heaters shall be connected to a vent leading to the exterior. All pumps and disposal systems shall operate as designed or the equipment shall be repaired or replaced. The plumbing system and its appurtenances shall provide satisfactory water supply, drainage, venting, and operation of all fixtures. Plumbing systems, including sewers, shall operate free of fouling and clogging, and not have cross connection which permit contamination of water supply or back siphonage between fixtures.

Ceiling Heights

All habitable rooms, hallways, and corridors shall have a ceiling height of not less than seven feet measured to the lowest projection of the ceiling. Variations to these areas and dimensions may be permitted when existing partitions preclude compliance, and the available area or dimensions do not hinder the normal use of the space.

Chimneys, Vent

Chimneys and vents shall be structurally safe, durable, smoke tight, and capable of withstanding the action of flue gasses. Existing unlined masonry chimneys, having open mortar joints or cracks, shall be made safe by the installation of a flue liner or corrosion resistant pipe within the interior of the chimney.

Electric Wiring

All habitable rooms and other appropriate spaces requiring electrical service shall be provided with a system of wiring, wiring devices, and equipment to safely supply electrical energy to proper illumination, appliances, and other electrical equipment. Existing wiring and electrical equipment shall not be a potential source of electrical hazard or ignition of combustible materials, and shall be so determined by the proper authority. Wherever these potential hazards are determined to be present, replacement of existing wiring and/or equipment shall be made. Every dwelling unit shall be served by a main service that is not less than 60 amperes/three wire. Existing facilities that are dangerously overloaded and inadequate to meet the anticipated demand shall be increased. For new electrical work, the appropriate provisions of the **National Electrical Code** shall be used as a guide for design layout and installation.

Exterior Accessory Structures

All exterior appurtenances or accessory structures, in a deteriorated code violation condition, may be repaired to a safe condition to the extent that funds are available or shall be removed. Such structures include existing porches, entrance platforms, garages, carports, fences, and storage sheds.

Exterior Doors

Exterior doors shall be furnished with operable keys. All exterior doors and hardware shall be maintained in good condition. All locks shall tightly secure the door.

Exterior Walls

Foundations and exterior walls shall provide safe and adequate support for all loads upon them, and prevent the entrance of water or excessive moisture. Serious defects shall be repaired and effectively sealed.

Flashing

To prevent the entrance of water, all critical joints and exterior and roof and wall construction which are exposed, shall be protected by sheet metal or other suitable flashing material.

Flooring

All floor construction shall provide safe and adequate support for all existing or probable loads and shall be reasonably free of vibration. A suitable surface for finished flooring shall exist or be provided. Finished floors shall be appropriate to the use of space, be in good condition, provide reasonable ease of maintenance, and extended service life. Finished floors in habitable rooms shall be wood flooring, a resilient tile, or sheet material or carpeting over suitable underlayment. Floors, in kitchens and bathrooms, shall be of durable waterproof, non-absorbent material over a suitable underlayment.

Gutters

Each dwelling shall have a controlled method of disposal of water from roofs, where necessary, to prevent damage to the property and to avoid unsightly staining of walls, etc.

Heating and Ventilating

All heating and ventilating equipment and systems shall be installed so that maintenance and replacement can be performed. Existing mechanical equipment and systems shall be inspected for faulty operation, fire and/or other hazards. Heating facilities shall be provided for each living unit and other spaces that will assure interior comfort, be safe and convenient to operate, be economical in performance and be quiet in operation. Forced air heating systems shall not supply more than one dwelling unit. Each heating system or device shall have a recognized approval for safety and shall be capable of maintaining a performance and be quiet in operation. Each heating system or device shall have a recognized approval for safety and shall be capable of maintaining a temperature of at least 68 degrees Fahrenheit within the living units, corridors, public spaces, and utility spaces where the outside temperature is at zero degrees. No open flame, radiant type space or floor heaters shall be permitted. Appropriate clearances around all heating equipment shall be provided and walls and ceilings protected in an acceptable manner.

Illegal Construction

Any building or part of a building for which there was no permit for construction or which is determined to be not in compliance with the local Building and/or Zoning Codes shall be made to conform to the code to the extent that funds are available, if such non-permit construction is judged to be harmful to the health and safety of the occupants.

Insulation

Insulation shall be installed where possible in any new walls, attics, crawl spaces when other work is performed. Weather stripping and/or weather-proof thresholds shall be installed around all doors. Insulation and weather-stripping shall comply with the Department of Energy and Housing and Urban Development's Initiative of Energy Efficiency on Housing.

Interior Doors

Provide door for each opening to bedroom, bath, or toilet compartment. Bath or toilet compartment doors are to be furnished with privacy-type locks.

Interior Finishing

Where painted surfaces are in good condition or show evidence that maintenance has taken place, painting shall not be required. In all cases, it is urged that the homeowner take upon himself the accomplishment of this normal maintenance item. All interior walls and ceilings shall provide a finished surface without noticeable irregularities or cracking, a waterproof and hard surface and spaces not subject to moisture, a suitable base for painting or other decoration and reasonable durability and economy of maintenance.

Kitchen Space

Each living unit shall have a specific kitchen space which contains sink with counter work space, and has hot and cold running water, adequate space for installing cooking and refrigeration equipment, and for storing cooking utensils.

Light and Ventilation

All habitable rooms shall be provided with aggregate glazing area of not less than eight percent of the floor area of such rooms. One-half of this required area of glazing shall be **open able.** The glazed area may be omitted in rooms where an approved mechanical ventilation system is provided capable of producing .35 air change per hour. Bathrooms, water closet compartments, and other similar rooms shall be provided with approved glazing, except in the case of artificial light and ventilation as stated above.

Non-Living Space Ventilation

Natural ventilation of spaces such as attics and enclosed crawl spaces shall be provided by opening of sufficient size to overcome dampness and minimize the effect of conditions conducive to decay and deterioration of the structure, and to prevent excessive heat in attics. Exterior ventilation openings shall be effectively screened where needed.

Painting and/or Exterior Finishing

Exterior surfaces of structures shall be painted and/or waterproofed as required by type and location of existing surface. Repairs or replacements shall be made to defective exterior wall finished materials. Exterior walls should be free of holes, cracks, and broken or rotted finished materials. A protective and decorative finished coating or surfacing shall be required to provide adequate resistance to weathering, protection of finished surfaces from moisture or corrosion, and attractive appearance and reasonable durability.

Partitions, Columns, and Posts

Partitions, columns and posts, and other vertical supports which are to be continued in use shall be free of excessive leaning, buckling, or other defects. All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

Privacy and Arrangement

A degree of privacy shall be provided commensurate with suitable living conditions by means of the proper location of exterior openings and by the interior arrangement of rooms. Access to all parts of a living unit shall be possible without passing through a public hall.

Roofing

Roof covering shall be capable of resisting fire appropriate to the type of construction and location, and new installation shall be accordance with nationally accepted standards. All roofs shall have a suitable water-tight and reasonably durable covering free of holes, cracks, excessively torn surfaces or other defects. The placing of new covering over an existing covering shall not take place if two or more layers exist. Replacement roof materials shall be consistent with current technology. Wood shakes, shingles, and clay tile roofs shall not be replaced.

Screens

Screens shall be provided for all operable windows. Existing screens, which are to be continued in use, shall be in suitable condition to serve their intended purpose. Combination storm and screen windows and doors shall be furnished where economically feasible.

Stairs, Exterior

All exterior stairways must conform to the design requirements of the National Property Maintenance Code as amended as to width, handrails, tread and riser dimensions, etc.

Stairs, Interior

All stairways shall provide safety of ascent, and stairs and landing shall be arranged to permit adequate headroom and space for the passage of furniture and equipment. All living units shall have access to an approved exit. All exit stairways shall be protected at the sides by acceptable railings as per one and three-family dwelling code.

Structural Soundness

All structural components of the building shall be rehabilitated to a sound and serviceable condition for the expected useful life of the building. Sagging or out of level floors, partitions, stairs, wall, etc., are to be supported and/or braced or rebuilt so as to prevent a recurrence of these conditions. Individual structural members, in a seriously deteriorated condition, shall be replaced.

Vermin Infestation

A careful inspection shall be made of each building and/or accessory structure to be rehabilitated for evidence of actual or potential infestation. Defects, permitting the entrance of vermin, will be addressed with preventive measures. Corrective actions of a professional exterminator may be a qualified rehabilitation expense.

Walkways

Appropriate paved walks and exterior steps shall be provided. Walkways shall be of a safe level surface. Serious defects shall be repaired or replaced.

Water Diversion

The open space of each property shall provide, or shall have provided for the immediate diversion of water away from the buildings and the prevention of soil saturation detrimental to structures and use of the property.

Window-Doors/Replacement

Existing windows and doors, including their hardware, shall operate satisfactorily and give evidence of continuing acceptable service. Defective glass blocking or lifting hardware shall be replaced or corrected. At a minimum, the bottom half of all double hung windows shall operate satisfactorily. The following guide shall be used to determine the need for repair or replacing window sash, doors, and/or frames:

1. Repair if work can be done in place.
2. Replace if entire component needs to be removed in order to restore.
3. Refinish if only the surface needs work in order to restore same to new condition.

Housing Rehabilitation Standards

All dwelling units rehabilitated with HOME funds for housing rehabilitation in the County shall be upon completion, is substantial compliance with one of the following:

- Local housing code; or
- The articles on property or sanitary standards in one of three model codes (Uniform Building Code (ICBO), the National Building Code (BOCA), or the
- The Council of American Building Officials (CABO) one- or two-family code; or
- The Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926.

New Construction: Housing that is being constructed with HOME funds must meet all applicable state and local codes, new construction standards and ordinances. For new construction, the property must also meet the Model Energy code. All HOME applicants applying for funds for new construction of rental housing must certify that the development will adhere to the Minimum Standard Energy Saving Measures which are identified as follows.

1. Energy Star or equivalently rated air handler and condenser; or heating and cooling systems with minimum SEER 12 A/C and 90% AFUE furnace if using gas;
2. Water heaters to have an energy factor no less than .93 for electric or greater than .62 for gas;
3. Maximum 2.5 gallon/minute showerheads and maximum 1.5 gallon/minute faucet aerators; and
4. Installation of ceiling fans in living room and each sleeping room.

Accessibility Requirements: The housing must meet the accessibility requirements stated in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Applicable multifamily units must meet the design and construction requirements at 24 CFR 100.204, which implement the Fair Housing Act (42 U.S.C. 2601-3619).

1. New construction projects for rental housing will comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C. This includes that for all new development, a minimum of five percent of the total dwelling units or at least one unit, whichever is greater, shall be made accessible for individuals with mobility impairments.
2. A unit that is on an accessible route and is adaptable and otherwise compliant with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS) shall be deemed to meet this requirement.
3. An additional two percent of the total dwelling Units, or at least one Unit, whichever is greater, shall be accessible for individuals with hearing or vision impairments.
4. In projects where some units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20 percent of each unit type (i.e. one bedroom, two-bedroom, three bedroom) must provide an accessible entry level in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level.

All units proposed for rehabilitation or new construction require the installation of Broadband infrastructure. Additionally, the County will confirm that the housing is constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.

At application and prior to issuance of Written Commitment, County staff will ensure that the scope of work proposed is sufficient to demonstrate compliance with Property Standards. In addition, the scope of work must in in such form that County staff are able to conduct progress inspections as well as inspections upon completion. County staff will ensure a completion inspection occurs prior to final draw and completion in IDIS to ensure properties rehabilitated or constructed with HOME dollars meet the property standards established in 24 CFR Part 92.251.

Initial Occupancy and Leasing of Rental Properties

This section provides the steps to ensure that HOME-assisted units in a rental project are occupied by income eligible households at rents that meet the program requirements.

County staff will conduct a meeting with the owner's representative or property manager to review the HOME program requirements, specifically:

- The requirements for income verification and certification of households;
- The initial rent schedule;
- The applicable utility allowance schedule;

- The provision of initial Rental Occupancy Report;
- Requirements for property standards;
- Property management plan;
- Tenant screening and selection procedures;
- Property maintenance requirements under the Lead Safe Housing Rule in pre-1978 properties;
- Affirmative marketing plan; and
- Lease requirements.

An initial Owner Rental Occupancy Reporting Form must be completed by the owner's representative or property management agent and submitted to the County once all HOME-assisted units have initially leased up in the project. County staff will enter all required data from the initial Rental Occupancy Report into the IDIS, which will provide all necessary and final data to move subject HOME-assisted project from "final draw" status to "completed" status.

Projects cannot be in final draw status beyond 120 days. If projects are completed and in final draw status, but are not yet leased, the County will mark the activity complete, and identify the vacant units. As units are filled, County staff will reopen the activity, enter the beneficiary information and re-complete the activity using the initial project completion date. IDIS Rental Project Completion form should be retained in the original project closing file, along with the initial Rental Occupancy Report.

Income Verification

The County requires property owners/managers to use the Part 5 Income definition found at 24 CFR Part 5.609 (also referred to as the Section 8 definition) to determine applicant income eligibility. Eligibility is based on anticipated income during the next 12 months. A detailed explanation of the Annual (Gross) Income definition can also be found in the "Technical Guide for Determining Income and Allowances for the HOME Program". HUD's income calculator is a useful tool to help determine a household's income. The income calculator may be accessed at https://www.hudexchange.info/incomecalculator/
The HOME Program allows grantees to use two forms of verification for the Annual (Gross) Income basis of determining income eligibility. These forms are third party verification and review of source documents.

Third Party Verification

Third Party Verification is the preferred method of verification in most instances, because a review of documents often does not provide needed information. For example, an employed applicant's pay stubs may not provide sufficient information about the average number of hours worked, overtime, tips, bonuses and anticipated raises. Under third party verification, a third party (e.g. employer, Social Security Administration, or public assistance agency) is contacted to provide information. Written requests and responses are preferred. However, to clarify or complete missing information on a written response, conversations with a third party are acceptable if documented through a memorandum to the file that documents the contact person, information conveyed and date of call.

To conduct third party verifications, the property manager must obtain a written release from the household that authorizes the third party to release required information. Some third-party providers may, however, be unwilling, unable, or charge a fee to provide the needed information in a timely manner. In such cases, the property owner should attempt to find suitable source documentation without the third-party verification – for example, bank statements.

Review of Documents

Source documents provided by the applicant may be more appropriate for certain types of income such as persons that are self-employed, and can be used as an alternative to the third-party verification method. A minimum of two months of source documents, such as wage statements, interest statements, unemployment compensation statements and income tax returns, etc. should be reviewed to determine annual (gross) income.

Calculating Annual (Gross) Income

The Part 5 definition of annual income "inclusions" – types of income to be counted and "exclusions" – types of income that are not considered (income of minors, etc.) comes directly from 24 CFR PART 5.609.

Timing of Income Determinations

Income determinations must be completed before HOME assistance is provided and any loan or grant agreement executed. Income eligibility is good for six months from the initial determination. Income re-evaluation should occur annually thereafter, and a full re-certification including collection of source documents is required every sixth year during the period of affordability.

Each file should include the following:

- ❑ Marketing procedures reflecting affirmative marketing, equal opportunity, fair housing and accessibility ❑ Marketing materials reflecting fair housing and equal opportunity
- ❑ Tenant selection policies
- ❑ Tenant applications (all must be on file at property office)
- ❑ Documentation of notification of possible lead-based paint hazards
- ❑ Procedures for income documentation
- ❑ Income documentation (may be on file at property office)
- ❑ Leases with correct rents; no prohibited clauses (sample at County, actual on file at property office)
- ❑ Project compliance report showing unit designations, rents and occupancy by qualified tenants ❑ Inspection forms showing compliance with applicable housing standard and lead ❑ Correspondence with owner
- ❑ Repair records (at property office; showing Lead Based Paint clearance, as applicable)
- ❑ Records of funds repayments
- ❑ Project audits (if applicable for use of operating reserves, or to support repayments of funds)

Ongoing Occupancy and Long-Term Compliance

In order to manage long-term compliance with the HOME rules, the County will include its rental portfolio in its monitoring plan and risk assessment. This section focuses on ongoing occupancy and long-term compliance for HOME funded Rental Projects. Steps in the monitoring process:

- Reviewing monitoring plans and goals;
- Conducting a risk assessment;
- Deciding which properties to monitor;
- Complete a desk review;
- Complete an onsite review;
- Assigning Properties to Monitoring Staff and Creating Monitoring Files;
- Obtaining Data from Project Owners;
- Review of Fair Housing and Affirmative Marketing Requirements; and
- Preparing the monitoring report.

The County will develop a list of all HOME funded rental projects to be monitored during the year. The schedule should be based on the County's portfolio and the routine physical inspections (which are required within 12 months of completion, and then once every three years during the period of affordability). All new construction projects must be monitored for at least twenty (20) years, but rehabilitation projects and projects that involve acquisition of existing housing are monitored up to twenty (20) years based on specific affordability controls for individual projects. The compliance period begins with the date of project completion, as defined in Part 92.2.

Project owners must be informed of their reporting responsibilities with respect to rents and occupancy. Staff should instruct the project owners on what their on-going responsibilities are for the HOME Program. Instructions and/or agreements must include an explanation of High and Low HOME Rents, utility allowances, and income eligibility. Staff will instruct project owners on how to calculate and properly document eligibility and meet property standards.

Each monitor should send the project owner the following documents:

- Introductory Monitoring Letter for HOME Project Owners,
- Occupancy and Rent Reporting Form and Certification, and
- Sample forms for HOME rents and income limits.

Monitoring includes two components: desk reviews and field reviews (on-site). All projects in the monitoring workload must be reviewed annually as part of a desk review and on-site at least once every three years during the period of affordability. Property owners/management companies must submit all fiscal, income documentation and inspection records annually for all HOME-assisted units during the period of affordability. The County's risk assessment will also determine which projects should be monitored more frequently.

Desk Review

A desk review involves analyzing all available information on a rental project at a given point in time to determine whether the project is in compliance with the HOME requirements. It typically occurs at the County's offices and includes a review of the owner's written tenant selection policy, leases signed by tenants, rents being charged to tenants, income of tenants, occupancy of units, etc. County staff will conduct the following:

- Analysis of the rents being charged to determine if the rents meet the project's HOME affordability standards;
- Determination that tenants' household incomes have been verified and/or re-verified properly;
- Analysis to determine that the households' incomes meet the HOME income eligibility rules;
- Analysis to determine if the correct number of HOME units exist and, if applicable, the number and location of fixed and floating units are correct;
- Analysis to determine that units are occupied by households at the correct income levels (i.e., number of High and Low HOME Rents is correct);
- Analysis to determine the Utility Allowance was calculated appropriately and that rent was adjusted accordingly;
- A review of an executed lease to determine whether appropriate clauses are incorporated and inappropriate ones excluded.
- Balance sheet for property showing revenue, expenses, including payments to debt and reserves, net profit and loss for the most recent 12 months, and 3-month accounting period; and
- Current balances for operating account, operating reserve account, and capital reserves.

The County will also review the Property's Tenant Selection and Marketing procedures to ensure income criteria are established, ensure they describe how income will be calculated, ensure they provide for selection in chronological order, ensure they mandate prompt written notification to rejected applicants indicating the grounds for rejection. The County will also review a sample lease to ensure none of the prohibited lease terms are included and that the lease includes required VAWA provisions.

The Occupancy and Rent Reporting Form and Certification provide a snapshot of a project's overall compliance with rent restrictions and income occupancy requirements. The monitor should complete the review of rents and occupancy within 45 days of the date the report is submitted. County staff will review the following:

- The total number of HOME-assisted units;
- The number of units with Low HOME Rents that are occupied by household with income 50% or less of median income for the household size;
- The total number of units with High HOME Rents;
- Tenant income documentation and verification; and
- The owner's verification of income.

For those projects that are not 100% HOME-assisted, the monitor will ascertain whether or not the property has "fixed" or "floating" HOME unit designations and determine that the appropriate number of HOME units is maintained as such.

- If the HOME units are fixed, the monitor will verify that unit designation in the Occupancy and Rent Reporting Form and Certification is consistent with the County's written agreement with the Project Owner. This is done by comparing the HOME-assisted units listed on the Occupancy and Rent Reporting Form and Certification to the units designated in the written agreement. If they are the same, then the designated units must meet the rent and income requirements of the HOME program. If they are not the same then the monitor must determine why and ascertain if other units in the property have been substituted for the originally designated units, whether this substitution has been approved by the County, and whether the substitute units meet the HOME program requirements.
- If the units are "floating," the monitor will assess whether or not the rental project manager has maintained the required number of units (in various sizes, if applicable) in compliance with the HOME program requirements.

Monitors should review the "date of income review" column to confirm that the incomes of tenants in HOME units have been verified (or re-verified) within the past 12-months. NOTE: The HOME program requires owners to re-verify tenant [24] household income annually with a full recertification (including source documentation) every sixth year during the affordability period.

For any project with five or more HOME-assisted units, at least 20% of the units must have Low HOME Rents and be occupied by very-low income (VLI) households with incomes 50% or less of median, adjusted for household size. Written agreements may require a higher number and therefore monitors should confirm the number of Low HOME Rent units for a specific project by reviewing the written agreement. The monitor should compare the contract rent plus utility allowance certified by the owner/manager for the VLI units with the published Low HOME Rents adjusted for the tenant paid utilities.

For projects with five or more HOME-assisted units, project owners must use affirmative marketing methods to market their HOME rental units to applicants in the housing market who are not likely to apply for the housing without special outreach. The monitor will review the affirmative marketing plan alongside the marketing efforts to ensure the project owner is compliant.

On-site Review

The monitor will contact the property owner and send a confirmation letter or notice at least 30 days prior to the review to schedule a visit. The call and letter/notice will explain the monitoring process and indicate who should be available, what files will be reviewed, and what access to the building and units will be needed. The monitor will explain that the on-site review includes an inspection of the common spaces and individual units and discuss what the owner/manager needs to do to make sure tenants are informed of and provide access to their units for the inspection. If the most recent Occupancy and Rent Reporting Form and Certification has not been sent, remind the owner that it must be provided. A copy of the confirmation letter should be placed in the project's monitoring file. Staff may conduct any of the reviews identified above in the Desk Review on site. In addition, staff shall conduct a physical inspection to ensure the property meets all local codes and standards, or if none exist, the Uniform Physical Conditions Standards (UPCS). The inspection should cover the HOME assisted units, common areas, and building exterior. In large projects, a sample of 15% - 20% of the units is acceptable.

County staff should include a visual assessment of painted surfaces in their inspection of the property. If potential lead-based paint hazards are observed these must be noted in the monitoring report. In addition to the visual assessment, the monitor should take the following actions to ensure that owners have taken appropriate actions to mitigate potential lead-based paint hazards.

Projects will be inspected regularly based on HOME program requirements and the County's policies and procedures for HOME funded projects. At a minimum, projects will be inspected (onsite) as follows:

Frequency of On-Site Property Inspections During the Affordability Period	
Number of Units	**Inspection Required**
1-4 units	Every 3 years
5-25 units	Every 2 years
26 or more units	Annually

Preparing the Monitoring Report

County staff shall discuss any findings/observations with the property owner prior to issuing a formal report. The report should include a summary of the process, a summary of findings, corrective actions, and a date by which the corrective action must be completed. County staff shall follow up with the property owner within 30 days of the visit, as well as every 30 days until any corrective actions have been completed.

Requirements for Homebuyer Development Projects

The County may provide HOME funds to developers and not-for-profit organizations (including Community Housing Development Organizations) to undertake for-sale housing developments. Additionally, the County may allocate funds for a first-time homebuyer program which allows a buyer to select a home and seek assistance with the purchase to enable the buyer to obtain an affordable primary home loan.

In a for-sale development program, a developer (for profit, CHDO or not-for-profit) acquires existing housing or purchases land to construct one or more homes, and seeks financial assistance from the County to undertake construction or rehabilitation for subsequent resale of the unit(s) to income eligible buyer(s). This Section will provide guidance on project development, forms of ownership and ongoing compliance factors. The County's guidelines for underwriting down payment assistance are included in Section B of this document.

Each program file should contain the following:

- ☐ Marketing procedures reflecting affirmative marketing, equal opportunity, fair housing and accessibility
- ☐ Marketing materials reflecting fair housing and equal opportunity
- ☐ Developer application
- ☐ Layering and Underwriting
- ☐ Homebuyer application
- ☐ Homebuyer income documentation
- ☐ HOME Agreement with buyer for primary residence and affordability
- ☐ Inspection forms showing compliance with applicable housing standard and lead
- ☐ Records of Closing - HUD-1, Mortgage and Note and/or Deed Covenant
- ☐ Homebuyer Set Up and Completion Form

Eligible Costs

Acquisition Costs:

- Includes costs of acquiring improved or unimproved real property
- Acquisition of vacant land or demolition can only be undertaken for particular housing projects intended to provide affordable housing and where construction is expected to start within 12 months of acquisition.
- Costs to make utility connections to an adjacent street or to make improvements to project site, in accordance with the provisions of 92.206(a)(3)(ii) and (iii) are also eligible in connection with acquisition of standard housing.
- If HOME funds are used for acquisition, an independent and current (conducted within one year of the proposed acquisition date) property appraisal is required to support the proposed acquisition cost.

Development Hard Costs includes the actual costs of constructing or rehabilitating housing. New construction and rehabilitation project costs must meet the local jurisdiction's construction standards. In the absence of local standards, ongoing property standards to be inspected and maintained should meet HUD's Uniform Physical Conditions Standards, in accordance with 24 CFR Part 92.251.

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

- Architectural Services;
- Engineering Services;
- Preparation of plans, drawings, specifications, or work write-ups;

- Costs to process and settle the financing for a project;
- Private lender origination fees;
- Credit reports;
- Fees for title evidence;
- Fees for recordation;
- Filing of legal documents;
- Building permits;
- Attorney fees;
- Private appraisal fees;
- Fees for an independent cost estimate; 26
- Builders or developers' fees;
- Costs of a project audit;
- Affirmative marketing and fair housing to prospective homeowners

County staff will review each application and identify and verify eligible project costs to be financed with HOME funds. Any costs proposed in the application that are not eligible under HOME must be covered by another source.

The file must contain a statement that all costs were reviewed and are reasonable and customary for this project (subsidy layering analysis). There also needs to be a statement that the amount of HOME funds committed to the project is the amount needed to keep the units affordable.

Relocation Costs: If occupants must be temporarily or permanently displaced from their living unit, the owner is responsible for relocation costs. These costs are eligible as part of the project financing. Permanent relocation may be subject to the Uniform Relocation Act and require specific notifications and relocation payments.

Eligible Properties

Eligible properties under the HOME program are limited to single-family and multi-family homes that will serve as the prospective homebuyer's primary residence. Multi-family homes are limited to 4 units or less. Housing styles may include attached (row homes), semi-detached (duplexes), detached single-family homes, condominiums, or manufactured homes.

Eligible properties must have a sales price that is not greater than the HUD Purchase Price Limits established for the County of Beaver. Sales price limits are published annually by HUD and are calculated to be 95% of the median purchase price for both existing and new housing. For houses that are purchased by a developer and rehabilitated and resold, 95% of the purchase price for existing housing will be the applicable sales price limit. For new construction housing sold to income qualified buyers, 95% of the sales price for new housing shall be applicable.

A property to be developed or redeveloped for sale to homebuyers must meet basic site characteristics that provide a safe and decent environment for the buyer. The subject property must be reviewed by the County to determine that the environment around the property is safe and for development projects, that the market exists in that neighborhood to support the resale of the unit. A full market analysis, project underwriting, subsidy layering and buyer underwriting review will be conducted in accordance with the County's Subsidy Layering and Underwriting Policy, described in Section B.

Target Neighborhoods

At this time the County has not targeted specific neighborhoods for participation in homebuyer programs. However, the County will consider the market analysis and comparables provided by the developer in accordance with the County's Project Underwriting and Subsidy Layering Policy when determining if sufficient demand and need for homeownership housing exists in a proposed neighborhood.

Property Standards

All housing will meet local housing code requirements.

1. Acquisition: (As in the case of a First-time Homebuyer program) If no rehabilitation or construction is planned, the housing acquired must meet state and local housing quality standards and code requirements and HUD's Uniform Physical Conditions Standards as required by 24 CFR Part 92.251. All units must be free from defective or peeling paint that could be indicative of the presence of a lead-based paint hazard.
2. Rehabilitation: Housing that is being rehabilitated must meet rehabilitation standards and ordinances. All units will be rehabilitated in a manner consistent with the lead-based paint regulations. A certification must be made that major systems have a useable remaining life span of a minimum of five (5) years.
3. New Construction: Housing that is being constructed with HOME funds must meet all applicable state and local codes, new construction standards and ordinances. For new construction, the property must also meet the Model Energy code.
4. Accessibility Requirements: The housing must meet the accessibility requirements stated in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Applicable multifamily units must meet the design and construction requirements at 24 CFR 100.204, which implement the Fair Housing Act (42 U.S.C. 2601-3619).
    a. A Unit that is on an accessible route and is adaptable and otherwise compliant with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS) shall be deemed to meet this requirement.
    b. In projects wherein, some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20 percent of each Unit type (i.e. one bedroom, two-bedroom, three bedroom) must provide an accessible entry level in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level.

Lead Safe Housing Rule

HOME projects must be in compliance with the Lead Safe Housing Rule. This rule applies to all housing built prior to 1978. First-Time homebuyer units are subject to a visual inspection to observe any defective or peeling paint. Rehabilitation of units may require lead-based paint abatement or lead-hazard controls depending on the amount of funds expended for rehabilitation.

Affordability Period

County staff will review the amount of HOME Program assistance for each unit provided to the developer to determine the affordability period. The period of affordability must be secured with either a deed restriction or mortgage and Note based on the following:

If the total HOME investment (resale) in the unit is:	The period of affordability is:
Under $15,000	5 years
Between $15,000 and $40,000	10 years
Over $40,000	15 years

Direct HOME subsidy is defined as the amount of HOME assistance, including any program income, which enabled the homebuyer to buy the unit. The direct subsidy includes down payment, closing costs, interest subsidies, or other HOME assistance provided directly to the homebuyer.

If direct subsidy is given to a homebuyer HOME funds shall be subject to Recapture. If no direct subsidy is given to a homebuyer the purchase shall be subject to Resale.

Resale

The Resale Provision restricts the homebuyer's ability to resell. If a homebuyer sells the home before the HOME affordability period has expired, the owner must resell the home to a low-income buyer whose household income does not exceed 80% of area median income.

Federal regulations for the HOME Program specify certain requirements for resale. The affordability period is based on total HOME investment in the property. The housing unit must be the principal residence of the household throughout the affordability period. To ensure affordability, the County has imposed the recapture mechanism to keep the house affordable to low-income homebuyers when the recipient decides to sell the house within the affordability period or no longer resides in the home as their principal residence. The following is exercised: (1) the homebuyer may sell the property to a willing buyer that meets HUD's low-income eligibility; (2) the seller must receive a "fair return" on original investment plus improvements. A restrictive covenant will be placed on the property and recorded with the Beaver County Recorder to assure the home remains affordable.

Recapture

The amount of subsidy to recapture is limited to the direct homebuyer assistance that was provided. If a homebuyer sells the home before the HOME affordability period has expired, the owner must repay HOME funds in accordance with the County's program guidelines as follows:

Federal regulations for the HOME Program specify certain requirements for recapture provisions when HOME funds are used to assist with homeownership purchase. The housing unit must be the principal residence of the household throughout the affordability period. To ensure affordability, the County has imposed the recapture mechanism to collect all of the direct HOME funds when the recipient decides to sell the house within the affordability period or no longer resides in the home as their principal residence. The following is exercised: (1) the homebuyer may sell the property to any willing buyer; (2) the sale of the property during the affordability period triggers repayment of the direct HOME funds that the buyer received when he/she originally purchased the home.

The County has chosen to recapture a portion of the net proceeds should the property sell during the period of affordability. Net proceeds are defined as the sales price minus superior loan repayment (other than HOME funds) and any closing costs. Under no circumstances with the County recapture more than is available from the net proceeds of the sale.

The County will not utilize recapture provisions when a project receives only a development subsidy and is sold at fair market value, because there is no direct HOME subsidy to recapture from the homebuyer.

The form of recapture to be used by the County shall be "a sharing of net proceeds". Sharing of net proceeds is defined as the sales price of the property LESS the outstanding mortgage debt owed to the primary lender LESS the homeowner's contribution of the initial down payment. Net proceeds will be shared between the County and the homeowner based on an annual pro-rata share during the term of affordability if the title of the property is changed before the period of affordability.

For example, if the property were to sell in year 1 of the affordability period, and the affordability period was 5 years, then the County would receive 100% of the net proceeds and the homeowner would receive none of the net proceeds. If the property were sold in year 2, the County would receive 80% and homeowner would receive 20%. If the property were sold in year 3, the County would receive 60% and homeowner would receive 40%. If the property were sold in year 4, the County would receive 40% and homeowner would receive 60%. If the property were sold in year 5, the County would receive 20% and homeowner would receive 80%. After the year 5 there would be no sharing of net proceeds. The homeowner would keep 100% of the sale proceeds.

In the event of the property changing title due to foreclosure, the County will not share any net proceeds from the sale. The County will retain any remaining net proceeds following payment of the first mortgage. The County shall have the right of first refusal to buy out the first mortgage from the primary lender in the event of foreclosure.

A lien will be placed on the property and recorded with the County Recorder to assure the Homebuyer Program deferred loan is repaid in the event of a default under the loan terms and conditions during the loan's affordability period. Full repayment of the HOME funds is required when a resale occurs during the affordability period or the homeowner no longer occupies the home as their principal residence. However, if there are no net proceeds or insufficient proceeds to recapture the full amount of HOME funds invested, the amount subject to recapture will be limited to what is available from net proceeds (net proceeds are the sales price minus superior loan repayments and any closing costs).

Once the HOME funds are repaid, the property is no longer subject to any HOME restrictions. Recaptured funds must be used to carry out HOME eligible activities in accordance with the HOME guidelines and are not considered proceeds.

These recapture provisions will be incorporated into all written agreements, as well as notes and mortgages, between Beaver County and borrowers. Recapture provisions must be enforced through deed restrictions, covenants running with the land, or similar legal mechanisms.

Buyer Qualification/Income Limits

The County will be responsible for verifying the eligibility of purchasers of HOME assisted units. Developers and CHDOs shall submit applications for buyers of any HOME-assisted property to the County for final determination of eligibility.

Income intake and verification will follow the procedures for Part 5 as outlined in the *Technical Guide for Determining Income and Allowances for HOME Program.* County staff will also use the HUD CPD Income Calculator to calculate household income. Households with annual income from all sources that is less than 80 percent of the median income for the Pittsburgh, PA HUD Metro Area will be eligible to participate in this program. The applicant file must be supported with two months' worth of source documents such as pay stubs, benefit statements, unemployment benefits, etc. Applicants must be qualified within six (6) months of loan closing.

Subsidy Limits

The minimum level of HOME assistance per unit is $1,000. The maximum level of assistance for development is dictated by the bedroom size of units. The HOME guidelines allow the maximum subsidy to be 240% of the Section 234 Condo Elevator rate. These limits are published annually by HUD.

The loan for each home buyer will analyzed per the guidance in the Underwriting and Layering Procedures Policy outlined in this document. This policy outlines the front and back end ratios and loan terms to demonstrate that the loan is affordable for the household and not usurious. The amount of direct assistance will be based on the buyer's need, and not a prescribed amount.

Form of Ownership

All sales to buyers shall be fee-simple, arms-length transactions. The buyer will receive title to the land and improvements thereon. Other eligible forms of ownership include:

- 99-year leasehold interest
- Condominium ownership
- Ownership or membership in a cooperative or mutual housing project that constitutes homeownership under state law

Principal Residence

The buyer must purchase the home as the principal residence. During the period of affordability, the home may not be converted to rental nor subleased. A deed restriction and/or mortgage and Note will be used to ensure compliance with this requirement. Additionally, the County will require a copy of the owners signed taxed return to insure no rental income is being earned on the property.

In addition, homebuyers must sign a participation agreement with the County for the use of HOME funds stating that the home will be the principal residence during the entire HOME period of affordability and outlining the resale restrictions. If the County determines that the buyer no longer uses the property as its primary residence, the County will recapture the HOME investment in accordance with its Recapture Policy.

Marketing

All properties and programs are to be marketed openly and fairly among the eligible population of potential buyers. As part of the project's HOME agreement, the County will require that the developer of each HOME assisted project provide an Affirmative Marketing Plan that complies with 24 CFR Part 92.351. County representatives must monitor how selected buyers learned about the property to avoid special favoritism by the developer. Developers must maintain list of applicants whether successful purchasers or not, with race, ethnicity and income to the extent known. Developers should provide evidence during application and underwriting to demonstrate that the units can reasonably be sold within nine months, including a marketing plan and eligible pool of buyers from which the developer may choose. Spec-builds/rehabs are not prohibited, but a developer must demonstrate a sufficient market for the product to be developed, as well as efforts to sell within the time frame required.

Ongoing Occupancy and Compliance

County staff will input all necessary and final data to move subject HOME-assisted project from "final draw" status to "completed" status in the IDIS. Information required for this completion will be collected on any application for assistance completed by project beneficiaries. Note: Projects cannot be in final draw stage beyond 120 days.

In addition to ensuring the recapture provisions remain in place throughout the affordability period, County staff are responsible for annual monitoring to assure that properties continue to be occupied as the principle residence by the program beneficiary during the period of affordability. This is done through the collection of insurance information, examination of tax sale notices, and examination of rental property registration records as applicable.

Each file should contain the following:

- ❑ Applications and income verification of each homebuyer
- ❑ Lenders' mortgage loan offer
- ❑ Evidence of Housing Counseling completion
- ❑ Loan underwriting and layering for each homebuyer
- ❑ Mortgage, closing, and/or deed restriction documents for each property
- ❑ Homeowner agreement to principal residence and HOME funding restrictions ❑ Detail of funding and reconciliation at closing.
- ❑ Homebuyer Set Up and Completion Form

Written Agreement

Prior to the commitment of any HOME funds to a HOME eligible project, a written, dated and fully executed HOME agreement must be completed for each project. Written agreements are enforcement and performance documents, and as such their terms are not subject to negotiation. The HOME agreements must meet the HOME program regulations at 24 CFR Part 92.504(c). Agreements shall specify performance benchmarks and remedies for breach, including suspension or termination if the applicant materially fails to comply with the terms and conditions of the agreement. Written agreements establish a contract between the County and the developer and therefore enables the County to commit funds in IDIS for a specific activity. The written agreement must be completed and fully executed prior to the commitment of funds in IDIS. HOME funds cannot be committed in IDIS via a commitment letter, agreement in concept or any other document used to convey an interest in a project.

The agreement must remain in effect during any period that the Subrecipient, owner, developer, sponsor or CHDO is implementing a project in which HOME funds are being invested. HOME agreements must meet all requirements included in the HOME Final Rule effective July 2013, and any amendments thereto. They must include items such as sources and uses of all funds for the project, specific project benchmarks and dates for project completion and evidence that the units can be occupied by HOME eligible households, comply with all HOME expenditure requirements, comply with all applicable federal regulations found at 24 CFR 92.504, provide for specific cure terms and courses of action should a project not meet the agreed upon project benchmarks and incorporate the project's HOME subsidy layering analysis as applicable.

Prior to executing this agreement, the County should meet with the developer to review the project, reinforce any Federal requirements, and start drawing up the loan and closing documents.

Since HOME funds may be used for acquisition of property, the County may use the written agreement to secure funds prior to a closing. Upon receipt of all required documents for an acquisition activity, the County will execute a loan agreement, which will enable the disbursement of funds on the closing date.

The County will not disburse any HOME funds to any entity until fully executed, written loan documents are in place and the award recipient has met any pre-conditions designed to meet, federal, state or local requirements. All loan documents will be used to provide a mechanism to secure assets funded with HOME Program funds and will specify such securitization including but not limited to mortgage, mortgage note, deed restriction and if necessary additional credit enhancements.

All housing projects must be completed, as defined at Part 92.2, within four years of the written commitment date, also defined in Part 92.2. The County reserves the right to impose a more restrictive timeframe on a developer to ensure that funds are expended within the legislated timeframe. Any project that is not completed in a timely manner may be terminated by the County and the applicant will be required to repay any HOME funds drawn.

Further, for rental projects, written agreements must specify that HOME assisted rental units must be occupied by income eligible households within 18 months of the completion of the project (but within the four-year time frame stated above); if not, the sponsor must repay HOME funds for the vacant units. For homebuyer units, the written agreement must state that the Developer must have a sales closing for all units within 9 months of construction completion, or convert it to a HOME rental unit or repay the full HOME investment. The Written Agreement will also establish whether proceeds may be retained by the developer for use in HOME-eligible or other affordable housing activities or if they are to be returned to the County upon completion of the project.

The County will review each written agreement execution prior to setting up activities in IDIS. Only once the Written Agreement is reviewed and executed can the project be set up and funded in IDIS.

Construction Management

There are several critical elements to this phase to assure that the project maintains compliance with regulations:

- Procurement;
- Hold pre-construction conference;
- Issue Order to Proceed;
- Conduct on-site inspections;
- Construction oversight;
- Approve change orders;
- Processing construction draws;
- Final inspection and closeout;
- Complete close-out checklist

Project files should include:

- ☐ Bid summary and documentation of procurement process
- ☐ Certification of cost reasonableness and basis for determination
- ☐ Construction Contract
- ☐ Pre-construction Conference Checklist
- ☐ Order to Proceed documents
- ☐ Davis-Bacon and labor standards monitoring review
- ☐ Payment requests with supporting documentation
- ☐ Inspection reports
- ☐ Reimbursement authorizations
- ☐ Change Orders
- ☐ Rehab Useful Life Major Systems Inspection/Documentation
- ☐ Warranties on the property and evidence they were provided to the buyer

Procurement

Developers may bring their own development team to the table and are not subject to competitive bidding requirements. To ensure cost reasonableness, County staff will review the contracts provided by developers that are not subject to bidding.

Pre-Construction Conference

Before construction starts, the County will conduct a pre-construction conference at a designated site and will require that all parties involved in the construction attend. This meeting should not be scheduled until after the preparation and delivery of any relocation notices, if applicable.

A pre-construction conference should accomplish the following objectives:

- Communicate the goals of the project to all team members to assure that everyone is clear on his or her role and responsibilities to the project.
- Identify deadlines and critical phases of the project.
- Review the overall schedule and work plan.

- Explain basic operating procedures, including reports, meetings and other ongoing communications required between the members of the construction team.
- Review Davis-Bacon Prevailing Federal Wage requirements or state wage requirements, if they apply. Federal wage rates apply when more than 11 units are HOME assisted. When wage rates apply, advise the principal contractor and all subcontractors in writing of their responsibilities and obligations regarding labor standards and wage determinations.
- When federal rates are applicable, provide contractors and subcontractors with form WH-347 "Weekly Payroll Submission." Staff will supply the contractor with on-site posters, including Wage Determination sheets, Wage and Hour Notice, and Equal Employment Opportunity, along with instructions to visibly display on the job site at all times.
- When State rates apply, state wage forms and posters will be provided.
- Review Lead Safe Housing Rule requirements (if they apply) for rehabilitation of existing pre-1978 housing units, including receipt of lead hazard risk assessment, qualifications of contractors who will carry out any construction activity, copies of notifications provided to occupants of general information pertaining to lead-based paint hazards in older housing, and notification of lead hazard evaluation. The developer will provide a copy of a lead abatement plan filed with State.
- Review the procedures to be used for:
- Inspections;
- Payment requests;
- Lien releases;
- Change orders;
- Local agency monitoring requirements;
- Resolving grievances; and
- Project close-out.
- Review the construction contract signed by the contractor and owner, developer, or sponsor.
- Confirm that all subcontractors' names, addresses, and phone numbers are correctly listed for the files. Review regulations with subcontractors in the following areas:
- For occupied structures;
- For handling service shut-offs and restricting access to bathrooms, kitchens, etc. for occupied structures;
- For moving and relocation roles and schedules; and
- For safety and security measures during work.

On-site Inspections

County staff will monitor project construction on-site. The purpose of monitoring is to keep the project team working toward the final deadline within the budget and, in line with the goals of the project. At a minimum, the County will inspect progress on the project each time an invoice is submitted for payment. The inspection should verify that all work for which the developers has submitted request for payment has been completed according to the scope of work and local codes. A written report to document on-site inspection shall include:

- Construction progress reports from the architect (monthly, quarterly or with each payment request) that should document any decisions that have been made in the field, including changes to the scope of the work.
- Construction progress meetings held by the developer with other professionals (e.g. architect, funders, property owner, contractor) to discuss inspections, change orders, and any problems or disputes that have occurred during construction.
- Requiring notification before any work is concealed so that it can be inspected.

- Requirement of notifications prior to a code inspection.

Labor Standards
For projects with 12 or more HOME-assisted units, County staff will review weekly certified payroll reports to ensure that all laborers and mechanics are being paid no less than the wage rates contained on the applicable Davis-Bacon wage decision for the type of work performed. County staff should be particularly alert for indications of payroll falsification – misinformation on payrolls to conceal underpayment. County staff will periodically conduct on-site interviews with construction workers. On-site interview forms are to be compared with submitted contractor and subcontractor certified payrolls to test and verify payroll information.

Construction Oversight
Developers must submit project progress reports to the HOME Project Manager on a monthly basis after the HOME Agreement has been executed whether or not the project is requesting reimbursement payments of HOME funds. Monitoring of the project will be completed monthly during the construction or rehabilitation of the project until a Certificate of Occupancy is issued for the project. In addition, the County will continue to monitor the project on an annual basis during the HOME period of affordability per the HOME program regulations.

The County will make periodic inspections to evaluate construction progress and to ensure timely completion in accordance with approved construction plans and specifications, as approved. Inspections will ensure that all work is being completed on time, within stated quality guidelines, and is in compliance with all County and State codes and Federal program rules.

The County will monitor construction schedule to verify the following elements of ongoing construction progress:

1. Work is progressing as planned;
2. Trade workers scheduled to be on site are working;
3. Resources are available for the project, based on scheduled draws,
4. Due date for absolute project completion is set;
5. Appropriate inspections are done at key points in the process to ensure code and standards compliance;
6. Plans are in place for project close-out at the appropriate time; and,
7. Where necessary, tenant selection and marketing has occurred to ensure a smooth transition from construction to initial occupancy.

The frequency of on-site inspections will be determined on a case by case basis as determined by the Project Manager. At a minimum, the County will inspect the progress with each request for payment from the contractor. If work appears to be progressing behind schedule, the County at its discretion may conduct more frequent inspections.

Cost and expenditures. County staff will track the budget on a regular basis to ensure that the construction work is completed within budget. Project Manager will also alert program manager and/or director to possible cost overruns in a timely fashion so that alternative methods of funding or cost controls (e.g. other funding sources or possible cost savings on construction items) can be developed.

Change Orders
The County will compare change order requests to the current, approved construction plans and specifications. Upon review of these requests, the inspector will prepare a written request to Project Manager for approval of appropriate and necessary changes, or to reject those that are not. In addition, review and approval of all change order requests must be deducted from the contingency or tracked as additional costs to the construction budget, if the contingency has been depleted.
The change order process provides flexibility and allows all parties to respond to the inevitable surprises, unforeseen conditions, and problems that arise. It is also a way to document any alterations to the project's original plans and

specifications. Any proposed revision to the construction plans and specifications must be reviewed and approved through the revision process. Change orders should be submitted by contractors when there is:

1. A change to the project design specifications or drawings;
2. An alteration, addition, or deletion to the scope of work;
3. An addition or change to the timeframe; or
4. A change in the cost (increase or decrease) for any reason.

A change order must be reviewed, approved, and executed by the Project Manager even if the requested change has no cost implication. The County must determine how much overhead and profit to allow for the additional work. Negotiations for change order fees should be completed prior to the start of construction. Each change is a modification to the contract and must be documented and approved by the County and the owner, developer or sponsor and architect.

Completion

County staff will conduct a final inspection upon receipt of a notice of substantial completion from architect or owner's representative. Any outstanding items shall be documented and addressed in the form of a "punch list."

A written punch list that details all items remaining must be compiled. A schedule for completion of the punch list items should be negotiated with the contractor, and a corresponding percentage of the cost, plus retainage, should be held until completion. Punch list items should be inspected when they are complete. Even if the architect signs off, the County will conduct its own inspection to verify that the work is complete and conforms to the required standards. The County will also have building officials conduct inspections. After completion of the inspection and the architect's notice, the County shall see that the owners/developers have obtained the following from the contractors:

- Cost certifications;
- Warranties;
- As-built drawings;
- Operations manuals;
- Guarantees;
- Release of liens; and
- Lead Safe Housing Rule documentation (if applicable), specifically lab results of clearance examinations and notices.

No final payments shall be made by County until all documents are received and lien releases are verified. The County may use a release of liens form developed by the program or a standard AIA form. The County will verify that all items required for project completion have been submitted. Upon verification of receipt of close-out checklist items, the project manager may process the final drawdown request. The final draw down can only be released upon verification of the above, including but not limited to, review and approval of cost certification.

Following lease-up or sale, County staff will enter tenant or buyer beneficiary information into IDIS and complete the activity.

Documents to be included in the file are as follows:

- Properly recorded mortgage;
- Properly recorded note;
- Properly recorded Deed Restriction;
- Abstract for Loan Portfolio;
- Subgrantee/CHDO Agreement;
- Close-out checklists with attachments; and
- Project Operating and Development Budgets (include all iterations).

Fiscal Controls and Oversight

This section focuses the fiscal controls and oversight of the HOME program for compliance with program requirements for commitment and expenditure, fiscal records, CHDO commitments, timeliness, activity setup and completions, cash management and program income, and reconciliation of grant funds.

The County will conduct internal monitoring of the two-year CHDO commitment deadline for individual grants starting with FY 2015 to ensure the County is timely and does not lose funds due to lack of commitments for CHDO projects[2]; internal monitoring of project and cumulative expenditures on grants to meet the five-year expenditure deadline. Other internal controls include separation of duties between the following:

- Individual activity set up in IDIS upon commitment of funds;
- Vouchers and drawdowns
- Cash management for timely disbursement of funds
- Receipt and Use of Program Income prior to Treasury drawdown
- Reconciliation of program funds in IDIS with the County's accounts

Personnel

Beaver County has primary responsibility for the oversight of the HOME program. The County will be responsible for the oversight of grant funds for timeliness of commitment and disbursement requirements.

The County must ensure that the funds allocated to the homebuyer and rental programs are committed in a timely manner. In addition, the County is responsible for drawdowns and receipting program income funds in IDIS, and is responsible for set up and completion of activities in IDIS and processing invoices for payment.

Fiscal Records

Developers receiving HOME funds must keep the following fiscal records per 24 CFR (Part 92.508):

Bookkeeping Journals and Ledgers

Cash receipts journal, cash disbursements journal, expense journal, general journal, and general ledgers must be maintained. Back-up documentation for the journal entries must be kept and properly filed. Documentation must include: invoices, bills and other receipts, deposit slips, bank statements, check stubs, check books, canceled checks, purchase orders, petty cash records and other verification as applicable.

General

Developers using volunteer hours for in-kind match must keep signed time records by the day indicating actual time donated.

The Developer shall maintain a system of internal control in accordance with generally accepted accounting practices. Internal control consists of a plan or procedure to safeguard assets, check the adequacy and reliability of accounting data, promote operating efficiency, and assure adherence to prescribed management policies. Once a project is completed a close-out financial report must be prepared and submitted to the County. All property, documents, data, studies, reports and records purchased or prepared by the Developer under agreement should be disposed of according to the agreement.

In the event the program or project terminates, copies of all records relating to the project or activity that are the subject of the agreement shall be furnished to the County.

Financial reports required to be prepared and submitted by the Developer to the County HOME program shall be accurate and correct in all respects. Should inaccurate reports be submitted to the County HOME program, the County may elect to have the Developer secure the services of a licensed accounting firm. The cost of such accounting services is to be borne by the Developer.

Reimbursement

The County will only reimburse the Developer for expenditures actually incurred. Requests for reimbursement for eligible expenses shall be submitted on a monthly basis. Reimbursement requests received by will, in most cases, be paid no later than the 30 days after the deadline provided that the County documentation has been submitted and approved for payment.

The County HOME staff will review each request for reimbursement submitted by Developer. Questionable or ineligible expenses will be identified and the Developer will be requested to submit clarifications, corrections, or additional information.

Timeliness

Grant-based Accounting (GBA) became effective with the FY 2015 program year. The County will track the commitment of HOME funds by grant and will be responsible for the status of grant commitment.

The Consolidated Appropriations Act of 2019 includes a provision suspending the 24-month commitment requirement for Community Housing Development Organization (CHDO) set-aside funds, as well as continuing the suspension of the 24-month commitment requirement for regular HOME Investment Partnerships Program (HOME) funds. Both deadline requirements are suspended through 2025.

HOME grants further require that all funds are expended by the end of the 5th year of the federal fiscal year the funds were awarded. The County will track the progress of grant expenditures to monitor that funds are being drawn down in a timely manner through the life of the grant.

Cash Management

If for any reason HOME funds drawn down or receipted and drawn in IDIS from Program Income cannot be disbursed within 10 days, the County will return them to its Line of Credit with HUD.

Funds received by the County as either Program Income (PI), returned Homebuyer subsidy (HP), or Returned funds (RE) for ineligible activities will be receipted into IDIS no less than quarterly. In no circumstance shall funds not be receipted prior to an eligible drawdown of funds from the U.S. Treasury. (See HOME Facts, Vol 7, No. 1, 2016)

The County's Finance Department, working with the Department's Financial Specialist, will be responsible for the reconciliation of HOME funds in the County's records with IDIS. Such reconciliation shall be done monthly. No later than 10 days after receipt of the monthly bank statement, the County shall review the following:

- HOME Bank Statement
- HOME Drawdown Sheets
- HOME ledger from Finance office
- HOME Financial summary

Drawdowns on IDIS will be verified on the bank statements to ensure that they were deposited in the proper account. Payment vouchers will be verified on the County's ledger to ensure they were properly processed. IDIS PR 02 will be verified that the balances on each activity are the same as the balances in the County's Finance Office report

IDIS HOME Training Manual for PJs information is available at the following website:

https://www.hudexchange.info/resource/2465/home-idis-training-manual-forpjs/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=b49084e17f-Updated+HOME+IDIS+Training+Manual&utm_medium=email&utm_term=0_f32b935a5f-b49084e17f-18483333

Subrecipient Management/Reporting

The County will examine the financial condition of projects with 10 or more HOME assisted units at least annually, and act where feasible to correct problems that threaten a project's financial viability. Monitoring and reporting requirements for rental and homebuyer projects are described in detail in their respective sections of this document.

Grantee Reporting

FFATA

The Federal Funding Accountability and Transparency Act (FFATA) required a system to allow prime grant award and prime contract recipients to report sub-award activity and executive compensation. The FFATA Subaward Reporting System – FSRS.gov – is the system that allows grant award and contract award recipients to electronically report their sub-award activity. July 2010, "FSRS.gov" launched as the resource for Prime Awardees to report on FFATA-required contract subaward activity and executive compensation October 2010, "FSRS.gov" expanded to incorporate FFATA-required Grant subaward and executive compensation reporting. All subawards over $30,000 must be listed within 60 days of execution of the agreement with the sub awardee.

Annual Reporting

The County will prepare and submit the following reports according to the schedule below:

REPORT	DUE DATE	RESPONSIBLE PARTY
CAPER	September 30 (submitted in IDIS)	Deputy Director
Semi-Annual Labor Standards Report	April 15	Deputy Director
Semi-Annual Labor Standards Report	October15	Deputy Director
Annual Contractors/Subcontractors Report	October 15	Deputy Director

Appendix A: Definitions

The following are common definitions under the HOME Program.

24 CFR (Code of Federal Regulations): Title of Federal Regulations implementing Programs of the U.S. Department of Housing and Urban Development.

Action Plan: The one- year portion of the Consolidated Plan. It includes the COUNTY'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).

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 income definitions for the purpose of determining applicant eligibility:

1. Annual income as defined in 24 CFR 5.609; or
2. Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series long form for individual Federal annual income tax purposes.

The definitions are collectively referred to as annual income and are also used in the Community Development Block Grant (CDBG) Program.

Commitment: Commitment means the participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with a subrecipient, a developer or a contractor to use a specific amount of HOME funds to produce affordable housing, provide down payment assistance; or has met the requirements to commit to a specific local project, as defined below (2) of this definition. (See 92.504(c) for minimum requirements for a written agreement.) An agreement between the participating jurisdiction and a sub-recipient that is controlled by the participating jurisdiction (e.g., an agency whose officials or employees are officials or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment.

Commitment to a Specific 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 COUNTY (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 COUNTY or State recipient, the project must be set up in the Integrated Disbursement and Information System (IDIS) and construction must be reasonably expected to start within 12 months of the set-up date.
2. For projects consisting of the acquisition of standard housing by the COUNTY, the agreement must be a binding contract for the sale of an identifiable property and the property title must be transferred to the COUNTY (or other entity) within six months of the date of the contract.

3. For projects involving the acquisition of standard housing and where the COUNTY 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. Note that the preliminary or conditional "commitment" may be made, but no funds are considered committed under the rules unless the above conditions have been met.

Community Housing Development Organization (CHDO): A private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 CFR 92.2. The HOME Final Rule requires that CHDO's have paid staff with demonstrated capacity appropriate to the CHDO's role (this requirement cannot be met through volunteer, donated staff, shared staff, or board members). The primary difference between CHDO and other nonprofits is the level of low-income resident participation on the Board of Directors. A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs. CHDOs must only carryout CHDO funded activities that meet the following definitions:

Owner of rental housing. A CHDO that is an "owner" of rental housing is defined at §92.300(a)(2). The CHDO is required to own (in fee simple absolute or long-term ground lease) multifamily or single-family housing that is rented to low-income families, in accordance with §92.252. The CHDO must own the HOME project during development and throughout the period of affordability, and is required to oversee all aspects of the development process. At a minimum, the CHDO can own the property and hire a project manager or contract with a development contractor to oversee all aspects of the development. A CHDO is also permitted to acquire housing that is in standard condition (and meets the property standards at §92.251) provided it owns the housing throughout the affordability period. This definition facilitates participation of community-based nonprofit organizations that have the capacity to own and operate affordable rental housing in their communities, but do not have the capacity to develop such housing.

Developer of rental housing. A CHDO that is a "developer" of rental housing is defined at §92.300(a)(3). The CHDO is the owner (in fee simple absolute or long-term ground lease) and developer of the project and must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME funds, selecting contractors, overseeing the progress of work, and determining reasonableness of costs. The CHDO must own the HOME-assisted housing during the development process and throughout the period of affordability.

1. **Sponsor of rental housing.** The HOME program provides two definitions of a "sponsor" of HOME-assisted rental housing:

2. §92.300(a)(4) clarifies the requirement for CHDOs to maintain effective project control when acting as "sponsor" of rental housing. A CHDO "sponsors" rental housing when the property is "owned" or "developed" by:
    a. A subsidiary of the CHDO (in which case the subsidiary, which may be a for-profit or nonprofit organization, must be wholly owned by the CHDO);
    b. A limited partnership (in which the CHDO or its wholly owned subsidiary must be the sole general partner); or
    c. A limited liability company (in which the CHDO or its wholly owned subsidiary must be the sole managing member).

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

4. §92.300 (a)(5) codifies the pre-2013 Rule definition of "sponsor." It states that a CHDO "sponsors" HOME assisted rental housing in situations in which the CHDO owns and develops the housing and agrees to convey [41] the housing to a private nonprofit organization (that does not need to be a CHDO but cannot be created by a governmental entity) at a predetermined time after completion of the project development. Such arrangements typically occur when a CHDO has development expertise and the nonprofit organization has the capacity to own and operate the housing. The CHDO is required to own the property before the development phase of the project and is required to select the nonprofit organization before entering into an agreement with the County that commits HOME funds to the project. The nonprofit organization assumes the CHDO's HOME obligation (including any repayment of loans) for the project. If the property is not transferred to the nonprofit organization, the CHDO sponsor remains liable for the HOME assistance and the HOME project.

Developer of housing for homeownership. For HOME-assisted homebuyer projects, the housing is "developed" by the CHDO if it is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that is owned or will be acquired by the CHDO and rehabilitated for sale to low-income families, in accordance with §92.254. To be the "developer," the CHDO must arrange financing for the project and be in sole charge of construction. As part of its set-aside funds, the CHDO can provide direct down payment assistance to a buyer of the housing it has developed with HOME funds in an amount not to exceed 10 percent of the amount of HOME development funds. In this role, the CHDO is not a subrecipient.

Consolidated Plan: A document written by COUNTY describing the five-year housing needs of the low- and moderate-income residents, outlining strategies to meet the needs and listing all resources available to implement the strategies. This document is required to receive HUD Community Planning and Development funds. It is 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.

Contractors: Any entity paid with HOME, or other Federal funds from Department of Housing and Economic Development in return for specific service (s).

Davis-Bacon Wage Determination: Issued by the US Department of Labor under the Davis-Bacon and related Acts, which determines the prevailing wage rates to be paid on federally funded or assisted construction projects.

Debarment List: Includes information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits.

Developers, owners, and sponsors: Individuals, for profit entities, and nonprofits can participate in the HOME Program as owners, developers, or sponsors of housing. When CHDO's use HOME funds as owners, developers, or sponsors, this use of HOME funds counts towards the 15 percent CHDO set- aside.

Drawdown: The process of requesting and receiving HOME funds. County's draw down of funds from a line of credit established by HUD.

Federal Award: Any Federal funds received by the sub-recipient/contractor from any source during the period of time in which the sub-recipient/contractor is performing the obligations set forth in this contract.

Federal Funds: Any funds from the U.S. Treasury that may consist of, but not limited to, HUD HOME Investment Partnership Funds, HUD Community Development Block Grant (CDBG) funds; and HUD Emergency Shelter Grants (ESG); Housing Opportunities for Persons with AIDS (HOPWA).

Final Rule: The 2013 HOME Final Rule was published in the Federal Register on July 24, 2013. Most provisions became effective on August 23, 2013.

Finding: A deficiency in program performance based on a statutory or regulatory requirement for which sanctions or other corrective actions are authorized. Such sanctions or actions may be subject to HUD.

Grantee: County of Beaver, PA

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

HOME Funds: All appropriations for 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, which holds the County'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.

Income Limits (Moderate, Low, and Very Low): Annually, new guidelines are established by HUD. Sub-recipients will be notified as adjustments are made to guidelines.

Jurisdiction: A State or unit of general Local government.

Match: Match is the County's contribution to the HOME Program the local, non-Federal contribution to the partnership. The HOME program requires a minimum match of 25% of the County HOME allocation on an annual basis from non-federal funds. HUD is also able to reduce or eliminate a County's match requirement on an annual basis. A County's match responsibility is not reduced or waived unless a formal, written determination is provided to the County from HUD. As of 2021, the County has been granted by HUD a 50% HOME Match reduction and therefore is only required to match 12.5% of its HOME allocation. This match reduction is granted on a year by year basis by HUD and may change in future years. If the County's match reduction is changed or eliminated in future years, the County will revise its HOME match policy to comply with HUD and HOME program regulations regarding match liability.

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 County 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 Beaver County, 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 are located, that are under common ownerships, management and financing and are to be assisted with HOME funds under a commitment by the owner, as single undertaking.

Project completion: All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw-down of HOME funds have been disbursed for the project; and the project completion information has been entered in the Integrated Disbursement and Information System (IDIS) established by HUD.

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

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. SRO must be in compliance with the local zoning regulations.

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

Very-Low- Income Families: Households whose incomes do not exceed 50 percent of the median area income for the area, as determined by HUD, with adjustments for smaller and larger families.

Appendix B: Separation of Duties

The following chart provides an overall task and responsibility chart for Beaver County's HOME Program. It outlines various staff responsibilities under the HOME program and is subject to change or be amended from time to time.

	Task		Responsible Staff Member
A. General Administration			
	Conflict of Interest	§92.356	Housing Coordinator
	Developer and Contractor Debarment		Housing Coordinator
	Other Federal Requirements Review		Housing Coordinator
	Environmental Review	24 CFR Part 58	Housing Coordinator
	Labor Standards	§92.354	Deputy Director
	Section 3		Deputy Director
	Handicapped Accessibility Section 504		Housing Coordinator
	Lead- Based Paint	§92.355 24CFR Part 35	Housing Coordinator
	Relocation/Displacement	§92.353	Housing Coordinator
	Procurement/Contractor Selection	§92.354	Housing Coordinator
	Match	§92.218	Housing Coordinator
	Conditional Commitment		Housing Coordinator
B. Rental Projects			
	Review for HOME Program Requirements for Rental Housing Projects		Housing Coordinator

	Eligible Activity	§92.205 (a)	Housing Coordinator
	Forms of Assistance	§92.205 (b)	Housing Coordinator

	Eligible Costs	§92.206	Housing Coordinator
	Subsidy Layering and Underwriting	§92.250 (b)	Housing Coordinator
	Financial Review Maximum HOME Investment (221(d)(3)	§92.250 (a)	Housing Coordinator
	Rental Units-Determining HOME units	§92-252(j)	Housing Coordinator
	Tenant income and Rent Limit Requirements	§92.252(b)	Housing Coordinator
	Determining Period of Affordability	§92.252(e)	Housing Coordinator
	Site and Neighborhood Standards	§92.202 (b)	Housing Coordinator
	Initial Occupancy and Leasing of Rental Projects		Housing Coordinator
	Ongoing Occupancy and Long-Term Compliance		Housing Coordinator
	Review Monitoring Plans and Goals		Housing Coordinator
	Develop List of all HOME-Funded Rental Projects		Housing Coordinator
	Conduct Risk Assessment		Housing Coordinator
	Decide Which Properties to Monitor		Housing Coordinator
	Desk review		Housing Coordinator

	On-Site Review		Housing Coordinator
	Prepare monitoring report		Housing Coordinator
Section 4: Homebuyer Projects			
	Eligible Applicant		Housing Coordinator
	Eligible Property		Housing Coordinator
	Target Neighborhood		Housing Coordinator
	Form of Ownership		Housing Coordinator
	Principal Residence		Housing Coordinator
	Affordability period		Housing Coordinator
	Program Financing		Housing Coordinator
	Subsidy Limit		Housing Coordinator
	Resale Restriction		Housing Coordinator
	Property Standards		Housing Coordinator
	Homebuyer Qualification		Housing Coordinator
Section 5: Execution of Agreements			
	Pre-Contract meeting with Developer		Housing Coordinator
	Develop and execute funding agreement		Housing Coordinator
	Final Financial Review		Housing Coordinator
	Project Loan Closing		Housing Coordinator
	IDIS Set-Up		Financial Manager
	Reporting Subawards in FSRS		Financial Manager
	Canceling an Activity		Financial Manager

Section 6: Managing Construction and Reimbursements		
	Procurement	Housing Coordinator
	Pre-Construction Conference	Housing Coordinator
	Issue Order to Proceed	Housing Coordinator
	Conduct On-Site Inspections	Housing Coordinator
	Monitoring and Construction Oversight	Housing Coordinator
	Construction Draws	Financial Manager
	Labor Compliance	Deputy Director
	Lead Safe Housing Rule	Housing Coordinator
	Section 3	Deputy Director
	Handicap Accessibility	Housing Coordinator
	Changer Orders	Housing Coordinator
	Construction Draws	Financial Manager
	Payment Documents	Housing Coordinator
	Final Inspection and Closeout	Housing Coordinator
	Complete Close-Out Checklist	Housing Coordinator
	Record Beneficiaries in IDIS	Housing Coordinator
Section 7: Fiscal Control and Oversight		
	Personnel	Housing Coordinator
	Timeliness	Financial Manager
	Individual Activity Set-up in IDIS Upon Commitment of Funds	Financial Manager
	Vouchers and Drawdowns	Financial Manager

	Cash Management for Timely Disbursement of Funds	Financial Manager
	Receipt and Use of Program Income Prior to Treasury Drawdown	Financial Manager
	Reconciliation of program funds in IDIS with the County's accounts	Financial Manager
Section 8: Reporting		
	Reporting	Housing Coordinator

Appendix C:

Conflict of Interest

Conflicts Prohibited

Community Development Program

Effective Date: August 31, 2016

Subject: HOME Program Conflict of Interest Provisions

Policy: Conflicts prohibited.

§ 570.611 Conflict of interest.

(a) ***Applicability.***

(1) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.317 and 200.318 shall apply.

(2) In all cases not governed by 2 CFR 200.317 and 200.318, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to § 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to § 570.203, 570.204, 570.455, or 570.703(i)).

(b) ***Conflicts prohibited.*** The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

(c) ***Persons covered.*** The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

(d) ***Exceptions.*** Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) ***Threshold requirements.*** HUD will consider an exception only after the recipient has provided the following documentation:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(2) ***Factors to be considered for exceptions.*** In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

[60 FR 56916, Nov. 9, 1995, as amended at 80 FR 75938, Dec. 7, 2015]

Purpose: To assure that conflict of interest requirements as set forth in 24 CFR parts 85.36 and 84.42 and 24 CFR 570.611 are met in all CDBG activities.

Procedure: Community Development will seek assurance from the Human Resources department that any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part are not county employees and have not been employed by the County within the past 12 months.

If the party seeking funds meets the above criteria, but the County does not view the issue as a potential conflict of interest, the Community Development Program may seek exception, in writing, directly from HUD.

Certification of Compliance

HUD-Related Conflict of Interest
(24 CFR 85.36 and 84.42 and 24 CFR 570.611)
Community Development Block Grant (CDBG)

THIS SECTION TO BE COMPLETED BY CDBG OFFICE ONLY:

Project# or Program Name: ____________________

THIS HIGHLIGHTED SECTION BELOW TO BE COMPLETED BY APPLICANT ONLY:

Financial Interest or Benefit from a CDBG Activity (Conflict of Interest)

Persons covered: Any person who is an employee, agent, consultant, officer or elected or appointed official of the County of Beaver.

No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

CERTIFICATION

I have read the conflict of interest provisions indicated and certify that the individual identified below will comply with all provisions and identify instances where conflict of interest or appearance of conflict of interest may exist.

I AM NOT a County employee and have not been employed by the County within the past 12 months. (Check) ________

OR

I AM a County employee and/or have been employed by the County within the past 12 months. (Check) ________

- County Department ____
- Title/Position ____
- Dates of Employment ____

________________________ Signature of Certifying Individual ________________________ Name (typed or printed)

________________________ Date

THIS SECTION TO BE COMPLETED BY BEAVER COUNTY HUMAN RESOURCES ONLY:
I certify that the above information is correct.

____ Authorized Human Resources Representative

____________ Date

Appendix D:

Drug Free Workplace Certification Form

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. **Sites for Work Performance.** The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Countywide

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title

Signature	Date
X	

Appendix E: CHDO Certification Policy & Procedure

Beaver County, PA

HOME CHDO Certification Policies and Procedures Manual
Prepared September 2021

Reviewed December 2023

Community Housing Development Organization (CHDO)

Policies and Procedures Manual

As defined in 24 CFR Part 92.2, as amended by the HOME Final Rule effective August 23, 2013, 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 Beaver County to set aside a minimum 15% of its annual HOME allocation exclusively for qualified, eligible CHDO projects. This set-aside must be committed to a qualified CHDO within 24 months of the County's execution of its grant agreement with HUD[3]. To be eligible for this set-aside, CHDOs must apply to the County and meet specific qualifications outlined in this policy document.

I. REQUIREMENTS FOR CHDO CERTIFICATION

In keeping with the U.S. Department of Housing and Urban Development (HUD), the County follows the following 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 on 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 of its decisions regarding the design, location, development and management of affordable housing projects.

9. **Capacity/Experience**. CHDOs must have experienced key paid staff that has successfully completed projects similar in size, scope, and complexity to those being proposed by the CHDO. The capacity of the paid staff must be evaluated in the context of the CHDO's role (i.e., owner, developer, or sponsor) and the size, scope, and complexity of the proposed project. Paid staff must be directly paid by and directly accountable to the CHDO (CHDO cannot share staff with another agency).

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."

The CHDO must continue to be a CHDO throughout the development of the project and during the affordability period for rental housing projects that it owns. The County will review CHDO status annually during its desk monitoring of the project's ongoing compliance throughout the affordability period.

II. CHDO ORGANIZATIONAL STRUCTURE

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.

During its review of CHDO applications, the County will examine an applicant's Articles of Incorporation and By-Laws to ensure the following four specific requirements related to the CHDO board of directors are met:

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 ways a board member can meet the definition of a low-income representative:

   a. 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

   b. The person is a low-income (below 80% area median income) resident of the community; or

   c. 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.

1. **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 of COC or the Commonwealth of Pennsylvania. 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.

2. **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 each time the CHDO seeks recertification.

3. **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.

III. EXPERIENCE, CAPACITY AND FINANCIAL ACCOUNTABILITY REQUIREMENTS

The County will review each of its CHDO applicants according to the role in which they propose to act to implement their project: Owner, Developer or Sponsor.

Experience and Capacity

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

A statement that documents at least one (1) year of experience serving the community. For newly created organizations, provide a statement that the parent organization (if applicable) has at least one-year experience serving the community.

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 and/or statements of key staff members that describe their experience in successfully completed projects similar to those proposed. The applicant shall also provide three previously completed projects in which the CHDO acted in the role they are proposing.

Requirements

The County may not commit annual HOME funds to a CHDO for development activities unless it has determined that the CHDO has staff with demonstrated development experience. The County 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 (with the exception of consultants engaged during a CHDO's first year of operation).

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.

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. The CHDO may not have shared staff (i.e. staff of another agency that performs functions for both agencies).

HUD Implementations

The County must certify in IDIS each time that it commits funds to a CHDO 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. A certification by the County will be completed each time it commits funds to a CHDO, and will not be a blanket or annual certification. Rather, the County will review each project and make a determination that the CHDO has the experience and capacity to undertake each specific project.

IV. CHDO ROLES

CHDO set-aside funds may be used by CHDOs for those HOME activities where the CHDO acts in the role of the developer, sponsor, and/or owner of the HOME-assisted housing. Roles are further defined by whether the CHDO's activity is rental or homebuyer.

- For rental housing, a CHDO can be the owner, developer, or sponsor of standard, newly built, or rehabilitated housing.
- For homebuyer housing, the only CHDO role is that of developer.

Rental Projects

Owner

A CHDO is considered an owner of a property in fee simple absolute, or has a lease equal to the period of affordability). The CHDO must solely own the rental housing during development and for the period of affordability. When acting only as the owner (i.e., not also acting as its own developer), the CHDO may hire a developer or project manager, but must also demonstrate capacity to oversee the long-term management responsibilities of the project.

Developer

While a CHDO may be sole owner and have another entity act as developer, it can also be the owner and developer of its own project. The CHDO must solely own the housing during development and for at least the period of affordability.

Sponsor

A CHDO acts in the role of sponsor when the rental housing is owned or developed by any of the following:

- A wholly owned nonprofit or for-profit subsidiary of the CHDO;
- A limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or • A limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member.
- For either of the above, the subsidiary acting as the sole general partner or sole managing member may be a for-profit or nonprofit organization and must be wholly owned by the CHDO. If the organizational documents – the partnership agreement for a limited partnership or the operating agreement for a limited liability company – allow the CHDO (or its wholly owned subsidiary) to be removed as sole general partner or sole managing member, the agreement must provide that the removal must be for cause and that the CHDO must be replaced with another CHDO.

A CHDO could also act as a sponsor when it develops a project it solely owns, and agrees to convey ownership to a second nonprofit at some agreed upon time at the completion of development. The following shall apply:

- The private, nonprofit organization may not be created by a governmental entity.

- The HOME funds must be invested in the project that is owned by the CHDO.
- Before commitment of HOME funds, the CHDO sponsor must select the nonprofit organization that will obtain ownership of the property.
- The nonprofit organization assumes the CHDO's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.
- If the housing is not transferred to the nonprofit organization, the CHDO sponsor remains responsible for the HOME assistance and the HOME project.

Homebuyer

Developer

A CHDO creating homebuyer housing may only act in the role of developer, and must demonstrate sufficient capacity to do so. This includes an ability to market and sell the housing it develops within the 9-month timeframe mandated by the HOME Program regulations.

The CHDO may provide direct homeownership assistance (e.g., down payment assistance) without being considered a subrecipient when it sells the housing it has developed with HOME funding to low-income families. If the PJ is disbursing additional funds beyond those already invested in the acquisition and development of the housing, the additional funds can only be taken from the CHDO set-aside if they are not greater than 10 percent of the HOME funds provided toward development expenses. The PJ can still provide additional homebuyer assistance if it is needed, but anything more beyond 10% of what was already disbursed toward development cannot be credited to the CHDO set-aside.

If the CHDO develops the property for an owner pursuant to a written or other agreement, the CHDO is acting in the capacity of a subrecipient. CHDOs receiving funds as subrecipients cannot use the funds from the 15% set-aside for that particular project or service.

V. FINANCIAL ACCOUNTABILITY

CHDOs must have financial accountability standards that conform to the requirements detailed in 2 CFR Part 200. To verify this, the County will collect either a notarized statement by the president or chief financial officer of the organization or a certification and/or audit from a certified public accountant.

VI. CHDO SERVICE AREA

A CHDO should have a clearly defined geographic service area, stipulated in its By-Laws. Simply providing housing to low-income households, including special populations, is not enough. Nonprofits serving special populations must also define the geographic boundaries of their service areas in order to qualify as CHDOs. The County will not require its CHDO(s) to represent a single neighborhood, but its service area must be easily defined and may not include the entire state. A CHDO serving the County and outskirts would be eligible. With its application documents, a CHDO shall provide documentation demonstrating its service area, as well as information on how it is ensuring that it is active and visible in the communities included in its service area.

VII. ELIGIBLE AND INELIGIBLE USES OF HOME CHDO SET-ASIDE FUNDS

Eligible CHDO Set-Aside Activities

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 CHDO set aside funds.

To credit the CHDO set-aside, a CHDO must use its HOME funds during the construction or rehabilitation of the project.

Subrecipient Activities

The following activities are eligible HOME activities and may be carried out by an eligible CHDO acting in the role of subrecipient; however, expenditures for these activities do not count toward the County's 15% CHDO Set-Aside:

- Rehabilitation of existing homeowners' properties;
- Tenant-based rental assistance (TBRA); or
- Down payment and/or closing cost assistance to purchasers of housing not developed with HOME CHDO set-aside funds.

VIII. SPECIAL ASSISTANCE TO CHDOS

From time to time, funds may be available to provide special assistance to CHDOs. While the County will not generally provide these types of assistance, a special exception may be made to expand the County's portfolio of assisted housing units.

Predevelopment Assistance

CHDO Set-Aside may be used for project-specific predevelopment assistance, but it must be provided in the form of a loan to the CHDO, repaid from construction loan or other project income by the CHDO. Types of pre-development include site control loans, seed money loans, technical assistance fees (architectural fees, consulting fees, feasibility study fees, etc.). Predevelopment assistance is limited to 10% of the total amount of the County's HOME CHDO Reservation.

Operating Assistance

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 County has the option of allocating up to 5% of its HOME allocation (or 50% of the CHDO's total annual operating expenses for the year, whichever is greater)[4], to provide funds for CHDO operating expenses. This allocation does not count toward the required 15% CHDO set-aside funds that are to be used by CHDOs for projects.

Funds awarded to the CHDO by the County for operating expenses (under 92.208), funds awarded from other PJs (e.g., if the same CHDO receives operating assistance from the County and other PJs or a State PJ), funds provided to the CHDO by HUD through intermediaries for organizational support and housing education (under 92.302), and capacity-building funds committed to the CHDO in first 24 months of PJ participation in the program count toward the $50,000/50 percent cap (under 92.300(b)).

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

All operating expenses must be reasonable and necessary for the operation of the CHDO. Because the purpose of providing CHDO operating support is to nurture successful CHDOs and ensure their continued growth and success, the County will periodically evaluate the performance of any CHDO wishing to receive CHDO operating funds. This shall be accomplished through annual reporting and the application cycle.

Capacity Building Assistance

Beaver County has been a PJ in the program for longer than 24 months; therefore, it is not eligible to provide capacity building assistance to CHDO.

IX. WRITTEN AGREEMENT

CHDO Set-Aside funds shall not be considered committed until a Written Agreement that complies with all of the HOME Program regulations in 24 CFR Part 92.504 is fully executed. The County shall ensure all financing is secured, a budget and schedule is established, underwriting and subsidy layering is completed, CHDO certification paperwork has been completed, and construction is scheduled to begin within 12 months prior to executing a Written Agreement with a CHDO.

The Written Agreement shall specify the following:

- Specific project information including use of funds, the recipient's role and tasks to be performed, number of proposed beneficiaries of the activity(dies) to be undertaken;
- Project budget and schedule;
- Affordability Period and means for securing the affordability period, as well as how repayments and recaptured funds should be handled;
- Whether the CHDO retains Sales Proceeds and the eligible use for the proceeds (CHDO Proceeds);
- Prohibition on charging loan origination, processing, inspection, servicing or other fees to the program beneficiaries;
- Uniform Administrative Requirements in 2 CFR Part 200;
- Requirements for Affirmative Marketing;
- How funds will be disbursed;
- Records and reports the CHDO shall maintain;
- For Homebuyer projects, the agreed upon Sales Price or the methodology by which the CHDO will determine the Sales Price;
- Enforcement mechanisms.

If the County provides Operating Assistance, it will execute a separate Written Agreement.

CHDO Proceeds/Program Income

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. CHDO Proceeds are not program income. 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.

Funds recaptured because homeownership housing is sold or transferred (under a recapture provision) during the period of affordability and no longer meets the affordability requirements are not considered project proceeds. CHDOs may not retain recaptured funds; rather, they must be returned to the County for reinvestment in other HOME-eligible activities.

If a CHDO is acting as a subrecipient, the funds generated from HOME-assisted activities are program income and are subject to the County's program income requirements. Program income earned for subrecipient projects never loses its federal identity and is always subject to HOME regulations.

HOME funds that are recaptured are not Program Income; rather, they are recaptured funds and must be receipted in IDIS as such. 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.

X. 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. This exemption is only applicable to procurement associated with CHDO-eligible projects. CHDOs must follow appropriate procurement procedures compliant with Part 200 for its projects completed as a subrecipient.

XI. HOW TO APPLY FOR CHDO CERTIFICATION

1. Complete the CHDO Certification Application, including all requested attachments, documentation and forms.

2. The application will be available on the County's website or by contacting the Senior Community Development Specialist and when completed may be mailed, emailed or hand delivered to the Beaver County Department of Community Development at:

   Department of Community Development
   Beaver County
   1013 Eighth Avenue
   Beaver Falls, PA 15010

3. The CHDO 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 not be processed for approval.

XI Part 1

CHDO and NON-PROFIT CERTIFICATION APPLICATION

Organization Name:	Tax ID Number:
Mailing Address (include physical address if different from mailing address):	
Contact Name / Title:	Organization President/CEO/Executive Director Name & Title:
Contact Phone Number and E-mail Address:	President/CEO/Executive Director Phone Number & E-mail Address:
Board President Name:	Board President Phone Number and E-mail Address:
PLEASE DESCRIBE THE CHDO-ELIGIBLE ACTIVITIES YOUR ORGANIZATION PLANS TO UNDERTAKE AS A CHDO:	
LIST EACH GEOGRAPHIC AREA TO BE CONSIDER FOR CHDO CERTIFICATION:	
Locality	Locality
1.	4.
2.	5.
3.	6.

I certify that the submission of this application has been approved by a two-thirds vote of the Board of Directors.

Board President Signature		Date

XI Part 2:

CHDO & Non-Profit Certification Application Attachments Checklist

Please complete the applicant portion of this checklist. Include the requested information in the Attachments indicated and check-off the item in the checklist. Articles of Incorporation, By-Laws, Charters, Memorandums of Understanding, Contracts, Certifications and Resolutions must be signed and dated by the Board President or other authorized signor. Incomplete applications will not be considered.

LEGAL STATUS		Internal Use Only
	A The nonprofit organization is organized under State or local laws. As **Attachment A-1**, please provide a signed and dated copy of: ___A Charter, **-OR-** ___Articles of Incorporation As **Attachment A-2**, please provide a Certificate of Good Standing from the Pennsylvania Secretary of State's office. If the organization is newly created and has been in existence less than one year, a Certificate of Existence will suffice. Date of incorporation: ____	Requirement Met? Yes ☐ No ☐
	No part of its net earnings inures to the benefit of any member, founder, contributor, or individual. As **Attachment B**, please provide and highlight the appropriate area in the following documents: ___A Charter, **-OR-** ___Articles of Incorporation	Requirement Met? Yes ☐ No ☐
	Has either a tax exemption ruling or conditional designation from the Internal Revenue Service (IRS) under Section 501(c) of the Internal Revenue Code of 1986. As Attachment **C**, please provide complete copy of: ___A 501(c) Certificate from the IRS, **-OR-** ___Letter of conditional designation from the IRS	Requirement Met? Yes☐ No ☐
LEGAL STATUS		Internal Use Only

	Has among its purposes the provision of decent housing that is affordable to low- and moderate-income people. As **Attachment D**, please provide and highlight the appropriate area in one of the following documents: ___Charter ___Articles of Incorporation ___By-laws ___Resolutions	Requirement Met? Yes ☐ No ☐
	Conforms to the financial accountability standards of Attachment F of OMB Circular A-110, "Standards for Financial Management Systems. As **Attachment E**, please provide a copy of one of the following: _A notarized statement by the president or chief financial officer of the organization; ___A certification from a Certified Public Accountant; -OR- ___A HUD approved audit summary.	Requirement Met? Yes ☐ No ☐
CAPACITY/EXPERIENCE		
	Has a demonstrated capacity for carrying out activities assisted with HOME funds? As **Attachment F**, please provide the following: ________Resumes and/or narrative that describes the experience of key staff and board members who have successfully completed HOME-funded projects similar to those to be undertaken as a CHDO.	Requirement Met? Yes ☐ No ☐
CAPACITY/EXPERIENCE		Internal Use Only

	Has a history of serving the community where HOME assisted housing will be produced? As **Attachment G**, provide one of the following: _Statement signed by the Board President that details at least one year of experience in serving each community for which Certification is sought, -OR- _For newly created organizations formed by local churches, service or community organizations, a statement signed by the Board President that details that its parent organization has at least one year of experience in serving each community for which Certification is sought.	Requirement Met? Yes No ☐ ☐
ORGANIZATIONAL STRUCTURE		
	Maintains at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations. As **Attachment H**, highlight the relevant text in one of the following: ___By-Laws ___Charter ___Articles of Incorporation	Requirement Met? Yes☐ No☐
	Provides a formal process for low-income, program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of all HOME-assisted affordable housing projects. As **Attachment I**, highlight the relevant text in one of following: _The organization's By-laws, **-OR-** _Resolutions, **AND** _______A written statement of operating procedures approved and signed by the governing body.	Requirement Met? Yes☐ No☐

ORGANIZATIONAL STRUCTURE	Internal Use Only

	A CHDO may be chartered by a State or local government, however, the State or local government may not appoint: more than one-third of the membership of the organization's governing body; the board members appointed by the State or local government may not, in turn, appoint the remaining two-thirds of the board members; and no more than one-third of the governing board members are public officials. As **Attachment J**, highlight relevant text in one of the following which describes the process for selecting the remaining two-thirds of the board members: ___By-Laws ___Charter ___Articles of Incorporation	Requirement Met? Yes No ☐ ☐
	Is the CHDO sponsored or created by a for-profit entity? Yes☐ No ☐ If yes, the for-profit entity may not appoint more than one- third of the membership of the CHDO's board and the board members appointed by the for-profit entity may not, in turn, appoint the remaining two-thirds of the board members. As **Attachment K**, highlight the relevant text in one of the following which describes the process for selecting the remaining two-thirds of the board members: ___By-Laws ___Charter ___Articles of Incorporation	Requirement Met? Yes☐ No ☐
RELATIONSHIP WITH FOR-PROFIT ENTITIES		
	Is the CHDO sponsored or created by a for-profit entity? ☐ Yes No If yes, the CHDO cannot be controlled by, nor receive directions from, individuals or entities seeking profit from the organization. As **Attachment L**, highlight the relevant text and provide one of the following: ___The organization's By-laws, **-OR-** ___A Memorandum of Understanding (MOU).	Requirement Met? Yes☐ No☐

RELATIONSHIP WITH FOR-PROFIT ENTITIES	Internal Use Only

	Is the CHDO sponsored or created by a for-profit entity? ☐ Yes ☐ No If yes, a CHDO may be sponsored or created by a for-profit entity, however: (1) The for-profit entity's primary purpose does not include the development or management of housing. As **Attachment M- 1** provide: ___The for-profit organization's By-Laws, AND; (2) The CHDO is free to contract for goods and services from vendor(s) of its own choosing. As **Attachment M- 2**, highlight relevant text in the following CHDO: ___By-Laws ___Charter ___Articles of Incorporation	Requirement Met? Yes ☐ No ☐
HOUSING AS PRIMARY PURPOSE		
	Certification is available only to organizations whose primary purpose is to provide and develop affordable housing. Please provide as **Attachment N**, a copy of the following: _ Copy of current fiscal year's full operating budget categorized by program, **AND** _ Description of current and planned affordable housing activities.	Requirement Met? Yes ☐ No ☐

BOARD CERTIFICATION		Internal Use Only
	The Board and its low-income representatives must certify that it meets the low-income CHDO requirements. As **Attachment O**, attach ___Certification of Low-Income Representation (form attached), **AND** ___Certification of Board Status	Requirement Met? Yes No ☐ ☐

	Do board members have professional skills directly relevant to housing development (e.g. real estate, legal, architecture, finance, management)? If so, as **Attachment P**, attach written documentation of each board member's profession and relative experience.	Yes ☐ No ☐

For County Use Only:

Approved ☐ Disapproved ☐

CHDO Coordinator Signature: ______________________________

Date: ________________________

CHDO Capacity Assessment

(Attach to CHDO & Non-Profit Certification Application)

CHDO Applicant: ______________________________

Completed by: (Name and title) ______________________________ Date: __________________

Please provide **detailed** answers to the following questions regarding your organization's capacity to act in the role of a CHDO developer and to administer CHDO set-aside funds. Your responses to this assessment will be used in conjunction with the CHDO Certification Application to evaluate your organization's readiness and capacity to be a CHDO and will assist in the County's determination to award the CHDO designation.

Organizational Status

1. Can your organization provide a Certificate of Good Standing from the New York Secretary of State's Office? If yes, please attach.

2. Has your organization produced a strategic plan that specifies an action plan for housing development? If yes, please attach.

Board of Directors

3. Has there been stability and continuity in the members of your organization's board of directors over the last several years? Please explain.

4. Does the board have a committee structure or other means of overseeing planning and development? Please describe.

5. Describe the professional skills of the board members that are directly relevant to housing development (e.g., real estate, legal, architecture, finance, management).

6. Describe the relationship between the board of directors and the staff of your organization. Do the board and staff have shared goals?

Identity of Interest

7. Is there any identity of interest issues between your organization and any of the contractors, consultants or other professional service providers that are used for development activities that might constitute a real or perceived conflict of interest? Please explain.

Relationship/Service to the Community

8. Are the current housing development plans for your organization well-grounded in an understanding of current housing conditions, housing needs and market demand? Has your organization done any analyses of the local housing market and the housing needs of low- income households? Please describe.

9. How strong is the current reputation of your organization and the relationships with the communities it serves?

10. To what extent does NIMBY (not in my back yard) opposition exist to low income housing in your organization's service area? What mechanisms are utilized to negotiate with the community and potential opponents?

11. Does your organization have strong, favorable relationships with the local governments in your service area? How strongly do local governments and elected officials support your housing activities?

Financial Management

12. Does your organization undertake annual budgeting of operational and project/program activities? Is budget versus actual income and expenses tracked and reported? Please explain.

13. Does your organization maintain controls over expenditures? How regularly are cash flow problems experienced?

14. Describe the internal controls your organization has in place to ensure separation of duties and safeguarding of assets.

15. Describe your organization's conflict of interest policy governing employees and board members regarding project development activities, particularly in procurement of contract services and the provision of housing assistance.

16. Explain the types and amounts of insurance carried by your organization (as applicable) for each of the following: liability, fidelity bond, workers compensation and property hazard.

17. Does your organization have a diversified and stable funding base for its operations? Do you have an established fundraising program for capital and operational needs? Please describe.

18. Does your organization have funds set aside for meeting the capital advance and/or pre- development needs of project development? Please describe the source and amount of funds available for capital advancement.

19. Are sufficient liquid assets available to cover your organization's current expenses? Please describe.

20. Describe the strength of your organization's relationships with other housing funders and lenders.

Development Capacity

21. Describe the skills of key housing staff in the following areas:
    a. Market analysis
    b. Legal/financial aspects of housing development
    c. Management of real estate development
    d. Oversight of design and construction management
    e. Marketing and client intake
    f. Property management (if proposing rental activities)

22. Does your organization utilize the services of qualified consultants or other partners in your housing developments? Describe the training these third parties provide to your staff and board members to build their capacity.

Appendix F: Subordination Policy

In order to subordinate the original loan agreement to the first lien holder, the following conditions must be met:

- The new senior first lien will reduce the monthly payments to the homeowner, thereby making the monthly payments more affordable;
- The new senior lien results in a reduction of the loan term;
- The new senior lien interest rate must be fixed for the life of the loan (Balloon or ARM loans are ineligible);
- No cash equity is withdrawn by the homeowner as a result of the refinancing actions.
- The County will approve refinancing requests according to the following procedures:
- Borrower must submit a written request to the County to verify the minimum refinancing requirements within one month of the expected closing.
- The County will review the final HUD-1 Settlement Statement two weeks prior to closing the refinance.
- If applicable, the County will issue written approval one week prior to the closing date.
- The County will be provided a copy of the final, executed HUD-1 Settlement Statement.
- If written permission is granted by the County allowing the refinance of the first mortgage, the Loan will become immediately due and payable prior to closing the refinance.
- If written permission is granted by the County and it is determined that the refinancing action does not meet the conditions for refinancing as stated above, the HOME loan will become immediately due and payable prior to closing the new senior loan.
- Home Equity loans will trigger the repayment requirements of the HOME Program recapturable assistance.
- The HOME Notes/Mortgage must be paid-in-full in order for the County to execute the release of a lien.

Appendix G: Confidentiality Policy

The County of Beaver has adopted a Confidentiality Policy for all projects assisted with HOME program funds. The County's HOME Confidentiality Policy shall apply to all for-profit and not for profit subrecipients, organizations and/or CHDOs who receive HOME funds for the development and implementation of affordable housing projects. This policy is consistent with, and incorporates, the requirements of the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19) and 2 CFR Part 200. The Housing and Community Development Act of 1987 (42 U.S.C. 3543).

Sub-recipients/CHDOs/Developers who receive HOME Program funds may receive confidential information. In some cases, an individual's right to privacy protection will necessitate that confidential records be maintained. The County recognizes its need to maintain the confidentiality of Personal Identity Information (PII) and understands that such information is unique to each individual. This includes unique personal identification numbers or data, including:

- Social Security Numbers (or their equivalent issued by governmental entities outside the United States).
- Taxpayer Identification Numbers (or their equivalent issued by governmental revenue entities outside the United States).
- Employer Identification Numbers (or their equivalent issued by government entities outside the United States).
- State or foreign driver's license numbers.
- Date(s) of birth.
- Other information as identified by the federal regulation applicable to the program.

Personal Identity Information may reside in hard copy or electronic records and is applicable to any subrecipients, CHDOs or other organizations who received HOME program funds.

It is the policy of the County to comply with any international, federal or state statute and reporting regulations. The County has delegated the responsibility for maintaining PII security provisions to for the HOME program to the County's Department of Real Estate and Housing. If any provision of this policy conflicts with a statutory requirement of international, federal or state law governing PII, the policy provision(s) that conflict shall be superseded.

It is the responsibility of the sub-recipients/CHDOs/developers and employees that manage and/or receive HOME funding for affordable housing projects, which may yield Personal Identity Information and confidential records, to protect the privacy and confidentiality of all program participants/beneficiaries.

All sub-recipients/CHDOs/developers and employees that manage and/or receive HOME funding must maintain the confidentiality of PII to which they may have access and understand that that such PII is to be restricted to only those with a business need to know

If confidential records are received by the sub-recipient/CHDO/developer, they require that specific controls be established, and incorporated into, the project HOME agreement to assure that the subrecipient/CHDO/developer understands the responsibility and requirements for maintaining confidential records and PII.

The sub-recipient/CHDO/developer and employees are also responsible for protecting these records and PII. The County views the protection of PII data to be of the utmost importance. Infractions of this policy or its procedures will result in disciplinary actions under the County's discipline policy and may include suspension, termination in the case of severe or repeat violations or the right to apply for the County's HOME funds.

Appendix H: Underwriting/Subsidy Layering

Overview

The 2013 Final HOME Rule requires underwriting/subsidy layering analysis of any project that receives HOME Investment Partnerships Program funds. The Beaver County HOME Program has adopted the following underwriting and subsidy layering policy to comply with the new requirements per §24 CFR Part 92.250(b).

Beaver County's Community Development Department will be responsible for preparing subsidy layering/underwriting analysis and documentation that demonstrates that the County is not investing anymore HOME funds, alone or in combination with other funds, then is necessary to provide quality, affordable, and financially viable housing for at least the duration of the HOME affordability period.

HOME Subsidy Layering Policy

The County's HOME Program policy requires that project subsidy layering/underwriting analysis be completed, with appropriate supporting documentation, prior to formally committing HOME funds to a project. The subsidy layering and underwriting must include the following elements:

- An assessment of the reasonableness of profit or return to the owner or developer, for the size, type, and complexity of the project. This will be completed by a review of the total development costs, the amount of investment made by the owner/developer, a review of the annual and 15-year operating budget to determine if the project has excessive cash flow that could be used to repay debt and other similar analysis.
- A review and analysis of the sources and uses of funds for each project and a determination of whether the proposed costs are reasonable and within industry standards. This includes a review of acquisition costs (supported by an independent appraisal), hard construction costs, soft costs, evidence of firm funding commitments other than HOME, and the overall financial soundness of the transaction.
- A review of the amount of HOME funds to be invested in the project, per unit and bedroom size, to ensure that the HOME funds being invested will not exceed the maximum allowable HOME subsidy limits as published by HUD annually for Beaver County.
- A review of the current market conditions must be completed and evaluated for the neighborhood in which the project will be located. This analysis must include a determination as to market need for the project, vacancy rates, review of neighborhood comparables (rents or sales price), and an assessment of local demand for the housing
- type. This requirement does not apply to homeowner rehabilitation projects or projects that are funding down payment assistance only.
- An assessment of the experience and financial capacity/net worth of the developer to ensure that the developer has the ability to complete the proposed project in a timely manner.
- For projects involving new construction or rehabilitation, a review and approval of the project cost estimate must be completed to determine cost reasonableness.
- For rental rehabilitation projects, an assessment must be completed to ensure the useful life of the major systems, based on age and condition, in the building/unit meets or exceeds the period of affordability. If not, the development must demonstrate adequate replacement reserves in the operating/development budget to address this issue.

- For rental developments of more than 26 units, a Capital Needs Assessment is required to be prepared for the project by the developer/owner.
- A risk assessment must be completed to assist in documenting market conditions, financial capacity, and other project details to support HOME investment.
- The Final HOME rule at §24 CFR Part 92.250(b)(3) and (4) exempts homeowner rehabilitation projects from subsidy layering/underwriting requirements unless HOME funds are provided as an amortizing loan.

Homeownership Underwriting Requirements

HOME assisted homeownership projects, must include the following elements:

- An analysis must be completed to ensure that the initial purchase price and the after-rehab value of the unit do not exceed 95% of the area median purchase price. The determination of median purchase must use the HUD published data sets for either newly constructed houses or existing houses based on the type of project.
- If a homeownership unit does not sell within 9 months following issuance of Certificate of Occupancy, the unit must be converted to a rental unit. Only a ratified sales contract is sufficient to demonstrate a sale of a unit. If conversion of a homeownership unit to a rental unit occurs, a new subsidy/underwriting document must be prepared for the project to analyze the project from a rental underwriting perspective to ensure compliance with HOME program requirements.
- A homeownership unit can become a lease-purchase unit if it does not sell within 9 months only if a formal lease-purchase program has already been established and an agreement with the homebuyer is executed prior to the 9-month deadline.
- As part of the subsidy/underwriting preparation, ensure that homebuyer counseling is required. This is an eligible program soft cost and can be incorporated into the project development budget.
- As part of the underwriting of each project, an evaluation of the homebuyer must be done to include the following:
- Evaluation of housing debt and overall debt
- Monthly expenses of the family
- Financial resources available to sustain and maintain housing
- The homeowner's private mortgage is sustainable and does not include any predatory loans.
- Evaluation of the terms, for all loans to which HOME funds are subordinated, to ensure that they are reasonable and sustainable.
- For homebuyer development projects, the County will also ensure the developer has sufficient funds available to carry the units through the projected absorption period.
- For homebuyer rehabilitation projects that involve rehabilitation, an assessment will be completed to evaluate the useful life of the major systems, based on age and condition. At a minimum, major systems will have a five-year useful life; preferably the useful life will extend through the affordability period.

Responsible Lending

Beaver County's HOME Program policy requires that private mortgages obtained by homebuyers are sustainable loans with fair terms and conditions as defined by HUD. No predatory loans are permitted or loans that would threaten the sustainability of homeownership, such as an adjustable rate mortgage, interest only loans, loans with negative amortization, or balloon payment loans. Beaver County uses the "Qualified Mortgage Standards" (QM) developed by the Consumer Financial Protection Bureau. QM Standards include the following elements:

- Lender fees and points are to be a maximum of 3% for loans over $100,000.

- Closing costs should be reasonable, including origination fees, points, and other lender charges.
- Interest rates on loans should not exceed 1.5% above the Federal Financial Institutions Examination Council (FFIEC) index as updated.
- Mortgages should not allow for any prepayment penalties.
- Mortgages must not be for a term longer than 30 years.
- Mortgage products must require escrows for taxes and home insurance.
- HOME-assisted homebuyers must participate in and complete a HUD-approved homebuyer counseling course. The homebuyer HOME files must provide evidence of the following:
    - Qualifications of the counseling provider (including entity and individual)
    - Content of counseling curriculum, method of delivery (i.e. one-on-one, individual, in-person, remote, etc.), and duration.
    - Timing of counseling (e.g. the length of the qualified counseling certification)
- Ineligible forms of homeownership include: contracts for deed, installment contracts, and land sales contracts or other contracts that fail to provide equity to the homebuyer per 24 CFR Part 92.2.

Homebuyer Mortgage Assessment

First mortgage products used in conjunction with HOME funds should meet the following guidelines:

Front End Ratio:

For purposes of qualifying a Borrower for a first mortgage the ratio between monthly income of the household member applying for the loan and monthly housing cost, including first mortgage principal, interest, taxes and insurance should not exceed 33% of the gross income of the household.

Back End Ratio:

For purposes of qualifying a Borrower for a first mortgage the ratio between monthly household income and monthly housing costs plus all payments on long-term debt should not exceed 42% or as set by the individual primary mortgage lender.

Credit Worthiness Criteria

For purposes of qualifying Borrower for a first mortgage, credit worthiness criteria shall be as established by the primary mortgage lender. Buyer must have a minimum credit score of 640.

These standards also apply to stand-alone, direct homebuyer assistance for the purchase of owner-occupied housing with HOME funds.

- The County will require a minimum cash investment from the buyer towards the home purchase based on their income and assets.
- The County will review the buyer's assets as part of direct homeownership assistance to determine if they can afford an additional contribution towards the purchase of the unit. The amount of HOME assistance provided to the buyer will be determined partially determined by this analysis. The buyer shall maintain a minimum of $2,500 not to exceed $20,000 in liquid assets after closing of the sale.

Subordination/Refinance Policy

In order to subordinate the original loan agreement to the first lien holder, the following conditions must be met:

- The new senior first lien will reduce the monthly payments to the homeowner, thereby making the monthly payments more affordable;
- Reduction of the loan term;
- The new senior lien interest rate must be fixed for the life of the loan (Balloon or ARM loans are ineligible);

- No cash equity is withdrawn by the homeowner as a result of the refinancing actions; The County will approve refinancing requests according to the following procedures:
- Borrower must submit a written request to the County to verify the minimum refinancing requirements within one month of the expected closing.
- The County will review the final HUD Settlement Statement two weeks prior to closing the refinance.
- If applicable, the County will issue written approval one week prior to the closing date.
- The County will be provided with a copy of the final, executed HUD Settlement Statement.
- If written permission is granted by the County allowing the refinance of the first mortgage, the Loan will become immediately due and payable prior to closing the refinance.
- If written permission is granted by the County and it is determined that the refinancing action does not meet the conditions for refinancing as stated above, the HOME loan will become immediately due and payable prior to closing the new senior loan.
- The HOME Notes/Mortgage must be paid in full in order for the County to execute the release of a lien.

These above items must be provided to the County prior to extending HOME assistance to the proposed household.

Rental Underwriting Requirements

Beaver County's HOME Program policy requires that project subsidy layering/underwriting analysis be completed, with appropriate supporting documentation, prior to formally committing HOME funds to a project.

The subsidy layering and underwriting will include the following elements:

- Market Assessment
- Assessment of Developer Capacity
- Project Financial Underwriting

I. Market Assessment

The County will conduct a review of the current market conditions specific to the neighborhood in which the project will be located. This analysis will include a definition of the market area and justification for the prescribed boundary and evaluation of market need for the project including a quantified pool of eligible tenants or buyers likely to seek the project. The County will also examine the area's vacancy rates and review the neighborhood comparables. Most recently available Census and/or American Community Survey Data will be sufficient for this review.

The County will also conduct an assessment of local demand for the housing type as well as projected absorption period and capture rate. This will demonstrate whether developer can reasonably lease the HOME-assisted units within 6-18 months. Developers should provide a marketing plan to the County to demonstrate that lease up will occur within 18 months. Rental projects with a capture rate of less than 25% are generally considered feasible. A market study conducted as part of an application for Low Income Housing Tax Credits, may be provided the study was conducted within two years of the proposed HOME project completion.

All new multi-family construction projects must include a written determination evidencing the proposed location and site for the rental development project meets the HOME Program requirement that housing assisted with HOME Program funds promote greater choice of housing opportunities.

1. 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.
2. The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively, in progress, a concerted program to remedy the undesirable conditions.
3. 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.
4. Except for new construction housing designed for elderly persons, travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers must not be excessive.

For rental projects, current Fair Market Rent will be used as a baseline for rent and whether the proposed rents will be affordable to the market defined in the analysis.

In many cases, rental projects will receive a larger subsidy from the Pennsylvania Housing Financing Agency (if awarded through the LIHTC program), in which case the County may accept the state underwriting and market analysis of the project, as long as it was completed within one year of commitment of HOME funds by the County. At a minimum, the County will confirm that any market analysis submitted with developer's application for LIHTC or other funding contains evidence that the vacancy rates versus the pool of qualified applicants is sufficient to fill the proposed HOME-assisted units within 18 months of project completion; evidence that the market capture rate does not exceed 25%; the proposed rents are reasonable and consistent with current Fair Market Rents and HOME rents for the market area.

II. Assessment of Developer Capacity

The County will review the experience and capacity of the developer (staff and project team) to implement the project in a timely fashion as well as the fiscal soundness of said developer to meet the financial obligations of the project. Note that proposed Community Housing Development Organization (CHDO) projects will be evaluated against specific CHDO criteria as established in 24 CFR Part 92.2 and 92.300. The County's CHDO Certification Policy and Procedures manual is included in Appendix F of this document.

Developers should submit evidence of a minimum of two projects of similar size and scope successfully completed within the previous five years, along with project budget and project schedule. A development team profile demonstrating sufficient organizational capacity for property and asset management (if applicable), and financial reports indicating fiscal strength (liquid assets exceeding debt). Homebuyer projects must demonstrate capacity to market and sell the completed units, which may be evidenced by a real estate professional on staff or on the development team or demonstrated staff capacity to perform the function of a real estate professional.

Financial Capacity

The County will conduct an assessment of the reasonableness of profit or return to the owner or developer, for the size, type, and complexity of the project. Further, the County will examine the financial position of the developer and its commitments of other funding to ensure that there will be sufficient cash for the developer to complete the project in a timely manner. This will be completed by a review of the total development costs, the amount of investment made by the owner/developer, a review of the annual and 15-year operating budget to determine if the project has sufficient cash flow to remain stable through the affordability period, and/or excessive cash flow that could be used to repay debt and other similar analysis. The operating budget will also be reviewed as part of the project's financial underwriting.

The County will also review the proposed developer fee in relation to size, scope and complexity of the project to determine if the fee to be retained by the developer is reasonable. Other factors for consideration include risk assumed by the developer and any costs incurred by the developer that are to be paid by the fee.

III. Financial Underwriting

The County will conduct a review and analysis of the sources and uses of funds for each project and a determination of whether the proposed costs are eligible, reasonable, necessary, and within industry standards. This includes a review of acquisition costs (supported by an independent appraisal), hard construction costs, soft costs, evidence of firm funding commitments other than HOME, and the overall financial soundness of the transaction. The County may review cost comparables, similarly funded and completed projects within the previous two years, and industry cost indices to determine cost reasonableness.

The minimum HOME subsidy per HOME assisted unit is $1,000. The County will conduct a review of the amount of HOME funds to be invested in the project, per unit and bedroom size, to ensure that the HOME funds being invested will not exceed the maximum allowable HOME subsidy limits as published by HUD annually for the County. HUD issues these limits, annually, and the County will update the limits each year once they are issued by HUD. To ensure applicants are aware of the current limits, the application instructions and pro-forma will contain the most current HUD published maximum subsidy limits. All staff administering the HOME program are encouraged to subscribe to the HOME Program mailing list at www.hudexchange.info which provides updates on HUD programs. This information will be documented for each project in the subsidy layering analysis prior to the commitment of HOME funds.

The HOME maximum per-unit subsidy limits apply to all HOME-assisted rental units. The actual subsidy provided will depend on the following factors:

- For rental project, the proportion of the total project cost that is HOME-eligible, as some planned project costs may not be eligible expenses under the HOME Program.
- The number of units in the project that are HOME-assisted, as projects may have a mix of HOME- and non- HOME-assisted units.

In order to complete the assessment, the County will request, from all developers, evidence of firm commitments with terms and conditions of all other funding sources, both public and private. Projects receiving tax credits must provide a copy of the Tax Credit Reservation Letter and good faith offer of equity investment from the investor partner prior to issuance of a commitment of HOME dollars. Projects involving a limited partnership or limited liability corporation should provide a copy of the partnership or operating agreement, including cash contributions made by each partner or member. The timing of these commitments should coincide with the project schedule, and the County will evaluate to ensure sufficient funding will be available to complete the project according to schedule. The County will conduct a review and analysis of the sources and uses of funds for each project and a determination of whether the proposed costs are eligible, reasonable, necessary, and within industry standards. This includes a review of acquisition costs (supported by an independent appraisal), review of the plans and specs, cost estimates and construction contract. The County will also review soft costs, evidence of firm funding commitments other than HOME, and the overall financial soundness of the transaction. The County may review cost comparables, similarly funded and completed projects within the previous two years, and industry cost indices to determine cost reasonableness.

The County will also review the project's operating proforma to ensure the project will remain viable through the affordability period. This review includes examination of all revenue streams into the project as well as all expenses and required debt service to be paid on the project. The County will review the following when considering financial feasibility of a project: gross rent, allowance for rent loss (due to vacancy, bad debt), reasonable operating expenses, reserves for capital needs/replacement, and debt service coverage. The proforma should include a reasonable increase in revenue and expense throughout the affordability period, as well as a conservative estimate of vacancy to account for potential losses in revenue through this period. The County will determine based on this review whether or not the project can be self-sustaining, while not providing windfall rates of return to developers.

The HOME Program permits the funding of one or more units in a project, including mixed income and mixed-use properties. However, HOME funds may only be used to pay eligible costs for HOME assisted units. Should the County designate fewer than 100% of a project's units as HOME-assisted, the County will calculate the eligible costs that are allocable to the assisted units and will only pay the actual costs related to those HOME-assisted units, capped by the maximum subsidy limits described above. Thus, cost allocation requirements affect project underwriting by dictating either the maximum amount of HOME investment the County may provide, or the minimum required number of units that must be designated as HOME-assisted.

- Should the applicant expand the number of HOME units in a project after being awarded HOME funds and thus become eligible for a higher HOME project funding cap, the applicant must submit a new, complete application for the additional funds. Additionally, a new Subsidy Layering analysis must be completed to show compliance with the HOME program and CPD Notice 15-11.
- Should the applicant have to reduce the number of HOME units for any reason the HOME award may be reduced if the change impacts the funding caps as specified.

If the number of HOME-assisted units is less than the total units within the project, the developer must inform the County which units will be HOME-assisted units, which may be Fixed (specific units) or Floating (specific unit types).

- Fixed: When HOME-assisted units are "fixed," the specific units are listed by address that are HOME-assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change.
- Floating: When HOME-assisted unit location within the development may change over time as long as the total number of HOME- assisted units in the project remains constant. The County will also ensure that floating units represent an adequate mix of units based on size and amenities.

The County's written HOME agreement with the developer will specify whether the HOME units are fixed or floating. For projects where fewer than 100% of the units will be HOME-assisted, the County will allocate costs based on either the Standard, Proration or Hybrid models of cost allocation as described in Notice CPD 16-15, and determine if the number of HOME-assisted units is adequate to make the project financially feasible and sustainable while being within appropriate subsidy limits. If the cost allocation determines that the units are comparable, the County may determine the HOME-assisted units may be floating; however, for ease of compliance and monitoring, the County may elect to designate the HOME-assisted units Fixed units even if the units are comparable. If the units are not comparable, the County will require the HOME-assisted units be Fixed.

The County will ensure the proposed rents do not exceed the HOME Rents published annually by HUD for the Philadelphia HUD Metro Area. Further, for projects containing more than five units, the County will ensure at least 20% of the units are reserved for households earning less than 50% AMI. Under the HOME Rule, the County is no longer permitted to use the utility allowance established by the local Public Housing Authority (PHA) for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013. As such, the County will also verify the use of the HUD Utility Model (HUD-52667) when calculating utility allowances for the project units, or that some other method established in HOMEfires Vol. 13 No. 2, May 2016 was utilized. Annually, the County will update project owners in writing when new rent and income limits are published by HUD. Owners will also be notified in writing that full source documentation is required to verify income every six years. Source documents include those outlined in HUD's Technical Guide for Determining Income and Allowances for the HOME Program and the HOME Final Rule located at 24 CFR Part 92. These requirements will also be outlined in the Written Agreement between the County and the project owner/developer.

For rental developments of more than 26 units, a Capital Needs Assessment is required to be prepared for the project by the developer/owner. For rental projects where the analysis determines useful life will not exceed the affordability period, the development must demonstrate adequate replacement reserves in the operating/development budget to address replacement during the affordability period if needed.

Under the HOME Rule, the County is no longer permitted to use the utility allowance established by the local Public Housing Authority (PHA) for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013. As such, the County will also verify the use of the HUD Utility Model (HUD-52667) when calculating utility allowances for the project units, or that some other method established in HOMEfires Vol. 13 No. 2, May 2016 was utilized. Annually, the County will update project owners in writing when new rent and income limits are published by HUD.

Appendix I: Risk Analysis Protocol

The risk analysis protocol is a tool that facilitates the County's review of risk related to its funded programs, projects, and funded entities. This tool has identified the factors and subfactors that affect program performance and assigned a relative importance to them.

Elements of the Risk Analysis Protocol

This protocol has several important components:

- List of factors and subfactors that impact program performance (columns 1 and 2)
- The criteria that are used to measure the possible outcomes for each factor and subfactor and an assignment of points for their relative importance (columns 3 and 4)

When assigning points to each factor, subfactor, and criterion, the County will make judgments about how much that variable impacts program compliance and performance.

Using the Risk Analysis Protocol to Assess Risk

The County reviews each funded entity's program using the risk analysis protocol by taking the following steps:

1. Rate the program on each of the risk factors and subfactors, and assign them points based on the criteria.
2. Add all the points for each funded entity to calculate the total risk.
3. Calculate total for each entity.

The higher the resulting number, the higher the risk the entity faces. Based on these results, the County will make strategic decisions about:

- Which organizations present the greatest performance risk to the County?
- What types of issues are causes for concern?
- How can the County best focus its monitoring resources?

FACTOR	SUBFACTOR	CRITERIA	POINTS	TOTAL FOR FUNDED ENTITY
Program Complexity	Type of program	Homebuyer new construction	5	
		Rental new construction	5	
		Homebuyer acquisition and rehabilitation	3	
		Rental rehabilitation	3	
		Homebuyer financial assistance	3	
		Homeowner rehabilitation	1	
		TBRA	1	
	Number of projects	4 or more	5	
		2–4	3	
		1	1	
	Use of several contractors	Yes	5	
		No	0	
	Multiple transactions and parties	Yes	5	
		No	0	
	Multiple lenders and funding sources	Yes	5	
		No	0	

Project Complexity	Number of units	100+	5	
		26–99	4	
		5–25	3	
		2–4	2	
		1	1	
	Inexperienced developer	Yes	5	
		No	0	
	Inexperienced general contractor	Yes	5	
		No	0	
	Project during initial rent-up phase	Yes	5	
		No	0	
Level of Funding	Amount of HOME funds	$500,000+	5	
		$250,000-$499,999	4	
		$100,000-$249,999	3	
		$25,000-$99,999	2	
		Under $25,000	1	
	Multiple funding sources	Tax Credits with HOME	5	
		Other HUD funding with HOME	3	
		HOME only	0	
Recipient Capacity	Experience of staff	Never undertaken project before	5	
		Never undertaken project before but have capacity	3	
		Undertaken project before, but need TA or consultant help	1	

FACTOR	SUBFACTOR	CRITERIA	POINTS	TOTAL FOR FUNDED ENTITY
		Undertaken project and have capacity	0	
	Low productivity or unusually high activity	Yes	5	
		No	0	
	Lack of progress spending HOME funds	Yes	5	
		No	0	
	Significant change in goals/direction of organization	Yes	5	
		No	0	
Staff Capacity	Staff turnover	Yes	5	
		No	0	
	Inexperienced staff	Yes	5	
		No	0	
	Change in funded entity's or program's leadership	Yes	5	
		No	0	

Quality of Reporting and Documentation	Status of project submissions or progress reports	Never submits reports	5	
		Submits infrequently with errors	4	
		Submits infrequently without errors	3	
		Submits frequently with errors	2	
		Submits frequently without errors	1	
	Audit findings or no audit done	Yes	5	
		No	0	
	Low quality documentation	Yes	5	
		No	0	
	Failure to meet schedules	Yes	5	
		No	0	
	Failure to comply with HOME agreement	Yes	5	
		No	0	
Past Compliance Problems	Not monitored last year	Yes	5	
		No	0	
	Recurring monitor findings	Yes	5	
		No	0	
	Inability to clear up outstanding issues/ compliance violations	Yes	5	
		No	0	
	Letters of complaint from beneficiaries or investigations	Yes	5	
		No	0	
	Poor performance/	Yes	5	
FACTOR	SUBFACTOR	CRITERIA	POINTS	TOTAL FOR FUNDED ENTITY
	compliance in other programs administered by the funded	No	0	

Appendix J: HOME-ARP Policies and Procedures

Introduction

On March 11, 2021, President Biden signed the American Rescue Plan (ARP) into law, which provides over $1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses. To address the need for homelessness assistance and supportive services, Congress appropriated $5 billion in ARP funds to be administered through HOME to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other vulnerable populations. These activities include: (1) development and support of affordable housing, (2) tenant-based rental assistance (TBRA), (3) provision of supportive services; and (4) acquisition and development of non-congregate shelter units.

Eligible Beneficiaries

ARP requires that funds be used to primarily benefit individuals and families in the following specified "**qualifying populations**." Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). One hundred percent of HOME-ARP funds used by a PJ for supportive services, and acquisition and development of non-congregate shelter units must benefit individuals and families in qualifying populations.

Homeless

Homeless, as defined in 24 CFR 91.5 *Homeless* (1), (2), or (3):

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
    a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
    b. An individual or family living in a supervised publicly or privately-operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
    c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
2. An individual or family who will imminently lose their primary nighttime residence, provided that:
    a. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
    b. No subsequent residence has been identified; and
    c. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
3. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
    a. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
    b. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

c. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
d. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

At Risk of Homelessness

At risk of Homelessness, as defined in 24 CFR 91.5 *At risk of homelessness*:

1. An individual or family who:
   a. Has an annual income below 30 percent of median family income for the area, as determined by HUD;
   b. Does not have sufficient resources or support networks, e.g., family, friends, faith based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition in this section; and
   c. Meets one of the following conditions:
      i. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
      ii. Is living in the home of another because of economic hardship;
      iii. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
      iv. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
      v. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
      vi. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
      vii. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;
2. A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
3. A child or youth who does not qualify as "homeless" under this section but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 6 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

1. **Domestic violence**, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:
    a. A current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
    b. A person with whom the victim shares a child in common;
    c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
    d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
    e. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
2. **Dating violence** which is defined in 24 CFR 5.2003 means violence committed by a person:
    a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
        i. The length of the relationship;
        ii. The type of relationship; and
        iii. The frequency of interaction between the persons involved in the relationship.
3. **Sexual assault** which is defined in 24 CFR 5.2003 means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.
4. **Stalking** which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    a. Fear for the person's individual safety or the safety of others; or
    b. Suffer substantial emotional distress.
5. **Human Trafficking** includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:
    a. *Sex trafficking* means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
    b. *Labor trafficking* means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Other Populations

Other Populations where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

1. Other Families Requiring Services or Housing Assistance to Prevent Homelessness is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.
2. At Greatest Risk of Housing Instability is defined as household who meets either paragraph (i) or (ii) below:

a. has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs); 8
b. has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at 24 CFR 91.5:
    i. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
    ii. Is living in the home of another because of economic hardship;
    iii. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
    iv. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
    v. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
    vi. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
    vii. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan

Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

Eligible Activities

HOME-ARP Rental Housing

HOME-ARP funds may be used to acquire, rehabilitate, or construct affordable rental housing primarily for occupancy by households of individuals and families that meet the definition of one or more of the qualifying populations.

Eligible HOME-ARP rental housing includes "housing" as defined at 24 CFR 92.2, including but not limited to manufactured housing, single room occupancy (SRO) units, and permanent supportive housing. Emergency shelters, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses, and housing for students or dormitories do not constitute housing in the HOME-ARP program. However, HOME-ARP funds may be used to acquire and rehabilitate such structures into HOME-ARP rental housing.

Eligible Costs

HOME-ARP funds may be used to pay for up to 100% of the following eligible costs associated with the acquisition, development, and operation of HOME-ARP rental units:

1. Development hard costs – defined in 24 CFR 92.206(a).
2. Refinancing – the cost to refinance existing debt secured by a rental project that is being rehabilitated with HOME-ARP funds in accordance with 24 CFR 92.206(b)(2) and the PJ's HOME-ARP refinancing guidelines, as stated in their HOME-ARP Allocation Plan.
3. Acquisition – the costs of acquiring improved or unimproved real property.
4. Related soft costs – defined in 24 CFR 92.206(d).

5. Relocation costs – as defined in 24 CFR 92.206(f), 24 CFR 92.353
6. Operating Cost Assistance – HOME-ARP funds may be used to pay ongoing operating cost assistance or capitalize an operating cost assistance reserve for HOME-ARP-assisted units restricted for occupancy by qualifying populations in a project where it is determined in underwriting that the reserve is necessary to maintain the HOME-ARP units' long-term operational feasibility. Costs include costs for administrative expenses, property management fees, insurance, utilities, property taxes, and maintenance of a unit that is designated as a HOME-ARP-assisted unit and required to be occupied by a qualifying household. Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project.
    a. Project administrative expenses include payroll costs, which are gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits; employee education, training, and travel; advertising; and general administrative costs which are costs for goods and services required for administration of the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance, and other administrative costs that are reasonable and customary for the general administration of a rental unit occupied by qualifying populations.
    b. A property management fee includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. A management agent must cover its costs of supervising and overseeing operations of a HOME-ARP unit out of the fee they receive.
    c. A reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a reserve for replacement of major systems included in the operating costs allocated to a HOMEARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A reserve for replacement allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOMEARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period.
    d. The operating cost assistance reserve for HOME-ARP units for qualifying households must be held by the project owner in a separate interest-bearing account and sized, based on an analysis of projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units' share of operating costs. Funds in a capitalized operating cost assistance reserve can only be drawn to address operating deficits associated with HOME-ARP units restricted for occupancy by the qualifying populations.

Supportive services costs are not eligible operating costs of HOME-ARP units, however, qualifying households occupying HOME-ARP rental units may receive supportive services through the HOME-ARP supportive services eligible activity.

Underwriting and Subsidy Layering

Beaver County will evaluate each project to determine the amount of HOME-ARP capital subsidy and operating cost assistance necessary to provide quality affordable housing that meets the requirements of HOME-ARP regulations and is financially viable throughout the minimum 15-year HOME-ARP compliance period. The County will adhere to its Underwriting and Subsidy Layering policies and procedures as outlined in this manual.

To secure HOME-ARP rental units for qualifying households, HOME-ARP funds may be invested in different types of projects, including permanent supportive housing, mixed-finance affordable housing, and market-rate projects. The underwriting analysis will not be limited to the HOME-ARP units. The long-term viability of HOME-ARP units is contingent upon the financial health of the entire project. SCRHC will take a holistic approach to underwriting that examines the overall feasibility of the entire project.

The following assumptions will be used to review HOME-ARP Rental development proposals:

Vacancy Rate and Collection Loss

Annual vacancy rate and collection loss for rental developments shall be no less than 7% for all Income. Developments with project-based vouchers may project a 5% vacancy rate for all residential Income.

Qualifying Population Rent

Rents for units occupied by Qualifying Populations will be estimated to be 30% of the adjusted income of a household whose income is equal to or less than 50% of the Area Median Income, as determined by HUD with adjustments for number of bedrooms in the unit.

Annual Income Growth

Annual Income (rent) growth will be projected at a 2% increase per year.

Annual Operating Expense Growth

Annual expense growth will be projected at a 3% increase per year.

Per-Unit Operating Cost

An applicant's proposed annual operating expenses will be reviewed for project and market feasibility and standards. The County shall use a standard of $3,500 per unit, per year. If HOME-ARP related supportive services are offered, the standard should be increased.

Replacement & Operating Reserves

Annual replacement reserves must be maintained at a rate of $500 per unit per year.
Initial Operating Reserves must equal to three months of operating costs. Upon completion of subsidy layering review and underwriting, the project may be deemed eligible to receive funding for future operating reserves.

Net Operating Income

Net operating income must be a minimum of $900 per unit, per year.

Developer Fee

A Developer fee is compensation to the Developer for the time and risk involved to develop the project. The fee is based on the size of the project, the total development cost and the risk associated with the project. Developer fees include all amounts received by the Applicant whether characterized as project management, overhead or Developer fee. Consultants are commonly utilized to assist the Developer/owner by providing specific expertise in completing the project. The maximum aggregate allowable Developer and consultant fees are calculated as a percentage of Total Project Costs, less land, project reserves, other cost category adjustments, and the Developer/Consultant Fee category.

Developer fees will be limited to 15% of total development cost, not including the developer fee.

Developer fees that are not deferred may be distributed as follows, subject to the approval of other project lenders, tax credit equity investor, etc.:

- 25% upon 50% construction/Rehabilitation completion benchmark
- 25% upon construction/Rehabilitation completion (50% aggregate)
- 50% upon stable occupancy (90% occupied) and receipt of all tenant certifications for restricted units. (100% aggregate)

Market Analysis

For HOME-ARP units for qualifying households, a market assessment is not required.

For projects containing units restricted for occupancy by low-income households or market-rate households, the PJ must conduct a market assessment in accordance with 24 CFR 92.250(b)(2).

Targeting and Occupancy Requirements

Targeting: HOME-ARP funds can only be invested in units restricted for qualifying households or low-income households as follows:

1. Not less than 70 percent of the total number of rental units assisted with HOME-ARP funds by Beaver County must be restricted for occupancy by households that are qualifying households at the time of the household's initial occupancy; and,
2. Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by Beaver County may be restricted to low-income households. These rental units do not have to be restricted for occupancy by qualifying households, however rental units restricted to low-income households are only permitted in projects that include HOME-ARP units for qualifying households.

Occupancy: ARP requires HOME-ARP activities to primarily benefit households in the qualifying populations. To improve the feasibility and maintain the long-term viability of projects with HOME-ARP rental units for qualifying households, Beaver County may invest HOME-ARP funds in units that are not restricted for occupancy solely for qualifying populations

1. **Qualifying Households:** Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a qualifying population. As such, a unit restricted for a qualifying household remains in compliance with the HOME-ARP unit restriction as long as the unit is occupied by a qualifying household that met the definition of a qualifying population at the time of admission.
2. **Low-Income Households:** At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2. If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the PJ to act in accordance with the rent and unit mix requirements in Sections VI.B.15 and VI.B.17 of this Notice, respectively.

Rent Limitations

Units Restricted for Occupancy by Qualifying Households: In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis.

Units Restricted for Occupancy by Low-income Households: HOME-ARP rental units occupied by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit).

Minimum Compliance Period

HOME-ARP-assisted units must comply with the requirements of HOME-ARP for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the activity being undertaken.

HOME-ARP Non-Congregate Shelter

A non-congregate shelter (NCS) is one or more buildings that provide private units or rooms as temporary shelter to individuals and families and does not require occupants to sign a lease or occupancy agreement. HOME-ARP funds may be used to acquire and/or rehabilitate or construct HOME-ARP NCS units to serve qualifying populations. Acquisition of vacant land or demolition of existing structures may be undertaken only as part of a HOME-ARP NCS project.

Eligible Costs

HOME-ARP funds may be used for actual costs of acquiring NCS or developing HOME-ARP NCS as follows:

1. Acquisition – Costs to acquire improved or unimproved real property.
2. Demolition – Costs of demolishing existing structures for the purpose of developing HOME-ARP NCS.
3. Development Hard Costs - Costs identified in 24 CFR 92.206(a) to rehabilitate or construct HOME-ARP NCS units.
4. Site Improvements - Costs to make improvements to the project site, including installation of utilities or utility connections, and the construction or rehabilitation of laundry, community facilities, on-site management, or supportive service offices.
5. Related Soft Costs: Reasonable and necessary costs incurred by the PJ and owner associated with the financing, acquisition, and development of HOME-ARP NCS projects, including costs identified in 24 CFR 92.206(d) with the following exceptions:
    a. Costs to provide information services such as affirmative marketing to prospective homeowners and tenants are not eligible.
    b. Costs of funding an initial operating deficit reserve are not eligible.
    c. Costs of project-specific assistance to community housing development organizations, including technical assistance and site control loans or seed money loans as specified in 24 CFR 92.301 are not eligible.
6. Replacement Reserve: Costs to capitalize a replacement reserve to pay the reasonable and necessary costs of replacing major systems and their components whose useful life will end during the restricted use period. Major systems include structural support, roofing, cladding, and weatherproofing, plumbing, electrical and HVAC. The costs of replacing major systems must be determined through a Capital Needs Assessment or documented in writing after an inspection by a certified inspector to assess the remaining useful life of major systems expected upon completion of the HOME-ARP NCS project. The costs of a replacement reserve must be included in the project

budget in the written agreement along with a list of major systems to be replaced with the reserve and projected replacement schedule during the restricted use period.

Prohibited Costs

HOME-ARP funds may not be used to:

1. Pay any operating costs of a HOME-ARP NCS project.
2. Provide additional HOME-ARP investment in a HOME-ARP NCS project during the restricted use period, except that additional HOME-ARP funds can be invested in the project up to one year after project completion in IDIS for eligible costs.
3. Pay costs of a conversion of HOME-ARP NCS
4. Provide non-Federal matching contributions required under any other Federal program.
5. Provide assistance for uses authorized under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (Public Housing Capital and Operating Funds).
6. Provide assistance to eligible low-income housing under 24 CFR part 248 (Prepayment of Low-Income Housing Mortgages).
7. Pay for the acquisition of property owned by the PJ, except for property acquired by the PJ with HOME-ARP NCS funds, or property acquired in anticipation of carrying out a HOME-ARP NCS project.
8. Pay delinquent taxes, fees, or charges on properties to be assisted with HOME-ARP NCS funds.

Underwriting

Before awarding HOME-ARP funds to a HOME-ARP NCS project, Beaver County will determine if acquisition and/or development of the project is financially feasible. Beaver County will consider whether the HOME-ARP NCS project has secured or has a high likelihood of securing operating funding because operating costs cannot be paid with HOME-ARP.

Restricted Use Period

The restricted use period begins at project completion and must be imposed for at least the following periods:

1. <u>New Construction</u>: Newly constructed HOME-ARP NCS units must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 15 years, regardless of the amount of HOME-ARP funds invested in the project.
2. <u>Rehabilitation</u>: HOME-ARP NCS units which receive any amount of HOME-ARP funds for rehabilitation but are not designated as new construction by the local building code requirements must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 10 years.
3. <u>Acquisition Only</u>: Units acquired for use as HOME-ARP NCS that do not require rehabilitation for occupancy must serve the qualifying populations for a restricted use period of 10 years.

Beaver County imposes the HOME-ARP NCS requirements through a deed restriction and a legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws.

Property and Habitability Standards

HOME-ARP NCS projects must meet the minimum HOME-ARP property standards prior to occupancy and the HOME-ARP NCS ongoing property standards throughout the restricted use period.

HOME-ARP Supportive Services

HOME-ARP funds may be used to provide a broad range of supportive services to qualifying individuals or families as a separate activity or in combination with other HOME-ARP activities.

Eligible Supportive Services Activities:

There are three categories specifically included as supportive services under HOME-ARP:

1. McKinney-Vento Supportive Services: McKinney-Vento Supportive Services under HOME-ARP are adapted from the services listed in section 401(29) of McKinney-Vento.
2. Homelessness Prevention Services: HOME-ARP Homelessness Prevention Services are adapted from eligible homelessness prevention services under the regulations at 24 CFR 576.102, 24 CFR 576.103, 24 CFR 576.105, and 24 CFR 576.106.
3. Housing Counseling Services: Housing counseling services under HOME-ARP are those consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111, respectively, except where otherwise noted. The requirements at 24 CFR 5.111 state that any housing counseling, as defined in 24 CFR 5.100, required under or provided in connection with any program administered by HUD shall be provided only by organizations and counselors certified by the Secretary under 24 CFR part 214 to provide housing counseling, consistent with 12 U.S.C. 1701x.
    a. Housing Counseling surrounding the following topics are ineligible under HOME-ARP:
        i. Resolving or preventing mortgage delinquency, including, but not limited to default and foreclosure, loss mitigation, budgeting, and credit;
        ii. Home maintenance and financial management for homeowners, including, but not limited to: Escrow funds, budgeting, refinancing, home equity, home improvement, utility costs, energy efficiency, rights and responsibilities of homeowners, and reverse mortgages.

Eligible Costs for McKinney Vento Supportive Services and Homelessness Prevention Services:

Eligible costs for supportive services under either of these two categories include costs associated with the following services:

1. Childcare
2. Education services
3. Employment assistance and job training
4. Food
5. Housing search and counseling services
6. Legal services
7. Life skills training
8. Mental health services
9. Outpatient health services
10. Outreach services
11. Substance abuse treatment
12. Transportation
13. Case management
14. Mediation
15. Credit repair
16. Landlord/Tenant liaison
17. Services for special populations
18. Financial assistance costs
    a. Rental application fees
    b. Security deposits
    c. Utility deposits

d. Utility payments
e. Moving costs
f. First and Last month's rent
g. Payment of rental arrears

19. Short-term and medium-term financial assistance for rent

Ineligible costs - Financial assistance cannot be provided to a program participant who is receiving the same type of assistance through other public sources. Financial assistance also cannot be provided to a program participant who has been provided with replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC 4601 et seq.) and its implementing regulations at 49 CFR part 24, or Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d) and its implementing regulations at 24 CFR part 42, during the period of time covered by the replacement housing payments.

Eligible Costs Associated with Housing counseling under 24 CFR 5.100 and 5.111

Costs associated with housing counseling services as defined at 24 CFR 5.100 and 5.111 are eligible under HOME-ARP. As homeowner assistance and related services are not eligible HOME-ARP activities, costs for the provision of services related to mortgages and homeownership to existing homeowners are also not eligible under HOME-ARP. If a program participant is a candidate for homeownership, costs associated with pre-purchase homebuying counseling, education and outreach are eligible under HOME-ARP. Eligible costs are those costs associated with the services listed in 24 CFR part 214 and include, but are not limited to:

1. Staff salaries and overhead costs of HUD-certified housing counseling agencies related to directly providing eligible housing counseling services to HOME-ARP program participants;
2. Development of a housing counseling workplan;
3. Marketing and outreach;
4. Intake;
5. Financial and housing affordability analysis;
6. Action plans that outline what the housing counseling agency and the client will do to meet the client's housing goals and that address the client's housing problem(s);
7. Follow-up communication with program participants.

Appendix K:

Buy America Build America Act
CPD-2023-12

U. S. Department of Housing and Urban Development
Office of Community Planning and Development

Special Attention of:	**NOTICE: CPD-2023-12**
All Secretary's Representatives All State/Area Coordinators All CPD Division Directors HUD Field Offices HUD Regional Offices	Issued: **November 2, 2023** Expires: Effective until amended, superseded, or rescinded Cross Reference: Sections 70901-52 of Pub. L. No. 117-58

Subject: CPD Implementation Guidance for the Build America, Buy America Act's domestic content procurement preference as part of the Infrastructure Investment and Jobs Act.

This Notice provides initial implementation guidance for programs administered by the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development (CPD) for the "Buy America Preference" (BAP) imposed by the Build America, Buy America Act (BABA) enacted under Division G, Title IX of the Infrastructure Investment and Jobs Act (IIJA, Pub. L. No. 117-58) signed into law on November 15, 2021.

This Notice provides CPD grantees and participating jurisdictions, collectively referred to as grantees, an overview of BABA, including key terms, HUD actions to implement BABA, guidance on HUD's general waivers, the phased implementation schedule for the BAP on CPD programs, and proposed next steps. The attached addenda include answers to frequently asked questions, examples of when the BAP applies for CPD grantees, and sample BAP language for agreements.

Purpose of the Notice

This Notice is intended to notify grantees of the "Buy America Preference" (BAP) requirement under the Build America, Buy America Act (BABA) as they apply to CPD programs. This Notice identifies the CPD programs and activities that must comply with BABA along with the timeline for the application of the BAP. It also highlights issues that grantees will want to consider when preparing for HUD's full implementation of the BAP, as described in "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 Fed. Reg. 17001, effective March 15, 2023). This Notice refers to 88 Fed. Reg. 17001 as the "Phased Implementation Waiver" which establishes BAP implementation points according to a schedule across HUD programs.

Note: The guidance provided in this Notice is subject to change if the Office of Management and Budget (OMB) updates guidance on the application of BABA for Federal financial assistance (FFA) programs for infrastructure.

I. Overview of Build America, Buy America Act

The Build America, Buy America Act (BABA)

The Build America, Buy America Act (BABA) was signed into law by President Biden on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (IIJA) as Sections 70901-52 of Pub. L. No. 117-58. In addition to providing funding for roads, bridges, rails, and high-speed internet access, it created an incentive to increase domestic manufacturing across the country through the inclusion of BABA's "Buy America Preference" (BAP). In general, the BAP requires that all iron, steel, manufactured products, and construction materials used in infrastructure projects funded with Federal financial assistance (FFA), as outlined in Section 70914(a) of BABA, must be produced in the United States. The intent of the BAP in BABA is to stimulate private-sector investments in domestic manufacturing, bolster critical supply chains, and support the creation of well-paying jobs for people in the United States. The preference is also intended to bolster American firms' ability to compete and lead globally for years to come by requiring entities that receive Federal infrastructure funds to use American materials and products.

The BABA preference for American materials and products applies to all spending on infrastructure projects by Federal agencies, including HUD. In BABA and for purposes of this Notice, the Federal infrastructure spending with a BAP is referred to as "Federal financial assistance" or "FFA." Under Section 70912(7), FFA for infrastructure "projects" includes the "construction, alteration, maintenance, or repair of infrastructure in the United States". Under Section 70914(a), the use of American iron and steel, construction materials, and manufactured products applies to funding from CPD programs for infrastructure projects. However, the BAP does not apply to "pre and post disaster or emergency response expenditures" under Section 70912(4)(B). A list of CPD disaster or emergency funding meeting these criteria can be found in Section III.

Effective May 14, 2022, the BAP applies to infrastructure spending unless an agency issues a waiver in three limited situations: 1) when applying the domestic content procurement preference would be inconsistent with the public interest, 2) when types of iron, steel, manufactured products or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, or 3) where the inclusion of those products and materials will increase the cost of the overall project by more than 25 percent. Before issuing a waiver, under Section 70914(c), the head of a Federal agency, including HUD, must make publicly available a detailed written explanation for the proposed determination to issue the waiver and provide a period of not less than 15 days for public comment on the proposed waiver. Additional details on waivers can be found in Section IV.

A. Federal Government-wide Guidance on BABA

As a part of the Federal government's support of domestic production and manufacturing through infrastructure investments, OMB and HUD have taken several steps to implement the BAP by providing guidance and issuing HUD general waivers.

On August 23, 2023, OMB issued final rules for 2 CFR Parts 184 and 200 and provided further guidance on implementing the statutory requirements and improving FFA management and transparency (88 Fed. Reg. 57750, effective October 23, 2023). These government-wide regulations apply to HUD programs and provide direction on implementing a BAP waiver process. The new and revised regulations also provide additional guidance on construction material standards, the cost components of manufactured products, and their definitions.

On October 25, 2023, OMB issued guidance to all Federal agencies on how to implement BABA consistently across the government. The "Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure" (M-24-02) (OMB Guidance) directs Federal agencies, including HUD, on how to apply the BAP and provides an overview of the BAP waiver requirements. OMB may also issue additional or updated guidance in the future, and HUD will update its guidance as necessary.

B. HUD Actions and Guidance on BABA

BABA is a new and complex statute, which became effective in 2022. As such, establishing governmentwide guidance on these new statutory requirements has been an iterative process. Since the passage of BABA, HUD has worked diligently to implement the BAP for all HUD programs. Before the law became effective on May 14, 2022, HUD established a Department-wide BABA leadership committee. Beginning in June 2022, HUD issued a Request for Information (RFI) and collected public comments on potential BABA implications for HUD grantees. Based on these comments and to ease the transition in complying with the BAP, HUD proposed and received four general waivers for covered FFA, which includes CPD programs. These waivers and other BABA information are available on HUD's website at BABA | HUD.gov / U.S. Department of Housing and Urban Development (HUD). Further details on these waivers and their application to CPD programs are provided in Section IV of this Notice.

CPD has taken several actions to notify and communicate with stakeholders and grantees on BABA requirements and their impact on CPD programs. All CPD Fiscal Year (FY) 2022 grant transmittal letters and notices of funding opportunities (NOFOs) included a reference to the BAP under BABA. For the FY2023 funding allocations, all CPD grant agreements with covered FFA included a clause to require that the grantee must comply with BABA, as applicable. Throughout 2023, CPD has held BABA information sessions for CPD grantees and has a dedicated email box at CPDBABA@hud.gov to answer questions from individual grantees and stakeholders.

HUD is continuing to work towards implementing BABA across its covered FFA programs. Next steps include establishing a centralized waiver process for all HUD covered programs. CPD is incorporating BABA in its existing reporting systems and processes. To assist grantees, CPD is also developing additional guidance materials and support as the phased implementation of BABA progresses.

II. Definitions

Key terms that have relevance to the interpretation and implementation of the BAP for CPD programs are defined in the BABA statute and may be found in 2 CFR part 184 and OMB guidance.

A. Build America, Buy America Act is defined in 2 CFR § 184.3 and means division G, title IX, subtitle A, parts I–II, sections 70901 through 70927 of the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58)

B. Buy America Preference is defined in 2 CFR § 184.3 and means the "domestic content procurement preference" set forth in section 70914 of BABA, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

C. Categorization of Articles. The term "categorization of articles" refers to the requirement that articles, materials, and supplies should only be classified into one of the following categories:
   i. Iron or steel products;
   ii. Manufactured products;
   iii. Construction materials; or
   iv. Section 70917(c) materials.

   An article, material, or supply should not be classified into more than one category and must be made based on the status of the article, material, or supply upon arrival to the work site for use in an infrastructure project. Articles, materials, or supplies must meet the Buy America Preference for only the single category in which they are classified and, in some cases, may not fall under any of the categories listed above.

D. Component is defined in 2 CFR § 184.3 and means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into: a manufactured product; or, where applicable, an iron or steel product.

E. Construction Materials is defined in 2 CFR § 184.3 and means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

i. Non-ferrous metals;
ii. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
iii. Glass (including optic glass);
iv. Fiber optic cable (including drop cable);
v. Optical fiber;
vi. Lumber;
vii. Engineered wood, and
viii. Drywall.

(2) Minor additions of articles, materials, supplies or binding agents to a construction material do not change the categorization of the construction material.

F. Covered Materials includes the following when used in connection with an Infrastructure Project:
(A) all iron and steel;
(B) all Manufactured Products; and
(C) all Construction Materials.

G. Covered CPD Programs. The term "covered CPD programs" means any Federal financial assistance administered by CPD that is used for infrastructure purposes, excepting expenditures related to pre and post disaster or emergency response.

H. Grantee. The term "grantee," as defined at 24 CFR 5.100, means the person or legal entity to which a grant is awarded and that is accountable for the use of the funds provided.

I. Federal Financial Assistance (FFA) has the meaning given to the term in 2 CFR 200.1 (or successor regulations) and includes all expenditures by a Federal agency to a Non-Federal Entity for an Infrastructure Project, except that it does not include:

(A) expenditures for assistance authorized under section 402, 403, 404, 406, 408, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5170c, 5172, 5174, or 5192) relating to a major disaster or emergency declared by the President under section 401 or 501, respectively, of such Act (42 U.S.C. 5170, 5191); or

(B) pre and post disaster or emergency response expenditures.

J. Infrastructure is described in 2 CFR 184.4(c) and encompasses public infrastructure projects in the United States, which includes, at a minimum: the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging. See also 2 CFR 184.4(d).

K. Infrastructure Project. The term "infrastructure project" is defined in 2 CFR 184.3 and means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project.

L. Iron and Steel Products. The term "iron and steel products" is defined in 2 CFR 184.3 and means an article, material, or supply that consists wholly or predominantly of iron or steel, or a combination of both.

M. Predominantly of iron or steel or a combination of both is defined in 2 CFR 184.3 and means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

N. Made in America Office. The term "Made in America Office" or "MIAO" means the office at the Office of Management and Budget, established by section 70923 of BABA, that is charged with, among other things, enforcing compliance with the BAP and establishing the procedures to review waiver requests proposed by a Federal awarding agency.

O. Manufactured Products is defined in 2 CFR 184.3 and means:

(1) Articles, materials, or supplies that have been:
(i) Processed into a specific form and shape; or
(ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

(2) If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 CFR 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.

P. Manufacturer is defined in 2 CFR 184.3 and means the entity that performs the final manufacturing process that produces a manufactured product.

Q. Non-Federal Entity means a State, local government, Indian Tribe, Institution of Higher Education (IHE), or nonprofit organization, as provided in 2 CFR 200.1. Public Housing Agencies are Non-Federal Entities.

R. Not Listed Construction Materials. The term "not listed construction materials" refers to the category of construction materials that are subject to the BAP, but not included in HUD's specifically listed construction materials, as defined in the Phased Implementation Waiver. This includes:

   i. plastic and polymer-based products other than composite building materials or plastic and polymer-based pipe or tube;
   ii. glass (including optic glass); and
   iii. drywall.

S. Obligate. The term "obligate," for purposes of HUD's phased implementation of BABA, means the date that HUD executed the legal instrument creating the relationship between HUD and the grantee for an award of Federal financial assistance. The milestone that establishes an obligation date depends on each program but for many CPD programs, such as CDBG, the obligation date occurs upon HUD's execution of the grant agreement.

T. OMB Guidance. The term "OMB guidance" refers to 2 CFR Part 184, the "Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure" (M-24-02), issued October 25, 2023, by the Office of Management and Budget, and any subsequent guidance to rescind or replace M-24-02. This guidance is applicable to the heads of all Federal agencies for the implementation of BABA's Buy America Preference.

U. Pre and Post Disaster or Emergency Response Expenditures. The term "pre and post disaster or emergency response expenditures" means Federal funding authorized under section 402, 403, 404, 406, 408, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) relating to a major disaster or emergency declared by the President under section 401 or 501, respectively. The BAP does not apply to pre and post disaster or emergency response expenditures authorized by statutes other than the Stafford Act and made in anticipation of or in response to an event that qualifies as an emergency or major disaster within the meaning of the Stafford Act.

V. Produced in the United States is defined in 2 CFR 184.3 and means:

   i. In the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
   ii. In the case of manufactured products:
      1. The product was manufactured in the United States; and
      2. The cost of components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. See 2 CFR 184.2(a). The costs of components of a manufactured product are determined according

to 2 CFR 184.5.

iii. In the case of construction materials, all manufacturing processes for the construction material occurred in the United States. See 2 CFR 184.6 for more information on the meaning of "all manufacturing processes" for specific construction materials.

W. Project. The term "project" means the construction, alteration, maintenance, or repair of infrastructure in the United States. (Section 70912(7) of BABA).

X. Section 70917(c) Materials. The term "section 70917(c) materials" is defined in 2 CFR 184.3 and means cement and cementitious materials; aggregates such as stone, sand, or gravel, or aggregate binding agents or additives. These materials are not considered "construction materials" for the purpose of BABA implementation.

Y. Specifically listed construction materials. The term "specifically listed construction materials" for HUD programs includes:
   a. non-ferrous metals;
   b. lumber;
   c. composite building materials; and
   d. plastic and polymer-based pipe and tube.

III. Applicability of the BAP on CPD Programs

Under Sections 70912 and 70914, the BAP applies to the purchase of iron, steel, manufactured products, and construction materials for Covered CPD Programs when funds are used for the construction, alteration, maintenance, or repair of infrastructure, as defined by BABA. Covered CPD Programs currently include:

- Community Development Block Grant Formula Programs (CDBG)
- Section 108 Loan Guarantee
- HOME Investment Partnerships Program (HOME)
- HOME Investment Partnerships American Rescue Plan Program (HOME-ARP)
- Housing Trust Fund (HTF)
- Recovery Housing Program (RHP)
- Emergency Solutions Grants (ESG)
- Continuum of Care (CoC)
- Housing Opportunities for Persons With AIDS (HOPWA)
- Self-Help Homeownership Opportunity Program (SHOP)
- Special NOFA for unsheltered and rural homeless
- Veterans Housing Rehabilitation and Modification Program (VHRMP)
- Community Project Funding (CPF)/Economic Development Initiatives (EDI)
- Section 4 Capacity Building
- Rural Capacity Building
- Pathways to Removing Obstacles to Housing (PRO Housing)
- Preservation and Reinvestment Initiative for Community Enhancement (PRICE)

- FY23 Permanent Supportive Housing (PSH) Funds

This list of Covered CPD Programs is subject to change if there are any changes to the eligible uses of funds or the establishment of new programs that fund infrastructure and are covered by BABA.

CPD Programs Not Covered by BAP:

Under Section 70912(4)(B), the BAP does not apply to Federal funds for "pre and post disaster or emergency response." The following CPD funds are administered for disaster or emergency-related purposes and therefore the BAP does not apply:

- Community Development Block Grant – Disaster Recovery Funds (CDBG-DR)
- Community Development Block Grant – Mitigation (CDBG-MIT)
- Community Development Block Grant – National Disaster Resilience Competition (CDBG-NDR)
- Community Development Block Grant CARES Act (CDBG-CV)
- Housing Opportunities for Persons With AIDS CARES Act (HOPWA-CV)
- Emergency Solutions Grants CARES Act (ESG-CV)

Additionally, the Community Compass Technical Assistance program is excluded from the BAP as the program does not fund any covered infrastructure activities.

IV. Buy America Preference Waivers Currently in Effect for HUD Programs

Under Section 70914(b), HUD is able to issue, after consultation with OMB's MIAO, general waivers, and project-specific waivers to the BAP if it is determined that a waiver falls into one of the following three categories: 1) when applying the domestic content procurement preference would be inconsistent with the public interest, 2) when types of iron, steel, manufactured product or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, or 3) where the inclusion of those products and materials will increase the cost of the overall project by more than 25 percent. In order for HUD to consider either a general or project specific waiver request and be able to review it with OMB, the waiver must include a detailed written explanation and allow for the public to comment for at least 15 days, as required under Section 70914(c).

HUD's General Waivers Applicable to Covered CPD Programs

Four general applicability waivers are currently in effect for HUD programs and apply to all Covered CPD Programs. Each waiver is outlined below.

General Waiver Type	Purpose	Effective Dates
Public Interest Phased Implementation	HUD issued a public interest waiver, *"Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance"* to allow for orderly implementation of the BAP across HUD programs. The Phased Implementation Waiver establishes a schedule for the phased implementation of the BAP across CPD programs and infrastructure materials.	The public interest waiver was issued in March 2023 and established a phased implementation schedule for the application of the BAP to HUD programs through FY2025. The BAP has been in effect since November 15, 2022, for the use of iron and steel for infrastructure projects funded with newly obligated FFA through the CDBG program.
Exigent Circumstances	HUD issued a public interest waiver for exigent circumstances, "*Public Interest Waiver of Build America, Buy America Provisions for Exigent Circumstances as Applied to Certain Recipients of HUD Federal Financial Assistance*". This waiver applies when there is an urgent need by a CPD grantee to immediately complete an infrastructure project because of a threat to life, safety, or property of residents and the community.	The public interest waiver for exigent circumstances is effective from November 23, 2022, for a period of five years ending on November 23, 2027, or such shorter time as HUD may announce via Notice.
***De Minimis*, Small Grants, and Minor Components**	HUD issued a public interest *de minimis,* small grants, and minor components waiver titled "*Public Interest De Minimis and Small Grants Waiver of Build America, Buy America Provisions as Applied to Certain Recipients of HUD Federal Financial Assistance*". This waives the BAP for all infrastructure projects whose total cost (from all funding sources) is equal to or less than the simplified acquisition threshold at 2 CFR 200.1 which is currently $250,000. This Notice also waives the application of the BAP for a	The public interest *de minimis,* small grants, and minor components waiver is effective from November 23, 2022, for a period of five years ending on November 23, 2027, or such shorter time as HUD may announce via Notice.

General Waiver Type	Purpose	Effective Dates
	de minimis portion of an infrastructure project, meaning a cumulative total of no more than five percent of the total cost of the iron, steel, manufactured products, and construction materials used in and incorporated into the infrastructure project, up to a maximum of $1 million.	
Tribal Recipients Waiver	HUD issued a public interest waiver, "*Extension of Public Interest, General Applicability Waiver of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance: Final Notice*" for the BAP as it applies to Tribal recipients. HUD will consult with Tribally Designated Housing Entities and other Tribal Entities on how to apply the BAP.	The waiver of the BAP as it applies to Tribal recipients is effective from May 23, 2023, until May 23, 2024.

HUD Project-Specific Waivers

Additionally, a CPD grantee may request a project-specific waiver from the BAP for covered FFA on a limited, case-by-case basis. HUD may grant a project specific waiver after consultation and review with the OMB's MIAO. As with the general waivers, under Section 70914(b) HUD may issue a project-specific waiver to the BAP if it is determined that a waiver falls into one of the following three categories: 1) when applying the domestic content procurement preference would be inconsistent with the public interest, 2) when types of iron, steel, manufactured product or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, or 3) where the inclusion of those products and materials will increase the cost of the overall project by more than 25 percent. A waiver for a specific project may vary depending upon the circumstances of the project, and specific items, products, or materials in question.

Understanding HUD's Phased Implementation Approach

Under Section 70914(a), the BAP for covered FFA infrastructure projects, including those funded by CPD programs, was required to be in effect no later than 180 days after it was signed into law. Thus, starting May 14, 2022, all new awards of covered FFA for infrastructure projects obligated by HUD would have had a BAP under BABA. Due to the short implementation period of 180 days, and to allow for the domestic industry and FFA recipients to have the time and notice necessary to implement BABA efficiently and effectively, HUD issued several general public interest waivers, including a Phased Implementation Waiver. Over the course of two years, under this waiver, HUD will implement the BAP in an incremental process for all HUD programs, including CPD programs, to come into compliance with BABA. This phased approach is also intended to reduce the burden on grantees due to the uncertain costs of compliance with the BAP. This approach is also intended to provide transparency concerning the full implementation plans in connection with HUD infrastructure projects. HUD wants to avoid any unnecessary and undue hardships that could jeopardize the timely and cost-effective completion of projects that previously were not subject to a BAP and to allow time for grantees to come into full compliance.

In the table below, the columns identify four separate categories of covered materials subject to the BAP (iron and steel, specifically listed construction materials, not listed construction materials, and manufactured products) and the rows identify covered HUD programs. To use the table, find the program that funds the project under consideration, then find the covered materials that will be used in the project. The cell in the table where the applicable row and column intersect indicates the date on which the BAP will begin applying to the specific materials used in the project under consideration. It is important to note that the date of obligation is the date on which HUD executed the legal instrument creating the relationship between HUD and the grantee for an award of FFA, commonly the date the grant agreement is signed by HUD.

Phased Implementation Schedule for HUD Programs

The table below outlines the phased implementation timeline for HUD's covered programs published in the Phased Implementation Waiver.

BAP will apply to…	Iron and Steel	Construction Materials – Specifically Listed	Construction Materials – Not Listed	Manufactured Products
CDBG Formula Grants	All funds obligated on or after November 15, 2022	As of the date HUD obligates new FFA from Fiscal Year 2024 appropriations	As of the date HUD obligates new FFA from Fiscal Year 2025 appropriations	As of the date HUD obligates new FFA from Fiscal Year 2025 appropriations
Choice Neighborhood, Lead Hazard Reduction, and Healthy Homes Production Grants	New FFA obligated by HUD on or after February 22, 2023	New FFA obligated by HUD on or after August 23, 2024	New FFA obligated by HUD on or after August 23, 2024	New FFA obligated by HUD on or after August 23, 2024
Recovery Housing Program (RHP) Grants	New FFA obligated by HUD on or after August 23, 2023	As of the date HUD obligates new FFA from Fiscal Year 2024 appropriations	As of the date HUD obligates new FFA from Fiscal Year 2025 appropriations	As of the date HUD obligates new FFA from Fiscal Year 2025 appropriations
All HUD other FFA except HOME, Housing Trust Fund, and Public Housing FFA used for maintenance projects	New FFA obligated by HUD on or after February 22, 2024	New FFA obligated by HUD on or after August 23, 2024	New FFA obligated by HUD on or after August 23, 2024	New FFA obligated by HUD on or after August 23, 2024
HOME, Housing Trust Fund, and Public Housing FFA used for maintenance projects	New FFA obligated by HUD on or after August 23, 2024	New FFA obligated by HUD on or after August 23, 2024	New FFA obligated by HUD on or after August 23, 2024	New FFA obligated by HUD on or after August 23, 2024

Phased Implementation Schedule for CPD Programs

Covered CPD programs began applying the BAP for infrastructure projects not covered under a general waiver for specific materials in phases beginning on November 15, 2022, and through FY2025. This section describes when the BAP applies to specific Covered CPD programs in accordance with HUD's Phased Implementation Waiver.

Iron or Steel		
CPD Program	**BAP Effective Date**	**Implementation Examples**
CDBG	The BAP first applied to CDBG funds, obligated on or after November 15, 2022, and that will be used to purchase iron and steel for infrastructure projects.	This means CDBG grants obligated via a CDBG grant agreement signed by HUD on or after November 15, 2022, are subject to the BAP. CDBG grants obligated via a CDBG grant agreement signed by HUD prior to November 15, 2022, are not subject to the BAP.
RHP	The BAP will apply to RHP funds obligated on or after August 23, 2023, used to purchase iron or steel for infrastructure projects.	This means RHP grants obligated via a RHP grant agreement signed by HUD on or after August 23, 2023, are subject to the BAP. A RHP grant obligated via a grant agreement signed by HUD prior to August 23, 2023, is not subject to the BAP.
ESG, CoC, HOPWA, SHOP, VHRMP, CPF/EDI, Section 4, Rural Capacity Building, Pro Housing, PRICE, PSH, and NOFOs	The BAP will apply to funds from all other covered CPD programs, except HOME and HTF, obligated on or after February 22, 2024, used to purchase iron or steel for infrastructure projects.	Grantees should identify the execution date by HUD on the grant agreement or other legal instrument. The BAP applies to funds obligated by HUD on or after February 22, 2024. For HOPWA competitive grants, obligation is the date the award letter is signed. HOPWA competitive grantees should compare the date on its award letter to the February 22, 2024, to determine if its grant is subject to the BAP. EDI Community Project Funding has a different obligation determination. Grantees should consult their Congressional Grant Officer for more information.
HOME & HTF	The BAP will apply to HOME and HTF funds obligated on or after August 23, 2024, used to purchase iron or steel for infrastructure projects.	This means HOME and HTF grants obligated via grant agreements signed by HUD on or after August 23, 2024, are subject to the BAP. A HOME or HTF grant obligated via a grant agreement signed by HUD prior to August 23, 2024, is not subject to the BAP.

Materials Other Than Iron or Steel		
	CDBG & RHP Programs	**All Other Covered CPD Programs**
Specifically Listed Construction Materials (Non-Ferrous Metals, Lumber, Composite Building Materials, Plastic and Polymer Based Pipe and Tube)	The BAP will apply to FY2024 and subsequent CDBG and RHP awards used to purchase specifically listed construction materials as well as to purchase iron and steel.	The BAP will apply to funds from all other Covered CPD programs obligated on or after August 23, 2024, used for the purchase of specifically listed construction materials as well as iron and steel for infrastructure projects.
Not Listed Construction Materials	The BAP will apply to FY2025 and subsequent CDBG and RHP awards used to purchase not listed construction materials for infrastructure projects.	The BAP will apply to all Covered CPD program (except CDBG and RHP) funds obligated on or after August 23, 2024, used for the purchase of not listed construction materials, as well as specifically listed construction materials and iron and steel, for infrastructure projects.
Manufactured Products	The BAP will apply to FY2025 and subsequent CDBG and RHP awards used to purchase manufactured products as well as specifically listed construction materials and iron and steel, for infrastructure projects.	The BAP will apply to all Covered CPD program funds (except CDBG and RHP) obligated on or after August 23, 2024, used for the purchase of manufactured products for infrastructure projects.

Applying the BAP and HUD Waivers to CPD Programs

Once the BAP applies to an infrastructure project, a grantee must:

1. Comply with the BAP, or
2. Utilize one of HUD's general waivers, or
3. Obtain a project-specific waiver to exclude the project from the BAP.

As a part of its record keeping, a CPD grantee should document its process to analyze if the BAP applies to a project using the approach below:

Step 1: Type of project/activity

Are the funds being used for an infrastructure project, as defined by BABA and explained in this notice?

- If yes, proceed to step 2.
- If no, the BAP does not apply. The BAP only applies to infrastructure projects.

Step 2: Funding source

Identify the source(s) of the project funding, including CPD funding, HUD funding or other Federal agency funding that must comply with BABA. Does the project funding include any Covered CPD Programs listed in this notice? (Note: The BAP does not apply to funds that are for pre- or post-disaster or emergency response.)

- If yes, and HUD contributes the largest portion of Federal funds to the project, proceed to step 3.
- If yes, and another Federal agency contributes the largest portion of Federal funds to the project, that Federal agency is the "Cognizant Agency for Made in America", and the grantee should follow that agency's guidance for applicability of the BAP to the project.
- If no, then the project does not need to comply with the BAP for CPD funds but may need to comply with the BAP due to the inclusion of other HUD or Federal funding sources.

Step 3: Materials

Identify the materials that will be used in this infrastructure project. Does the project use materials subject to the BAP (iron or steel, specifically listed construction materials, not listed construction materials, or manufactured products), identified in this Notice?

- If yes, proceed to step 4.
- If no, then the BAP does not apply. The BAP only applies to covered materials.

Step 4: Date of obligation

Consult the Phased Implementation Waiver schedule table. Identify the cell that corresponds to the Covered CPD Program funding and materials used in your project. This cell identifies the date on which the BAP will apply for the Covered CPD Program and the materials. Based on the date of obligation of the Covered CPD Program funds, does the BAP apply to the funding source and materials that will be used in your project?

- If yes, proceed to step 5.
- If no, the BAP does not apply.

Step 5: General waivers

Consider the available HUD General Waivers. As of this Notice, there are three general waivers that may be utilized as an alternative to compliance with the BAP under the Phased Implementation Waiver: 1) Exigent Circumstances Waiver, 2) the De Minimis, Small Grants, and Minor Components Waiver, and 3) the Tribal Recipients Waiver. Analyze each available HUD general waiver, based upon the specific requirements of that waiver.

1. *Exigent Circumstances Waiver*: Is there an urgent need to immediately complete the project because of a threat to life, safety, or property of residents and the community?
    - If yes, the Exigent Circumstances Waiver may apply, and the project would not be subject to the BAP.

2. *De Minimis, Small Grants, and Minor Components Waiver:* Is the total cost of the project equal to or less than $250,000?
    - If yes, the *De Minimis*, Small Grants, and Minor Components Waiver may apply, and the project would not be subject to the BAP.

OR

This waiver can be applied to a portion of the products used in an infrastructure project if the cumulative cost of those products does not exceed five percent of the total cost of covered products used in the project (up to $1 million).

- In that case, the BAP would be waived for part of the project, but the rest of the project would still need to comply with the BAP.

3. *Tribal Recipients Waiver:* Is the project being funded by a Tribal recipient?
    - If yes, the Tribal Recipients Waiver may apply, and the project would not be subject to the BAP. (This is rare for CPD programs.)
    - If no to General Waiver questions 1, 2, and 3, proceed to Step 6.

Step 6: Project-specific waivers

Consider the criteria for project-specific waivers. Project-specific waivers to the BAP may be available if it is determined that a waiver falls into one of the following three categories: 1) when applying the domestic content procurement preference would be inconsistent with the public interest, 2) when types of iron, steel, manufactured product or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, or 3) where the inclusion of those products and materials will increase the cost of the overall project by more than 25 percent. Project-specific waivers are available on a limited, case-by-case basis, after HUD's consultation and review with OMB's MIAO.

1. Would applying the BAP to the project be inconsistent with the public interest?
    - If yes, a project-specific waiver may be considered.

2. Are the types of iron, steel, manufactured products, or construction materials used in the project not produced in the United States in sufficient and reasonable available quantities or of a satisfactory quality?
    - If yes, a project-specific waiver may be considered.

3. Would the inclusion of iron, steel, manufactured products, or construction materials produced in the United States increase the cost of the overall project by more than 25 percent?
    - If yes, a project-specific waiver may be considered.
    - If no to Project specific waiver questions 1, 2, and 3, the BAP likely applies to the project and the project should comply with the requirements of the BAP.

Grantees should consult the entirety of this Notice and other applicable BABA guidance before making a determination on BAP applicability to a specific project. Grantees should reach out to their local CPD field office if they require additional assistance with determining BAP applicability.

Federal Government-wide Guidance on Project/Product-Specific Waivers

Under Section 70914(b), BABA allows a Federal agency, such as HUD, to waive the BAP for covered FFA in three instances: 1) when applying the domestic content procurement preference would be inconsistent with the public interest, 2) when types of iron, steel, manufactured product or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, or 3) where the inclusion of those products and materials will increase the cost of the overall project by more than 25 percent. To direct Federal agencies on how to implement this waiver process, OMB issued guidance that HUD will follow when reviewing a waiver request from a CPD grantee. According to OMB, agencies may reject or grant waivers in whole or in part. When an agency is considering a waiver, it should, to the greatest extent possible, be issued at the project level and be product specific. When that is not possible, an agency may issue a broader waiver. The agency should follow three principles before issuing any type of waiver:

> 1) The waiver may be time-limited, meaning it is issued for a certain period of time, rather than for a specific project. For example, a time-limited waiver may apply when an item that is "nonavailable" is widely used in projects funded by a particular program.
>
> 2) The waiver should be targeted, meaning it should only apply to specific item(s), product(s), or material(s) or category(ies) of item(s), product(s), or material(s).
>
> 3) The waiver may be conditional with conditions that support the policies of BABA.

OMB guidance outlined the waiver review process for agencies to follow before issuing a waiver. Based on this guidance, HUD is developing its Department-wide project-specific waiver process. For HUD to consider a project or product-specific waiver it must:

- Have a detailed justification for the use of goods, products, or materials mined, produced, or manufactured outside the United States.

- A certification that there was a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with potential suppliers.

- In addition, at a minimum and to the greatest extent practicable, each proposed waiver submitted for consideration by the MIAO should include the following information, as applicable:
  - Waiver type (nonavailability, unreasonable cost, or public interest).
  - Recipient name and Unique Entity Identifier (UEI).
  - Federal awarding agency organizational information (e.g., Common Government-wide Accounting Classification (CGAC) Agency Code).
  - Financial assistance listing name and number.
  - Federal financial assistance program name.
  - Federal Award Identification Number (FAIN) (if available).
  - Federal financial assistance funding amount.

- Total estimated infrastructure expenditures, including all Federal and non-Federal funds (to the extent known).
- Infrastructure project description and location (to the extent known).
- List of iron or steel item(s), manufactured products, and construction material(s) proposed to be excepted from Buy America requirements, including name, cost, country(ies) of origin (if known), and relevant PSC and NAICS code for each.
- A certification that the Federal official or assistance recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
- A statement of waiver justification, including a description of efforts made (e.g., market research, industry outreach), by the Federal awarding agency and, and in the case of a project or award specific waiver, by the recipient, in an attempt to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
- Anticipated impact if no waiver is issued.
- Any relevant comments received through the public comment period.

The purpose of the information is to ensure that HUD has adequate information to perform due diligence, that MIAO has sufficient information to determine whether the proposed waiver is consistent with law and policy, and that sufficient information is available for public review. Information provided for public review should help interested manufacturers gauge the demand for products for which agencies are considering waiving a Buy America preference.

Once HUD has reviewed all required information, it will notify OMB's MIAO. The purpose of this consultation is for the MIAO to identify any opportunities to structure the waiver to maximize the use of goods, products, and materials produced in the United States to the greatest extent possible consistent with law. Following this consultation with MIAO, HUD is required to post the proposed waiver on its BABA website with a detailed written explanation of the proposed determination to issue the waiver and must provide at least 15 days for public comment. General applicability waivers require a minimum 30-day public comment period. Once the public comment period ends, HUD will submit the proposed waiver to MIAO to determine if the waiver is consistent with applicable law and policy. The MIAO will notify the agency of its determination of the proposed waiver. Only after this process has been completed may the HUD issue the waiver.

Applying for a HUD Specific Waiver

Prior to seeking a waiver, grantees should determine if and how BABA applies and follow measures to maximize compliance with the BAP based on the above guidance. At this time, HUD's BABA waiver process is as follows:

1. Contact CPDBABA@hud.gov for BABA technical assistance as needed.
2. Prepare a "*Build America Buy America Waiver Request*" with the information required by the MIAO.

3. Submit a waiver application with all necessary information to HUD at BuildAmericaBuyAmerica@hud.gov.
   - HUD is currently using email while an automated process is under development.
4. Provide additional information as requested by HUD during the review process to proceed with public comment in the Federal Register, and final approval by MIAO.
5. HUD reviews waivers before they are posted to the Federal Register for public comment and sent to the MIAO for approval. If approved, the waiver is posted on MadeInAmerica.gov.

CPD Grantees Receiving Funds from Multiple Federal Agencies

For CPD grantees that receive funds from multiple Federal agencies for an infrastructure project, the Federal agency contributing the greatest amount of covered FFA for the project will be considered the "Cognizant Agency for Made in America," according to OMB Guidance. This lead agency should take responsibility for coordinating with the other Federal awarding agencies. Such coordination will provide uniform waiver criteria and adjudication processes, minimize duplicative efforts among Federal agencies, and reduce burdens on recipients. The Cognizant Agency for Made in America shall be responsible for consulting with the other Federal awarding agencies, publicizing the proposed joint waiver, and submitting the proposed joint waiver for review to MIAO.

CPD Record Keeping Requirements

To comply with BABA, the BAP must be included in the terms and conditions of all federal awards including subawards, contracts, and purchase orders for the work performed or products supplied for infrastructure projects. CPD grantees should document the process to analyze if the BAP applies to a project using the approach in this Notice and collect records to demonstrate compliance with BABA requirements. Records should be consistent with existing records retention requirements for each of the Covered CPD programs. If there are no CPD program-specific records requirements, the CPD grantee may follow "retention requirements for records," under 2 CFR § 200.334 as applicable to Federal grants.

HUD will issue guidance about reporting on BABA required activities under 24 CFR 91.520, at a later date. At this time, CPD is working to include the BAP into its existing CPD systems (Integrated Disbursement and Information System, Disaster Recovery Grant Reporting System) for grantees to generate reports to track progress and compliance with BABA. Additional details on record keeping requirements will be determined by HUD and shared with CPD grantees as it is available.

V. Contact Information

Grantees that have questions on this Notice should contact their assigned HUD Field Office Representative or send their request directly to CPDBABA@hud.gov. CPD Field Offices should direct inquiries and comments to their program desk officer.

Addendum 1

Frequently Asked Questions

General Information

1. **What is BABA? What is the "Buy America Preference"?**

   The Build America, Buy America (BABA) Act was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58) also known as the Bipartisan Infrastructure Law. BABA establishes a domestic content procurement preference known as the "Buy America Preference" (BAP) for Federal infrastructure spending. The BAP requires that all iron, steel, manufactured products, and construction materials used in infrastructure projects funded with Federal financial assistance must be produced in the United States.

2. **What types of Federal financial assistance (FFA) are subject to the BAP?**

   FFA subject to BABA includes all expenditures by a Federal agency to a non-Federal entity for an infrastructure project, including grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, loans, loan guarantees, and other types of financial assistance.

3. **What projects or activities does the BAP apply to?**

   The BAP applies to the iron, steel, construction materials, and manufactured products used in infrastructure projects funded by Federal financial assistance (FFA), which includes covered materials and covered activities. Infrastructure projects include construction, alteration, maintenance, or repair of any infrastructure in the United States as defined in the next paragraph and in the Definitions section of this Notice.

   The term "infrastructure" includes the structures, facilities, and equipment for projects traditionally considered infrastructure, including buildings and real property. For CPD programs, this may include, but is not limited to, certain funding for:

   - road and sidewalk improvement projects;
   - water, sewer, and other utility projects;
   - broadband infrastructure;
   - housing construction and rehabilitation;
   - community facility construction and rehabilitation;
   - homeless shelter construction and rehabilitation;
   - and other CPD-funded activities that are defined as infrastructure according to BABA (section 70912(5)).

4. **What materials does the BAP apply to?**

   The BAP requires that all iron, steel, manufactured products, and construction materials used in infrastructure projects funded with Federal financial assistance must be produced in the United States.

5. **What does "produced in the United States" mean for materials to which the BAP applies?**

   The term "produced in the United States," as defined in 2 CFR 184.3, means:
   - in the case of iron or steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
   - in the case of manufactured products that:
     - the product was manufactured in the United States; and
     - the cost of components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and
   - in the case of construction materials, that all manufacturing processes for the construction material occurred in the United States.

CPD Program Specific

6. **Which CPD programs are subject to the BAP?**
   Any CPD program that can be used for the purpose of infrastructure as defined by BABA. These programs are considered Covered CPD programs.

7. **Which CPD funds or programs are *NOT* subject to the BAP?**

   The BAP does not apply to Federal funds for ''pre and post disaster or emergency response'' according to BABA. Therefore, at the time of publication of this notice, the BAP does not apply to the following CPD funds or programs that administer disaster related FFA:

   - Community Development Block Grant Disaster Recovery Funds (CDBG-DR)
   - Community Development Block Grant Mitigation (CDBG-MIT)
   - Community Development Block Grant – National Disaster Resilience Competition (CDBG-NDR)
   - Community Development Block Grant CARES Act (CDBG-CV)
   - Housing Opportunities for Persons With AIDS CARES Act (HOPWA-CV)
   - Emergency Solutions Grants CARES Act (ESG-CV)

   The Community Compass Technical Assistance program is also excluded from the BAP as the program does not fund any covered infrastructure activities.

8. **I am funding a project with CDBG funds that were obligated (i.e., the grant agreement was signed by HUD) before November 15, 2022. Does the BAP apply?**

   No, the BAP does not apply to HUD funds that were obligated before November 15, 2022. HUD defines the date of obligation as the date that HUD signed the agreement with the grantee. The BAP will apply to CDBG funds used for iron or steel that were obligated on or after November 15, 2022.

   There is an additional consideration. If FY funds for which BABA applies are added to this infrastructure project, BABA then will apply to the entire project.

9. **I am a grantee funding a project with CDBG funds that were obligated (i.e., the grant agreement was signed by HUD) on or after November 15, 2022. Does the BAP apply?**

   If the CDBG funds used in your infrastructure project were obligated on or after November 15, 2022, the BAP will apply to all iron or steel used in the project, unless a waiver applies to the project. If these BABA funds are applied to an infrastructure project that does not have a BAP, the addition of these funds will attach BABA to the entire project. BABA would apply as described in HUD's Phased Implementation Waiver unless there is a project-specific waiver approved by the MIAO.

10. **I am funding a public facilities project with total FFA of $2,500,000. $400,000 of CDBG funds are being used for engineering and administration fees of a project. Other federal funding will pay for the remaining construction activities. Is the BAP applicable to this project?**

    Yes, the total project cost is over $250,000 and the project is construction of an infrastructure project. The total cost of a project must not exceed $250,000 from all sources to qualify for an exemption of the BAP under HUD's general waiver for small projects.

Documentation and Grant Management

11. **Does the BAP apply to subrecipients or contractors?**

    In most cases, yes, the BAP requirements apply to subgrantees, including subrecipients, contractors, and developers who are awarded Federal financial assistance for use in public infrastructure projects. The BAP requirements apply to all FFA and do not distinguish between the end user of the federal funds. The BAP applies as long as the funding is derived from a Federal agency, even if they are a pass-through entity unless a particular section of the terms and conditions of the Federal award specifically indicates otherwise.

12. Is there standard language grantees can include in subrecipient/bid contract documents?

Grantees should include the BABA language from their grant agreement in any subrecipient and bid contract documents to ensure BABA compliance by subrecipients, developers and/or contractors. Please refer to Addendum 3 for the language used in CPD grant agreements.

Waivers

13. Are there any waivers available for the BAP?

There are currently four general applicability waivers in effect for HUD programs that apply to CPD programs: 1) Phased Implementation Waiver, 2) Exigent Circumstances Waiver, 3) *De Minimis*, Small Grants, and Minor Components Waiver, and 4) Tribal Recipients Waiver. The details of each of these waivers can be found in Section IV of this Notice, or by visiting HUD's BABA website to see the latest available HUD waivers at: https://www.hud.gov/program_offices/general_counsel/baba. Waivers, as they are approved by the MIAO, will be updated on HUD's website.

14. Will there be project or product specific waivers of the BAP?

In addition to HUD's general waivers, HUD may also grant "project-specific" waivers from the BAP for covered FFA on a limited, case-by-case basis, after consultation and review with the MIAO at OMB. HUD may issue a project-specific waiver to the BAP if it is determined that a waiver falls into one of the following three categories: 1) when applying the domestic content procurement preference would be inconsistent with the public interest, 2) when types of iron, steel, manufactured product or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, or 3) where the inclusion of those products and materials will increase the cost of the overall project by more than 25 percent. A waiver for a specific project may vary depending upon the circumstances of the project, and specific items, products, or materials in question. . HUD is currently developing the process through which a grantee may request a waiver. More information will be made available once that process is developed.

Addendum 2
Examples of BAP for CPD Programs

This appendix provides a selection of illustrative examples to assist grantees in determining if the BAP applies to their projects.

Example 1: A grantee funds a water and sewer project containing iron and steel. The project is funded using $1 million in FY23 CDBG funding. The total Federal financial assistance for the project is $3 million.

The BAP applies to this project because it is a CDBG project using funding obligated on or after November 15, 2022, the project contains iron or steel, and the total cost of the project is greater than the simplified acquisition threshold at 2 CFR 200.1 which is currently $250,000.

Example 2: A grantee funds a water and sewer project containing iron and steel. The project is funded using $100,000 in FY23 CDBG funding. The total Federal financial assistance for the project is $2 million.

The BAP applies to this project because it is a CDBG project using funding obligated on or after November 15, 2022, the project contains iron or steel, and the total cost of the project is greater than $250,000.

Example 3: A participating jurisdiction contributes $2 million in HOME funds for construction of a multi-unit residential building, which includes iron or steel. The funds are obligated by HUD on July 15, 2023.

The BAP does not apply to this project because the BAP will not apply to HOME funds used for iron or steel until August 23, 2024.

Example 4: A participating jurisdiction contributes $2 million in HOME funds for the construction of a multi-unit residential building, using iron or steel. The funds are obligated by HUD after August 23, 2024.

The BAP applies to this project because the project includes iron or steel, the total cost of the project is greater than $250,000, and the project uses HOME funds obligated after the date on which the BAP begins to apply to HOME funds used for iron or steel.

Example 5: A grantee funds acquisition of land using $300,000 in Recovery Housing Program (RHP) funds that were obligated on September 1, 2023. The acquisition is part of a multifamily housing construction project containing iron or steel.

The BAP applies because the purpose of the funding is a covered activity (construction) that includes iron or steel. The total cost of the project from all sources is greater than $250,000 and the funds are obligated after the date on which the BAP applies to RHP funds used for iron or steel.

Example 6: A grantee purchases a fire engine which will serve a low- to -moderate-income neighborhood. The grantees uses $300,000 in FY23 CDBG funding for the purchase.

The BAP does not apply because the funding is not used for a covered activity (construction, alteration, maintenance, or repair) for an infrastructure project.

Example 7: A grantee uses $400,000 in Recovery Housing Program (RHP) funds to rehabilitate a multi-unit residential building, using iron or steel. The funds are obligated by HUD after August 23, 2023.

The BAP applies to this project because it uses iron or steel, the total cost of the project is greater than $250,000, and the project uses RHP funding that is obligated after the date on which the BAP begins to apply to RHP funds used for iron or steel (August 23, 2023).

Addendum 3
Sample BABA Language in Grant Agreements

The language below is included in all CPD program NOFOs and grant agreements. Similar to other cross cutting requirements, grantees should include the following BABA language in all contracts and agreements with subrecipients, contractors, developers and subgrantees. Grantees and subrecipients should include this language in any NOFOs and procurement bid/contract documents to ensure BABA compliance by subgrantees, developers and/or contractors.

> The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.