City of Chattanooga



**DEPARTMENT OF ECONOMIC DEVELOPMENT**

***Housing and Community Investment Division***

**HOME Investment Partnership Program Policies**

Funded through the

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# Introduction

## Overview

The HOME Investment Partnerships (HOME) Program is a federal block grant program for affordable housing from the U.S. Department of Housing and Urban Development (HUD). Awards are made annually in the form of formula grants to participating jurisdictions (PJs) which include states and local governments like the City of Chattanooga.

The HOME program is authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended and governed by Title 24 Code of Federal Regulations, Part 92, as amended. Those regulations are incorporated by reference in this manual. The federal regulations take precedence over any material presented in this manual.

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

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

The City’s Housing and Community Investment Division (HCI) is responsible for ensuring appropriate utilization of HOME awards and other HUD funds provided to the City for housing and community development activities.

Designed exclusively to create affordable housing for low-income households, with incomes of less than 80% of the area median income (AMI), awards are provided to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance. For certain activities, a portion of the funds must provide housing for households with less than 50% of the AMI.

PJs are allowed to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancements, or rental assistance or security deposits. Although the regulations allow for many eligible activities using HOME, due funding availability, local community needs and objective, the City can and does limit the type of funded activities.

Eligible activities are defined in accordance with the following HOME assistance categories:

* + Homeowner Rehabilitation
  + Homebuyer Unit Development
  + Direct Homeownership Assistance
  + Rental Housing
  + Community Housing Development Organization Operating Support
  + Tenant-Based Rental Assistance

The City’s Housing and Community Investment Division (HCI) is responsible for ensuring appropriate utilization of HOME awards and other HUD funds provided to the City for housing and community development activities.

HCI distributes HOME funds among different categories of housing need, according to the priorities of housing need identified in its approved consolidated plan. The City of Chattanooga only invests HOME funds in eligible projects within its City of Chattanooga boundaries.

HCI invests HOME funds in the following housing activities and partners:

1. Homebuyer Activities: Finance the acquisition and/or rehabilitation or new construction of homes for homebuyers and homeownership
2. Rental Housing: Affordable rental housing may be acquired and/or rehabilitated, or constructed
3. Tenant Based Rental Assistance (TBRA) - the City of Chattanooga can use HOME funds to provide tenant‐based rental assistance contracts of up to 2 years if such activity is consistent with its Consolidated Plan and justified under local market conditions. This assistance may be renewed (*conditions apply*)
4. Community Housing Development Organizations (CHDO) – a designation by the HCD of a private, non‐profit organization that meets a strict criteria of qualifications. The HCD invests a minimum of 15 percent of its annual allocation of HOME funds for housing owned, developed or sponsored by CHDOs
5. Subrecipients – a public agency or non‐profit organization selected by the HCI to administer a portion of the HOME Program
6. Developers, Owners and Sponsors – nonprofit and for‐profit entities participating in the HOME Program as owners, developers and sponsors of housing

Before committing funds to a project, the applications are evaluated for program compliance, and particularly compliance under §92.2 and §92.250, projects undergo risk assessments and final underwriting to ensure program compliance and that the project will not invest any more HOME funds than is necessary to provide affordable housing.

Up to 10 percent (10%) of the City’s annual allocation may be used for program planning and administration.

HOME‐assisted rental housing must comply with certain rent limitations. HOME rent limits are published each year by HUD.

The program also establishes maximum per unit subsidy limits and maximum purchase‐price limits.

1. **Minimum/Maximum Funding:**

* **Minimum amount of assistance.** The minimum amount of HOME funds that must be invested in a project involving rental housing or homeownership is $1,000/HOME-assisted unit.

1. **Maximum HOME Investment:**

* **Maximum subsidy limits are released by the City each year upon receipt of the information from HUD. Current limits can be found in the Appendix.** Actual funding levels will vary project by project and typically are lower based project limits on cost reasonableness and needs of the project.

## Method of Assistance

The City of Chattanooga can provide funding in many HUD eligible forms, including grants, loans, advances, equity investments, interest subsidies, assistance to homebuyers, and for HUD approved costs, such as single‐family, multi‐family, new construction, reconstruction, or rehabilitation of non‐luxury housing with suitable amenities, real property acquisition (*as part of a housing development project*), site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant‐based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations.

**Due to limited funding, targeted activities, local needs and organizational capacity, the City limits the type of activities funded, the format in which funding is provided, and costs that are covered with HOME funds. Eligible costs can be “counted’ during the project feasibility analysis process, but not covered using HOME funds. These are detailed in applications and RFPs solicitation**

## Distribution of Funding

The City of Chattanooga distributes HOME funds geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in its approved 5-Year Consolidated Plan.

The City of Chattanooga only invests HOME funds in eligible projects within its boundaries.

Requests for Proposals (RFPs) for City of Chattanooga HOME funds are solicited year-round (subject to funding availability). Funding applications are assessed for such characteristics as community need, conformance with adopted plans and priorities, nature and extent of benefit, financial and technical feasibility, and/or other factors bearing upon the merit of proposals competing for funding. The specific competitive selection criteria for projects are published at the time applications are solicited.

Before funds can be spent, an agreement will be signed between the City and the recipient. The agreement will satisfy Federal requirements and establishes the terms under which the funding is being provided. Funds will not be released until a funding agreement is executed and all applicable regulations have been met (e.g. environmental review requirements).

## Purpose of Manual

City of Chattanooga Housing and Community Investment Division (HCI) provides this manual as a resource for implementing its HOME‐program projects and for other interested parties including non‐ profit organization staff who are contemplating applying for funding assistance under the HCI HOME Program.

This Manual is intended to provide policies that establish the minimum standard for the use of HOME funds in the creation of affordable multi-family and single family housing developments for eligible households. Though not all-inclusive, the Manual covers the major areas of HOME administration and provides reference to applicable laws and regulations. The document provides information on program implementation that will meet HOME regulatory requirements and an approach to set-up, implement and monitor HOME activities for both the City and its HOME recipients.

This manual is not meant to be a substitute for HOME regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of HOME funds. HCI reserves the right to add, remove or change policies, procedures or forms in this manual. Notwithstanding any information contained herein, where a conflict of language or omission of requirements occurs, the requirements of the Federal Notice and HUD Guidance on the HOME Program, as may be amended from time to time, shall prevail.

When developing affordable housing in conjunction with the City of Chattanooga, it is important to review this document and discuss the proposed project with HCI prior to finalizing details to ensure compliance with all federal, state and county requirements.

## Updates

Users of this manual are encouraged to check for updates at the HCI’s website. <https://chattanooga.gov/economic-development/home-application>

Information may change for a variety of reasons, including changes in federal regulations, City requirements, and in the interpretation or clarification of a federal regulation.

## Waiver Requests

HCI 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 City. 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 City.

## Definitions

***Action Plan***: The annual one-year portion of the Consolidated Plan. It includes the annual HOME project awards and is the participating jurisdiction’s annual application for HOME funds.

***Adjusted Income***: Adjusted income is annual income (gross income) reduced by deductions for dependents, elderly or disabled households, medical expenses, and child care. In the HOME program, adjusted income is only used to calculate a household’s eligibility for and the amount of assistance to be provided under the Uniform Relocation Act or Section104(d); or the rent to be paid by a tenant whose income has increased above the HOME low income limit. Adjusted income is not used to determine eligibility for homeowner, homeowner rehabilitation programs or tenant eligibility for rental housing programs.

***Agency***: Includes [Developers, Owners, and Sponsors,](#_heading=h.17dp8vu) and [Subrecipients.](#_heading=h.lnxbz9)

***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 (Gross Income)***: Annual income means all amounts, monetary or not which go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; are anticipated to be received from a source outside the family during the 12- month period following admission or annual reexamination date; and which are not specifically excluded under the Section 8 definition of annual income (24 CFR 5.609). Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access. The City’s HOME program uses the income definitions of the Section 8 program to determine the annual income (gross income) used to classify a household for purposes of eligibility

***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 State recipient, a subrecipient, or a contractor to use a specific amount of HOME funds to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance; or has met the requirements to commit to a specific local project, as defined in paragraph (2) of this definition. (See § 92.504(c) for minimum requirements for a written agreement.) An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating jurisdiction (e.g., an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment.

***Commitment to a Specific Local Project***: Commitment to a specific local project means that a legally binding agreement was executed meeting one of the following sets of requirements:

For rehabilitation or new construction projects, the PJ (or other entity) and the project owner will execute an agreement for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within 12 months of the agreement date. If the project is owned by the City of Chattanooga or state recipient, the project must be set up in the disbursement and information system and construction reasonably expected to start within 12 months of the set-up date.

If the project consists of acquisition of standard housing by the PJ, the agreement must be a binding contract for the sale of an identifiable property and the property title must be transferred to the PJ (or other entity) within six months of the date of the contract.

If the project involves the acquisition of standard housing and the City of Chattanooga 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.

Note that preliminary or conditional “commitments” 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. A participating jurisdiction must award at least 15% of its annual HOME allocation to one or more CHDOs.

***Consolidated Plan***: A five-year strategic plan prepared in accordance with the requirements set forth in 24 CFR part 91 for certain HUD programs, including HOME, which assesses priority community needs for affordable housing and community development, identifies anticipated resources, and develops goals and other actions to be undertaken to help achieve the goals. The plan guides the investment of the HOME and other HUD funds for the five-year period; HOME projects funded with these funds must be consistent with the plan.

***Developers, Owners, and Sponsors***: Includes individuals, for-profits entities, and nonprofits that are developers, owners, or sponsors of housing.

***Development Subsidy*** – A development subsidy is the difference between the cost to develop housing and the market price.

For example, a developer might receive a HOME grant of $90,000 to construct a new house. The appraised value after construction is only $85,000 due to the neighborhood and market conditions. The $5,000 difference between the $90,000 construction grant and the $85,000 sales price is not repaid to the City and represents a development subsidy to the developer.

While the development subsidy does not directly benefit the homebuyer, it helps make development of affordable housing feasible.

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

***Final Rule***: The Final HOME Rule was published at 24 CFR part 92 on July 24, 2013 and became effective on August 24, 2013. HOME contracts that are executed, or contracts that are amended after August 23, 2013, must conform to the 2013 Final HOME Rule.

***First-Time Homebuyers***: Means an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with HOME assistance. The term first- time homebuyer also includes an individual who is a displaced homemaker or single parent.

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

***HCI*:** The Housing and Community Investment Division. A division of the City of Chattanooga’s Department of Economic Development. HCI is responsible for managing the HOME funds and other federal funds received by the City of Chattanooga from the U.S. Department of Housing and Urban Development (HUD). “HCI”, “City”, and “City of Chattanooga” are used interchangeably.

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

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

***Homeownership***: Homeownership means ownership in fee simple title in a 1-4 unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD. For owner-occupied rehabilitation projects, the ownership in the housing assisted must meet the definition of “homeownership” in §92.2, except that housing that is rehabilitated pursuant to §92.254(b) may also include inherited property with multiple owners, and life estates under the conditions of §92.254(c).ownership in fee simple title in a 1‐ to 4‐unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.

***HOME Investment Trust Fund***: The term given to the two accounts - one at the Federal level and one at the local level - that "hold" the City’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.

***Housing*:** includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single‐room occupancy housing, and group homes. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free‐ standing, barrier‐free, energy‐efficient, removable, and designed to be installed adjacent to existing single‐family dwellings.

Housing does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

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

***Low-Income Families***: Families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of median income for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.

***Match***: Match is the City of Chattanooga’s required contribution to the HOME Program. The local, non-Federal contribution to the partnership. The overall match contribution must equal not less than 25% of HOME funds disbursed for projects and programs each federal fiscal year (October 1 – September 30).

***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.

***Owners***: Refer to the definition of [Developers, Owners, and Sponsors.](#_heading=h.17dp8vu)

***Participating Jurisdiction (PJ)***: The term given to any state, local government that has been designated by HUD to administer a HOME Program. City of Chattanooga is a PJ.

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

* Proceeds from the disposition by sale or long‐term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;
* Gross income from the use or rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income (*Program income* does not include gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the participating jurisdiction, subrecipient or State recipient);
* Payments of principal and interest on loans made using HOME funds or matching contributions;
* Proceeds from the sale of loans made with HOME funds or matching contributions;
* Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
* Interest earned on program income pending its disposition; and
* Any other interest or return on the investment permitted under §92.205(b) of HOME funds or matching contributions.

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

***Project Completion*:**

There is a four-year project completion deadline for all projects to which HOME funds are committed on or after August 23, 2013. A one-year extension of the four-year deadline is possible if the PJ can demonstrate that the project will be completed within the one-year timeframe.

Project completion means that all necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw-down of HOME funds has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 92.502(d) of this part, project completion occurs upon completion of construction and before occupancy. For tenant‐based rental assistance, project completion means the final drawdown has been disbursed for the project. For homebuyer projects, the final transfer has occurred and the beneficiary information is entered into IDIS.

***Property Standards***: Activities and costs are eligible for HOME funding only if the housing meets the property standards in § 92.251 upon project completion.

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

***Rehabilitation***: All rehabilitation that is performed using HOME funds must meet the City of Chattanooga Rehabilitation Standards (as may be amended) to ensure that housing rehabilitated with HOME funds is decent, safe, sanitary, and non-luxury housing with suitable amenities. (See Property Standards)

***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.

***Sponsors***: Refer to the definition of [Developers, Owners, and Sponsors](#_heading=h.17dp8vu).

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

***Students***: Certain students are explicitly excluded from participating independently in the HOME program. The HOME program adopts the Section 8 Housing Choice Voucher (HCV) program restrictions on student participation found at 24 CFR § 5.612, which exclude any student that:

1. Is enrolled in a higher education institution;
2. Is under age 24;
3. Is not a veteran of the U.S. military;
4. Is not married;
5. Does not have a dependent child(ren);
6. Is not a person with disabilities; and
7. Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income.

***Subrecipient***: HOME subrecipients receive funds to carry out programs (e.g., downpayment assistance, homeowner rehabilitation, or tenant-based rental assistance programs, etc.), and not to undertake specific projects. (Entities that carry out projects are generally owners, developers, or sponsors.) A public agency or nonprofit organization selected by the City of Chattanooga to administer all or a portion of the City’s HOME Program is a subrecipient. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient. The participating jurisdiction's selection of a subrecipient is not subject to the procurement procedures and requirements.

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

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

***Terminated Projects***: A HOME assisted project that is terminated before completion, either voluntarily or involuntarily, constitutes an ineligible activity, and the participating jurisdiction must repay any HOME funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with § 92.503(b). Any project that does not meet the HOME requirements for affordable housing (affordability provisions, income targeting, property standards, etc.) must repay HOME funds expended for the project.

Transitional: Housing that:

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

(2) Has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the participating jurisdiction or project owner before occupancy. Uniform Physical Condition Standards (UPCS) means uniform national standards established by HUD pursuant to 24 CFR 5.703 for housing that is decent, safe, sanitary, and in good repair. Standards are established for inspectable items for each of the following areas: site, building exterior, building systems, dwelling units, and common areas.

***Uniform Physical Condition Standards (UPCS)***: The UPCS are uniform national standards established by HUD for housing that is decent, safe, sanitary, and in good repair, pursuant to 24 CFR § 5.703. These standards apply to HOME rehabilitation, acquisition, and tenant-based rental assistance projects in accordance with § 92.251. In the near future, HUD will issue guidance on the specific required elements of UPCS that will apply to HOME.

***Very-Low-Income Families***: Families whose annual incomes do not exceed 50 percent of the median family income for the area as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of median income for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs, or fair market rents, or unusually high or low family incomes. An individual does not qualify as a very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612

***Written Agreement*:** An executed, legally binding written agreement committing HOME funds from City. Funds may be in the form of a loan or grant.

# General Requirements

## Project Eligibility

### Eligible Activities

HOME funds may be used for the following activities to develop and support affordable rental housing and homeownership affordability of permanent or transitional housing that, upon completion, must meet applicable [Property Standards.](#_heading=h.1ci93xb) Descriptions of the eligible activities and the eligible costs associated with each activity are described in the General Requirements: Eligible Project Costs and in more detail in the applicable HOME assistance section.

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| --- | --- | --- |
| *Table 2.1* | *Eligible Activities* | |
| **HOME Assistance** | **Eligible Activities** | **Description** |
| **Homeowner Rehabilitation [92.254]** | * Repair * Rehabilitation * Reconstruction | Assistance to existing owner- occupants. |
| **Homebuyer Unit Development [92.254]** | * Acquisition * Acquisition and Rehabilitation * New Construction | Development of affordable homes. |
| **Direct Homeownership Assistance [92.254]** | * Acquisition * Acquisition and Rehabilitation | Assistance to first-time homebuyers in acquiring affordable homes. |
| **Rental Housing [92.252]** | * Acquisition * New Construction * Rehabilitation | For affordable rental housing. |
| **CHDO Operating Costs** | - Agency Operating Expenses | For development of affordable housing. |
| **Tenant-Based Rental Assistance [92.209]** | * Rental Assistance Programs * Security Deposit and Utility Deposit Assistance Programs | Financial assistance provided to tenants. |

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

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### Eligible Properties

HOME funds may be used only for eligible properties within city limits of Chattanooga. The eligible properties vary depending on the HOME assistance provided. Refer to the applicable HOME assistance section for a complete list and description of eligible properties. Refer to the table below for a general list of eligible and ineligible Housing:

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 2.2* | *Housing Generally* | | |
| **Inclusions [92.2]** | | | |
| Manufactured Housing | | Manufactured Housing Lots | Elder Cottage Housing Opportunity (ECHO) units that are small free-standing, barrier- free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings |
| Permanent Housing | | Transitional Housing |
| Single-Room Occupancy Housing | | Group Homes |
| **Exclusions [92.213]** | | | |
| Emergency Shelters (including shelters for disaster victims) | | Nursing Homes | Convalescent Homes |
| Hospitals | | Residential Treatment Facilities | Correctional Facilities |
| Halfway Houses | | Housing for Students | Dormitories (including farmworker dormitories) |
| **Public Housing [92.213]**: HOME-assisted housing units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME period of affordability.  **Exceptions**: HOME funds may be used for the development of public housing units, if the units are developed under section 24 of the 1937 Act (HOPE VI) and no Capital Fund assistance under section 9(d) of the Act is used for the development of the unit; such a unit may receive Operating Fund assistance. HOME funds may be used in a project that also contains public housing units, provided that HOME funds are not used in the public housing units and the HOME units are separately designated. | | | | | |

### Entities Eligible to Administer HOME Funds

HOME funds may be administered only by eligible entities, which vary depending on the HOME assistance provided. Refer to the applicable HOME assistance section for a complete list and description of eligible entities. Refer to the table below for a general list of eligible entities:

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 2.3* | ***Entities Generally*** | | |
| [**Developers, Owners, Sponsors**](#_heading=h.17dp8vu): individuals, for-profit entities, public agencies, or nonprofits | | | **Contractors**: a private for-profit contractor procured through a competitive process in accordance with applicable Office of Management and Budget (OMB) procurement requirements. |
| **Subrecipients**: public agency or non-profit organization | | **CCHDO** |

### Eligible Applicants/Beneficiaries

Eligible beneficiaries include households who:

* + 1. Reside in or are relocating to The City;
    2. Are not an agent, consultant, officer, employee, and/or elected official of City of Chattanooga or a HOME recipient of funds (household may still be able to receive assistance if a waiver is approved by HUD); and
    3. Meet all other requirements as applicable, including income requirements.

***Income Requirements***

The HOME Program is designed to provide affordable housing to low-income families and individuals. HOME regulations require that all HOME funds benefit households with annual gross incomes at, or below, 80% of the area median income (AMI). For certain HOME assistance, such as HOME Rental Housing, the City has further restricted the income requirements through the Consolidated Plan that requires that all HOME funds benefit households with annual gross incomes at, or below, 60% AMI. Refer to the applicable HOME assistance section for further detail on income requirements.

Annual income refers to the gross amount of income anticipated to be received by all persons in a household, including non-related individuals, during the 12 months following the effective date of the income determination.

*Restriction on Serving Students*

The HOME program adopts the Section 8 Housing Choice Voucher (HCV) program restrictions on student participation found at 24 CFR § 5.612. Students are prohibited from receiving any type of HOME assistance, including renting HOME-assisted rental units, receiving HOME tenant-based rental assistance, or otherwise participating in the HOME program independent of their low- or very low-income families. Refer to [Introduction](#_heading=h.2zlqixl): [Definitions](#_heading=h.2s8eyo1) for the definition of students.

## Eligible Project Costs [92.206]

HOME funds may be used for a variety of costs. These project costs vary depending on the HOME assistance provided and the nature of the project activity; below are examples of the general categories of eligible costs, which are explained in further detail in the applicable HOME assistance section. Check with City of Chattanooga to determine the eligibility of costs that fall outside of these examples.

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### Eligible Costs

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| *Table 2.4* | ***General Eligible Project Costs*** |
| **Project Cost** | **Description** |
| **Acquisition Costs** | Costs of acquiring improved or unimproved real property. |
| **Development Hard Costs** | Actual cost of constructing or rehabilitating housing. |

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| --- | --- |
| **Project Related Soft Costs** | 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. |
| **Relocation Costs** | Cost of relocation payments and other relocation assistance to persons displaced by the project. |
| **Refinancing Costs** | **City of Chattanooga does not currently permit refinancing of existing debt secured on a housing project as part of the rehabilitation.** The City intends to develop and adopt refinancing guidelines in the future which would then permit refinancing as an eligible cost. |
| **Costs Relating to Payment of Loans** | If HOME funds are not used to directly pay an eligible project cost, but are used to pay off a construction loan, bridge financing loan, 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, and the HOME assistance is part of the original financing for the project Loan. |

### Ineligible Activities, Costs, and Fees

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| --- | --- | --- | --- | --- |
| *Table 2.5* | ***Ineligible Activities, Costs, and Fees [92.214]*** | | | |
| **Acquisition of vacant land only** (without the construction of housing) | | **Demolition only** (without the construction of housing) | | **Project-based rental assistance**: rental assistance tied to occupancy in a particular project |
| Project reserve accounts\* or operating subsidies | | **TBRA for the special purpose** of the existing section 8 program, in accordance with section 212(d) of the Act | | **Double-dipping**: assistance (other than TBRA, or assistance to a homebuyer to acquire housing previously assisted with HOME funds) to a project previously assisted with HOME funds during the period of affordability established by the participating jurisdiction in the written agreement under § 92.504.\*\*\* However, additional HOME funds may be committed to a project up to one year after project completion |
| Non-federal **matching** contributions required under any other Federal program | | **Development, operations, or modernization of public housing**: assistance for uses authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds) | |
| Assistance to low-income housing under 24 CFR part 248 (Prepayment of Low Income Housing Mortgages)\*\* | | **Acquisition of property owned by City of Chattanooga**, except for property acquired with HOME funds, or property acquired in anticipation of carrying out a HOME project | |
| **Delinquent taxes, fees or charges** on properties to be assisted with HOME funds | | Any other ineligible cost as defined in the HOME Regulation, §§ 92.206 through 92.209. |
| Servicing, origination and other fees for the purpose of covering costs of administering the HOME Program | | | Fees not customarily charged in rental housing | |
| \*Except for costs of funding an initial operating deficit reserve for new construction or rehabilitation, see Project Related Soft Costs and § 92.206(d)(5).  \*\*Except assistance may be provided to priority purchasers as defined in 24 CFR § 248.101  \*\*\*Additional HOME funds may be committed to a project up to one (1) year after project completion (see § 92.502), but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under § 92.250. | | | | |

## Property Standards [92.251]

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion. Minimum property standards vary according to the nature of the activity (i.e., acquisition, new construction, rehabilitation) and are described in further detail in the applicable HOME assistance section.

### General Inspection Requirement [92.504(D)]

The PJ must conduct an on-site inspection of each project at project completion and during the period of affordability, if applicable, to determine that the project meets the minimum property standards. Additional inspection requirements may apply, depending on the activity.

## Project Underwriting and Subsidy Layering [92.250(b)]

Layering is the combining of other federal resources on a HOME assisted project which results in an excessive amount of subsidy for the project. Such activity is prohibited. The City will analyze each project to insure that only the minimum amount of assistance is allocated to the project. In no case may the amount of HOME funds exceed the Maximum per Unit Subsidy Limits. In addition, homeownership projects will also need to document that neighborhood market conditions demonstrate a need for the project. These requirements are covered further in the subsequent activity chapters.

HOME funds are limited to gap financing, thus, the City’s subsidy layering and/or underwriting must demonstrate that it is not investing any more HOME funds, alone or in combination with other funds, than are necessary to provide quality, affordable, and financially viable housing for at least the duration of the affordability period. The evaluation will include determining a reasonable level of profit or return on the owner’s or developer’s investment in a project. Project underwriting and subsidy layering requirements vary by the project and HOME assistance provided. Details are described the City’s Underwriting and Subsidy Layering Guidelines.

The City’s subsidy layering and underwriting guidelines require the City to:

1. Assess the reasonableness of profit or return to the owner or developer, for the size, type, and complexity of the project
2. Examine the sources and uses for each project and determine whether the costs are reasonable
3. Assess the market conditions of the neighborhood in which the project will be located
4. Assess the experience and financial capacity of the developer
5. Determine whether there are firm financial commitments for the project

### Project Underwriting

Underwriting (review of sources and uses) of all HOME projects (rental and homebuyer) is required whether or not the projects are assisted with other governmental assistance. Refer to the applicable HOME assistance section for further details and exceptions to this requirement.

### Subsidy Layering Review Guidelines

The City must determine that no more than the necessary amount of HOME funds, in combination with other governmental funds, is invested than is necessary to provide quality affordable housing that is financially viable for a reasonable period.

As part of the review of applications for City funding and again at the time of funding commitment, the City conducts a Layering Review of projects that include state or other public funds. The City will follow its Subsidy Layering Review Guidelines. The review includes a consideration of the sources and uses of funds proposed for a project, the reasonableness of project development costs, the proposed project operating costs, and the amount of cash flow generated over time. The per subsidy limit review formula will round-up to the nearest whole number.

### Market Assessment

A market assessment or market study must be completed in order to assess whether there is current market demand for the project. The type is dependent on the project. The applicant entity must work with the City to determine which is applicable. Information will be provided in the funding notice and by the City, as requested. The PJ’s policies and procedures must be followed in order to assess whether there is a current market demand for the project.

## Methods of Assistance

### Eligible Forms of Subsidy

City of Chattanooga HOME funds are provided through a subsidy to eligible entities. The following subsidies are eligible under HOME; the particular type of subsidy provided will be determined through the application and contracting process. Please note that City of Chattanooga does not currently provide all of the subsidies listed: the table below is separated between those subsidies that City of Chattanooga currently provides and those that are not currently provided but that may be provided at a future date.

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| *Table 2.6* | ***Eligible Forms of Subsidy* [92.205(b)]** |
| **Type of Subsidy** | **Description** |
| ***Subsidies Currently Provided by City of Chattanooga***  ***or Utilized by Partner Entities*** | |
| **Deferred loans (forgivable or repayable)** | Loans that are not fully amortized; some, or all, principal and interest payments are deferred to a point in the future. May be structured in many ways.   * May be forgivable or repayable * Can accrue interest or be non-interest bearing * The property (or other assets) is used as collateral |
| **Grants** | Provided with no requirement or expectation of repayment. Provided to non-profits for eligible housing activities. |
| **Grants (TBRA only)** | Provided to through governmental or non-profit entities to assist eligible households. |
| **Interest-bearing loans or advances** | Amortizing loans; repayment is expected on a regular basis, usually monthly, so that over a fixed period of time, all of the principal and interest is repaid.   * May have interest rates at or below the prevailing market rate * The property (or other assets) is used as collateral * Loan term varies depending on the nature of the activity funded |
| **Non-interest- bearing loans or advances** | Principal amount of these loans is paid back on a regular basis over time, but no interest is charged.   * The property (or other assets) is used as collateral * Loan term varies depending on the nature of the activity funded |
| ***Subsidies Not Currently Provided by City of Chattanooga*** | |
| **Interest subsidies** | Up-front discounted payment to a private lender in exchange for a lower interest rate on a loan. |
| **Equity Investments** | Investment made in return for a share of ownership. |

|  |  |
| --- | --- |
| **Loan guarantees and loan guarantee accounts** | Both types ensure the payment of a loan in case of default.   * Loan guarantee: written promise to pay the lender some percentage of the outstanding principal balance of a loan in the event the borrower defaults. * Loan guarantee account: loan loss reserve held by the lender in an amount equal to some percentage of the outstanding principal. |
| **Other forms approved by HUD and the City** | Requires HUD and City approval, in writing. |

### 

### Subsidy Limits

HOME establishes a minimum HOME investment and maximum HOME subsidy limit per project, as set forth below.

|  |  |
| --- | --- |
| *Table 2.7* | ***Subsidy Limits*** |
| **Minimum HOME Investment [92.205]** | **Maximum HOME Subsidy Limit [92.250]** |
| **$1,000 of HOME funds per unit assisted**  For multi-unit properties, the average must be  $1,000 per unit assisted, but any single unit may receive less than $1,000.  Minimum HOME Investment does not apply to Tenant-Based Rental Assistance. | The current Maximum Per Unit Subsidy Limits established by HUD for City of Chattanooga may not exceed 240% of the per-unit dollar limitations established under Section 234–Condominium Housing Limits, elevator-type, basic mortgage limits for projects in the Seattle-High Cost Percentage (HCP) area.  HCI will provide the current and updated subsidy limits. |

### Projects Containing both HOME and Non-HOME Units

HOME funds may be used to assist one (1) or more housing units in a multi-unit project that contains other non-HOME units. However, only the *actual* HOME eligible development costs may be supported by the HOME program. The method for determining the allocation of eligible costs that may be charged to the HOME program depends on whether the units are comparable in terms of size, features, and number of bedrooms.

|  |  |
| --- | --- |
| *Table 2.8* | ***Method for Determining Allocation of Costs*** |
| **Comparability** | **Method** |
| HOME project with Comparable units | Pro Rata Share Method: Prorate the total HOME eligible development costs of the project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME-assisted units in the project. |
| HOME project with Incomparable units | Actual Cost Allocation Method |

## Minimum Long-Term Affordability Period [92.252 and 92.254]

To ensure investments provide affordable housing over the long term, rent and occupancy restrictions continue throughout the period of affordability. The minimum length of an affordability period depends on the amount of the HOME investment in the property and the nature of the activity, and will be specified in the applicable HOME assistance section and in each project contract.

Throughout the period of affordability, income eligible households must occupy the assisted units and agencies must comply with all applicable regulations. The HOME Affordability and Program Compliance periods are listed in the table below.

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 2.9* | ***HOME Affordability and Program Compliance Periods*** | | |
| **Eligible Activity** | | **Average Per Unit HOME Assistance** | **Minimum HOME Period of Affordability** |
| Homebuyer and rental housing acquisition and/or rehabilitation | | <$15,000/unit | 5 years |
| $15,000 to $40,000/unit | 10 years |
| >$40,000/unit | 15 years |
| Refinance of rental housing | | Any $ amount | 15 years |
| New Construction of rental housing | | Any $ amount | 1. years |

## Matching Funds

The City of Chattanooga is required to match at least 25% of all HOME funds disbursed on projects and programs each federal fiscal year. The HOME Program does not require every project or program that receives HOME funding to provide a 25% match; however, total match contributions must equal at least the minimum match requirements.

The City will coordinate with entities awarded funding for HOME activities to identify eligible sources of matching funds and the amount of matching funds to be contributed by each activity in order to meet the City’s overall HOME match requirement.

Matching funds are permanent contributions to affordable housing and can be provided through cash, assets, services, labor and other contributions of value to the City’s HOME program. Federal resources (i.e. CDBG funds) are not an eligible source of match.

Eligible sources of matching funds include:

*Table 2.10*

***Eligible Sources of Matching Funds***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Cash from a non- federal source | Value of waived taxes, fees, or charges | | Value of donated land | | Cost of infrastructure improvements |
| Twenty-five percent (25%) to 50% (depending on the type of bonds) of the proceeds of government issued housing bonds provided as a loan to a project | | | | | |
| Value of donated materials, equipment, labor, or professional services | | Sweat equity | | Costs of supportive services for residents of HOME projects | |
| Cost of homebuyer counseling services. | | | | | |

## Site and Neighborhood Standards [92.202]

Housing provided through the City’s HOME program must promote greater choice of housing opportunities. HOME-assisted housing must be suitable from the standpoint of facilitating and furthering compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD regulations.

In addition, construction of new rental housing assisted with City HOME funds must meet the site and neighborhood standards under 24 CFR § 983.57(e)(2) and (e)(3) which places limiting conditions on building in areas of minority concentration or in racially mixed areas if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

A site and neighborhoods standards review will be conducted for all new construction rental projects requesting HOME funds. The review will occur as part of the application threshold eligibility criteria review. New construction rental projects must meet the following site and neighborhood standards:

1. The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
2. The site must not be located in an area of minority concentration, except that this may be permitted only if all of the following conditions are met:
   * Sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration;
   * The project is necessary to meet overriding housing needs that cannot be met in the housing market area;
   * The site promotes greater choice of housing opportunities and avoids undue concentration of assisted persons in areas containing a high proportion of low-income persons;
   * The neighborhood is not seriously detrimental to family life or one 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 is 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; and
   * For non-elderly housing, the travel time and the cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not be excessive.

Refer also to [Overarching Program Regulations and Requirements](#_heading=h.1er0t5e): [Fair Housing and Civil Rights](#_heading=h.2vor4mt).

## Authorization and Payment of Pre-Award Costs

At the City’s discretion, HOME funds may be used to reimburse the project/program sponsor for costs incurred after the award of funds to the project in an approved Annual Action Plan and prior to the effective date of the City’s annual HOME Agreement for that year of funding, subject to certain conditions. Such project costs may be reimbursed so long as the costs meet all regulatory requirements, including but not limited to, NEPA and Uniform Relocation Act (URA) requirements, the costs represent eligible uses of HOME funds, the Agency has received written authorization from the City *prior to* incurring the costs, the total of all pre-award costs is less than 25% of the current HOME allocation and the costs are within the allowable amount of pre- award costs allowed under the regulations.

### Costs Incurred Before Commitment of Home Funds

HOME funds may be used to pay architectural and engineering and other professional services costs that are incurred before the City has made a commitment of HOME funds. These costs can be paid when the City expressly authorizes payment in the written agreement and when the costs have been incurred in the 24 months prior to the commitment of funds. This allows flexibility to the City and affordable housing developers that are planning a project that is intended to eventually receive HOME financing. It also permits the City to reimburse these costs for projects that are already under construction when it becomes clear that HOME financing is necessary to complete the project. (**NOTE:** This must be reviewed in conjunction with potential environmental clearance dates to avoid Choice Limiting Activities restrictions.)

## Project Completion Deadline and Terminated Projects [92.205(e)]

Typically the City must be able to execute a written agreement with the applicant for the project within 12 months of July 1 of the year in which funding is awarded. The applicant must typically be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

All HOME funded projects must be completed within four years of the date HOME funds were committed. Projects that are not completed within four years of commitment of HOME funds will be terminated and funds repaid be the subrecipient/grantee.

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

## Overarching Program Regulations and Requirements

All projects and programs must comply with the [***Overarching Program Regulations and***](#_heading=h.1er0t5e) ***Requirements.***

# Homeowner Rehabilitation

## Project Eligibility

### Eligible Activities

Activities allowed with the use of City of Chattanooga HOME funds are activities that assist existing homeowners with the repair, rehabilitation, or reconstruction of owner- occupied units to ensure decent, safe, sanitary, and non-luxury housing with suitable amenities.

### Eligible Properties [92.2 and 92.254]

Properties that are eligible for HOME assistance include those properties that are:

* + - 1. Owned and occupied by a homeowner (with good and marketable title) who qualifies as a low-income family; and
      2. The homeowner’s principal residence.

HOME assistance may be provided for the following single family property types:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 3.1* | ***Eligible Homeowner Rehabilitation Property Types*** | | | |
| 1-to-4 unit dwelling (single family home, duplex, triplex, or four-plex) | | Condominium unit | Cooperative unit | Manufactured home |

Families or individuals must have the following ownership of the eligible property:

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 3.2* | ***Homeowner Rehabilitation Ownership*** | | |
| **Inclusions [92.2 and 92.254]** | | | |
| Has **fee simple title** to the property | | Owns a **condominium unit** | Maintains a 99-year leasehold interest in the property or a 50- year leasehold on **Community Land Trust** |
| **Manufactured housing**, including a mobile home, on ground leased for a period at least equal to the applicable affordability period | | | |
| Owns or has membership in a **cooperative or mutual housing project** that constitutes homeownership under State law | | | |

|  |  |  |
| --- | --- | --- |
| **Permissible Inclusions, if Approved by City of Chattanooga[92.254]** | | |
| Owns and occupies **inherited property** and shares ownership with other nonresident heirs, and pays all the costs associated with ownership and maintenance of the housing | | |
| Has a **life estate** and has the right to live in the housing for the remainder of his or her life and does not pay rent | | |
| Has a **living trust** and does not receive a benefit from the trust or have any control over the trust assets until the beneficiary is deceased; the trust must be valid and enforceable and ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life | | |
| Has a beneficiary deed that conveys an interest in the real property, including any debt secured by a lien on the real property, to them as the grantee beneficiary designated by the owner that expressly states that the deed is effective upon the death of the owner. | | |
| **Exclusions** | | |
| Has a land contract | Has an installment contract | Has a contract for deeds |

### Maximum Property Value

To be considered an eligible property, the estimated after-rehabilitation value of the property, which must be determined prior to any work being performed, must not exceed 95% of the median purchase price for the area.

HUD establishes the median purchase price limits and these limits can be found on its website: [https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-](https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/)  [rehab-value/.](https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/) The City will provide current and updated limits.

### Rehabilitation of Rental Housing Units

HOME funds may be used to rehabilitate rental units in two- to four-unit properties (duplex, triplex, or four-plex) where the low-income homeowner occupies one of the units as their principle residence. When HOME funds are used to assist the rental housing units in these properties, the [HOME Rental Housing](#_heading=h.3yqobt7) requirements apply to the rental units; when HOME funds are used to assist only the owner-occupied units in these properties, the HOME Rental Housing requirements do not apply.

### Entities Eligible to Administer HOME Funds

HOME funds may be administered only by eligible entities, which include:

|  |  |
| --- | --- |
| *Table 3.3* | *Eligible Entities* |
| **Subrecipients**: public agency, non-profit organization, or CHDO, | City of Chattanooga or unit of general local government in the City of Chattanooga/PJ |
| **Contractors**: a private for-profit contractor procured through a competitive process in accordance with applicable Office of Management and Budget (OMB) procurement requirements. | |

### Eligible Applicants/Beneficiaries

Homeowner households assisted must have incomes at, or below, 80% of the area median income (AMI). Refer also to ***General Requirements: Project Eligibility***. Income limits are established by HUD; the City will provide current and updated limits.

Income must be calculated in accordance with 24 CFR § 5.609 (commonly referred to as the “Part 5 (Section 8 Program) definition”), except that for homeowner rehabilitation the value of the homeowner’s principal residence may be excluded from the calculation of Net Assets as defined in 24 CFR § 5.603. The passbook savings rate for calculation of imputed asset income over $5,000 shall be the same passbook savings rate utilized by the local Public Housing Authority, i.e. the Everett Housing Authority or the Housing Authority of City, whichever is appropriate to the location of the project. The projected annual income of each homeowner must be determined initially before HOME assistance is provided. Income must be documented according to the acceptable forms of documentation listed in the table below. A reexamination of income does not need to occur unless more than six (6) months have elapsed from the time of the initial determination to the provision of HOME assistance.

|  |  |
| --- | --- |
| *Table 3.4 Income Determination Documentation [92.203]* | |
| **Frequency** | **Acceptable Forms of Documentation** |
| Initially (and for Subsequent  Determinations if more than six (6) 2 months of source documents evidencing annual income (e.g., months have elapsed before HOME wage statement, interest statement, unemployment  assistance is provided) compensation statement) for the household. | |

## Eligible Project Costs [92.206]

### Development Hard Costs

The actual cost of repairing, reconstructing or rehabilitating the homeowner housing unit is considered eligible Development Hard Costs. Eligible costs include, but are not limited to:

|  |  |
| --- | --- |
| *Table 3.5* | *Development Hard Costs [92.206(a)]* |
| **Examples of Eligible Costs** | |
| Generally | Alteration, improvement, or modification of a non-luxury nature to existing housing unit structure; including but not limited to costs to meet Rehabilitation Property Standards and other property standards. |
| Demolition | Demolition of existing housing unit structures. |
| Reconstruction [92.2] | Rebuilding, on the same lot, of housing unit standing on a site at the time of project commitment. |
| Site Improvements | Improvements to the housing unit site necessary to the development of the project and in keeping with improvements of surrounding, standard housing units in the area; including but not limited to: sewer lines and water lines that are the responsibility of the homeowner. |
| Utility Connections | Creation of utility connections including off-site connections from the property line to the adjacent street that are the responsibility of the homeowner |

### Project Related Soft Costs

Costs include other reasonable and necessary costs incurred by the owner and associated with the rehabilitation of housing assisted with HOME funds. These costs include, but are not limited to:

|  |  |
| --- | --- |
| *Table 3.6* | *Related Soft Costs [92.206(d)]* |
| **Examples of Eligible Costs** | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| *Costs required to prepare plans, drawings, specifications, or work write-ups* | | | | | |
| Architectural Services | | Engineering Services | | Related Professional Services | |
| *Other development costs* | | | | | |
| 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 Independent Cost Estimate | | Builders or Developers Fees |
| *Costs of a project audit* | | | | | |
| Costs of a project audit, including certification of costs performed by a certified public accountant that the PJ may require with respect to the development of the project | | | | | |
| *Costs to provide information services* | | | | | |

### Relocation Costs (for persons displaced by the project)

Relocation costs include the cost of relocation payments and other relocation assistance to persons displaced by the project.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 3.7* | *Relocation Costs [92.206(f)]* | | | |
| *Relocation Payments* | | | | |
| Replacement Housing Payments | | Payments for moving expenses | Payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons | |
| *Other Relocation Assistance: Staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project* | | | | |
| Timely written notices to occupants | | Referrals to comparable  & suitable replacement property | Property inspections | Counseling |
| Other assistance necessary to minimize hardship | |

### Refinancing

The City will allow for refinancing of homeowner rehabilitation projects, only if the following conditions are met:

1. The homeowner will not be taking out equity as a result of the refinancing, and
2. The refinancing will make the home more affordable

### Ineligible Activities, Costs, and Fees

Refer to the [General Requirement](#_heading=h.2dvym10): [Eligible Project Costs](#_heading=h.1y810tw) for a list of ineligible activities, costs, and fees under the HOME Program.

# 

## Property Standards [92.251]

All properties rehabilitated with HOME funds must meet or exceed the minimum housing rehabilitation standards set forth in the City of Chattanooga Rehabilitation Standards for HOME-Funded Projects and Programs, dated February 26, 2014, or as may be subsequently amended. These standards provide the minimum acceptable material, equipment and workmanship standards for items to be furnished and installed under the rehabilitation specifications. These standards are intended to ensure that housing rehabilitated with HOME funds is decent, safe, sanitary, and non-luxury housing with suitable amenities.

All properties rehabilitated with HOME funds must also comply with the property standards described in the table below.

The specifications for bidding should incorporate both the minimum property standards listed below and the City of Chattanooga Rehabilitation Standards for HOME- Funded Projects and Programs.

|  |  |
| --- | --- |
| *Table 3.8* | ***Rehabilitation Property Standards [92.251(b)]*** |
| *State and local codes, ordinances, and zoning requirements* | |
| Must comply with all applicable State and local codes, ordinances, and requirements. | |
| *Accessibility* | |
| Must comply with accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42  U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. | |
| Covered multifamily dwellings, as defined at 24 CFR § 100.201, must also meet the design and construction requirements at 24 CFR § 100.205, which implements the Fair Housing Act (42 U.S.C. 3601- 3619). | |
| *Lead-Based Paint* | |
| Must meet the lead-based paint requirements at 24 CFR part 35. | |
| ***Additional Standards for Rehabilitation of Manufactured Housing [92.251(e)]*** | |
| *Foundation and Anchoring* | |
| Must meet all applicable State and local codes, ordinances, and requirements. Foundation systems must be inspected and meet the applicable State or local codes, subject to the approval of the PJ’s building officials. | |
| In the absence of State and local codes, must meet the Model Manufactured Home Installation Standards at 24 CFR part 3285. | |

### Inspection Requirement

Construction documents must be in sufficient detail so that an initial property inspection can be conducted to identify the deficiencies that must be addressed, and so that progress and final inspections can be conducted by the PJ to determine that work was done in accordance with work write-ups.

## Project Underwriting and Subsidy Layering

Generally, underwriting (review of sources and uses) of all HOME projects is required whether or not the projects are assisted with other governmental assistance; however, the following exceptions apply to Homeowner Rehabilitation:

|  |  |
| --- | --- |
| *Table 3.9* | ***Exceptions*** |
| **HOME Assistance** | **Exceptions to the Underwriting Requirement** |

**Homeowner Rehabilitation** [92.250(b)(3)(i)-(ii)]

The following general requirements are not required:

Underwriting does not apply unless HOME funds are provided as an amortizing loan.

Market analysis

Developer capacity assessment

## 

## Methods of Assistance

### Eligible Forms of Subsidy and Subsidy Limits

The Eligible Forms of Subsidy and Subsidy Limits established in [General Requirements](#_heading=h.2dvym10): [Methods](#_heading=h.2p2csry)  [of Assistance](#_heading=h.2p2csry) apply here. The City of Chattanooga may choose to finance all of the rehabilitation costs or only a portion of the cost.

## Minimum Long-Term Affordability Period

Homeowner Rehabilitation does not require a minimum long-term affordability period.

### 

### Project Completion Deadline

Typically, the subrecipient/partner entity must be able to execute a written HOME agreement with the homeowner for home rehabilitation within 12 months of July 1 of the year in which funding is awarded. The subrecipient/partner entity must typically be able to complete the rehabilitation and expend all funds within two (2) years of the execution of the written agreement.

Refer also to [General Requirements](#_heading=h.2dvym10): [Project Completion Deadline and Terminated Projects](#_heading=h.vx1227).

## Overarching Program Regulations and Requirements

All projects and programs must comply with the [Overarching Program Regulations and](#_heading=h.1er0t5e)  [Requirements](#_heading=h.1er0t5e)

# Homebuyer Unit Development

## 

## Overview

Currently, the City of Chattanooga makes HOME funds available only to non-profit entities with For‐Sale Housing Production Programs. The City provides grants to non-profit developers for the rehabilitation and/or new construction of housing for sale to homebuyers earning a range of incomes. The program’s primary purpose is to expand homeownership opportunities for low‐ and moderate‐income families and to redevelop abandoned and foreclosed homes.

The City of Chattanooga Housing and Community Investment (HCI) will provide grants to non-profit developers of affordable homeownership projects to assist with cost that are in excess of construction, permanent, and/or other subsidy financing and equity resources. The amount of funds invested in a project will always reflect the minimum amount of public subsidy necessary to achieve the maximum public benefit.

Before committing funds to a housing project, the City will evaluate the project and verify that the developer did not request or was not allocated any more HOME funds in combination with other governmental assistance than is necessary to provide the affordable housing.

The developer must use fair housing marketing practices when selling HOME units, as required by the Fair Housing Act (4.2 U.S.C. 3601‐29). The city will review and approve the developer’s marketing policy as part of the application review and it will incorporate the policy as part of the funding agreement.

100 percent of HOME funds must be in invested in dwelling units that are occupied by households that qualify as low‐income families (80% AMI and below).

All cost must be in direct relation to the city’s HOME assisted unit and supporting documentation of all expenditures is required for all costs being paid for with HOME funding. HOME funds are available as reimbursement for eligible expenses. Related soft costs must be necessary for the development of the city HOME units, and documentation must be provided for any cost re‐imbursement.

Funding will be limited to the amount necessary to facilitate completion of the project and will not exceed a proportionate share of costs in a project with multiple units. All projects will be underwritten according to the City of Chattanooga HOME underwriting guidelines. Individual homebuyers must also be underwritten per the guidelines.

Before monies are released, an agreement will be signed between the City and the recipient. The agreement will satisfy Federal requirements and establishes the terms under which the funding is being provided. Funds will not be released until a funding agreement is executed and all applicable regulations have been met (e.g. environmental review requirements)

***HOME Units Not Sold within 9 Months of Completion will convert to Rental***

The 2013 HOME Final Rule requires all homeownership units that do not sell within nine months of receiving a certificate of occupancy to be converted to long‐term HOME rental units. This means the developer/owner or its partners will become landlords and managers of a unit that will have to remain compliant and be monitored for 5‐20 years depending on the amount of total HOME funds invested. Developer capacity assessment and asset management underwriting will be performed as part of the application/RFP process.

## Project Eligibility

### Eligible Activities

Activities allowed with the use of City of Chattanooga HOME funds are activities that support the development of affordable homes for first-time homebuyers and that address the needs identified in the Consolidated Plan.

|  |  |
| --- | --- |
| *Table 4.1* | ***Eligible Activities*** |
| **Activity** | **Description** |
| Acquisition | Acquiring property for the purposes of developing first-time homebuyer units. Acquiring vacant land or demolition is allowable only for a specific affordable housing project within allowable timeframes. |
| Acquisition and Rehabilitation | Assisting a Developer to acquire and rehabilitate substandard properties to be sold after rehabilitation to low-income homebuyers. |
| New Construction | Assistance to construct affordable housing. |

***Rental to Homebuyer Conversion [92.255]***

HOME-assisted rental units may be converted to homebuyer units with prior approval. All homebuyer requirements in § 92.254 apply. Refusal by the tenant to purchase the housing does not constitute ground for eviction or for failure to renew the lease.

### Eligible Properties

Properties that are eligible for HOME assistance include those properties that will serve as the purchaser’s principal residence throughout the period of affordability. HOME assistance may be provided for the following property types:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 4.2* | ***Eligible Homebuyer Properties [92.2 and 92.254]*** | | | |
| 1-to-4 unit dwelling (single family home, duplex, triplex, or four-plex) | | Condominium unit | Cooperative unit | Manufactured home |

Families or individuals must have the following ownership of the eligible property:

|  |  |  |
| --- | --- | --- |
| *Table 4.3* | ***Homebuyer Ownership*** | |
| **Inclusions [92.2 and 92.254]** | | |
| Has **fee simple title in a 1-to-4 unit dwelling**, or a 99-year lease interest | Owns a **condominium unit** | Maintains a 50-year leasehold on **Community Land Trust** |
| **Manufactured housing**, including a mobile home, on ground leased for a period at least equal to the applicable affordability period | | |
| Owns or has membership in a **cooperative or mutual housing project** that constitutes homeownership under State law | | |
| **Exclusions** | | |
| Has a land contract | Has an installment contract | Has a contract for deeds |

***Lease Purchase***

While the City does not typically allow lease purchase agreements, requests for a lease purchase option will be reviewed and weighted against current market conditions and specific homebuyer circumstances.

If lease purchase is allowed, the regulations at 92.254(a)(7), which includes:

HOME funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement is signed. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the HOME affordability requirements for rental housing in § 92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion.

***Maximum Property Value***

For new construction or acquisition of standard housing, to be considered an eligible property, the property must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area.

For acquisition with rehabilitation of existing units, to be considered an eligible property, the estimated after-rehabilitation value of the property, which must be determined prior to any work being performed, must not exceed 95% of the median purchase price for the area.

HUD establishes the median purchase price limits and these limits can be found on its website: [https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-](https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/)  [rehab-value/.](https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/) The City will provide current and updated limits.

### Entities Eligible to Administer HOME Funds

HOME funds may be administered only by eligible entities, which include:

|  |  |
| --- | --- |
| *Table 4.4* | ***Eligible Entities*** |
| **Subrecipients**: public agency or non-profit organization | **Community Housing Development Organizations (CHDO)** |

### Eligible Applicants/Beneficiaries

Homebuyer households assisted must have incomes at, or below, 80% of the area median income (AMI). Refer also to General Requirements: Project Eligibility. Income limits are established by HUD; the City will provide current and updated limits.

When determining annual income for homebuyer development, income must be calculated in accordance with adjusted gross income as defined for purposes of reporting under the Internal Revenue Service Form 1040 series for individual Federal annual income tax purposes.

***Income Eligibility Determination***

The projected annual income of each prospective household must be determined at the times described in the table below, depending on the type of assistance provided. A re-examination of income does not need to occur unless more than six (6) months have elapsed from the time of the initial determination to the provision of HOME assistance.

|  |  |
| --- | --- |
| *Table 4.5* ***Income Eligibility Determination [92.203]*** | |
| **HOME Assistance** | **Timing of Income Eligibility Determination** |
| Contract to purchase existing housing | Determine eligibility at the time the HOME written agreement is entered into with the homebuyer |
| Contract to purchase housing being constructed | Determine eligibility at the time the HOME written agreement is entered into with the homebuyer |
| Lease-purchase agreement (for existing housing or housing to be constructed) | Determine eligibility at the time the lease-purchase agreement is signed |

Income must be documented according to the acceptable forms of documentation listed in the table below.

|  |  |
| --- | --- |
| *Table 4.6* ***Income Determination Documentation [92.203]*** | |
| Frequency | Acceptable Forms of Documentation |
| Initially (and for Subsequent Determinations if more than six (6) months have elapsed before HOME assistance is provided) | 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the household. |

## 

## Eligible Project Costs [92.206]

There are a variety of costs that may be paid with HOME funds. Below is a non-exhaustive list of eligible Homebuyer project costs; check with City of Chattanooga to determine the eligibility of costs that fall outside of these examples.

### Acquisition Costs

Acquisition Costs include the costs of acquiring improved or unimproved real property, including, but not limited to, the following costs:

|  |  |
| --- | --- |
| *Table 4.7* | ***Acquisition Costs [92.206(c)]*** |
| **Eligible Activity** | **Examples of Eligible Costs** |
| Acquisition of property | Acquisition of existing standard property that meets applicable HOME standards, or substandard property in need of rehabilitation. Includes the acquisition of a manufactured housing unit. \* |
| Acquisition of vacant land | Acquisition of vacant land ONLY if construction will begin on a HOME project within 12 months of project commitment. Includes the acquisition of the land upon which a manufactured housing unit will be located. \* |
| \* The manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability per § 92.205 (a) (4) | |

### Development Hard Costs

The actual cost of constructing or rehabilitating housing is considered eligible Development Hard Costs. Eligible costs include, but are not limited to:

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 4.8* | | ***Development Hard Costs [92.206(a)]*** | |
| **Eligible Activity** | **Examples of Eligible Costs** | | |
| **Acquisition** (of Standard Housing) | Site Improvements | | Improvements to the project site (only property owned by the project owner, where the project is located) necessary to the development of the project and in keeping with improvements of surrounding, standard projects; including: on-site roads, sewer lines, water lines. |
| Utility Connections | | Creation of utility connections including off-site connections from the property line to the adjacent street. |
| **New Construction** | Generally | | The actual cost of construction. |
| Demolition | | Demolition of existing structures only if construction will begin on the HOME project within 12 months of project commitment. |
| Site Improvements | | Refer to Acquisition Site Improvements above for Examples. |
| Utility Connections | | Refer to Acquisition Utility Connections above for Examples. |
| **Rehabilitation** | Generally | | Alteration, improvement, or modification of an existing structure; includes project costs to meet Rehabilitation Property Standards in § 92.251. |
| Conversion | | Conversion of an existing structure from another use to affordable residential housing. |
| Demolition | | Refer to New Construction Demolition above for Examples of Eligible Costs. |
| Reconstruction [92.2] | | Rebuilding, on the same lot, of housing standing on a site at the time of project commitment. |
| Site Improvements | | Refer to Acquisition Site Improvements above for Examples. |
| Utility Connections | | Refer to Acquisition Utility Connections above for Examples. |

### Project Related Soft Costs

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:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| *Table 4.9* | | ***Related Soft Costs [92.206(d)]*** | | | | | |
| **Eligible Activity** | **Examples of Eligible Costs** | | | | | | |
| **Acquisition, New Construction, Rehabilitation** | *Costs required to prepare plans, drawings, specifications, or work write-ups* | | | | | | |
| Architectural Services | | | Engineering Services | | Professional Services | |
| *Other development costs* | | | | | | |
| Private lender origination fees | | Credit Reports | | Fees for Title Evidence | | Fees for Recordation  & filing of legal documents |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Building Permits | Attorney’s  Fees | Private Appraisal Fees  & Fees for Independent Cost Estimate | Builders or Developers Fees |
| *Costs of a project audit* | | | |
| Certification of costs performed by a certified public accountant that the PJ may require with respect to the development of the project | | | |
| *Costs to provide information services* | | | |
| Affirmative marketing and fair housing information to prospective homeowners for projects containing 5 or more HOME assisted units. | | | |
| *Costs of environmental review in accordance with 24 CFR part 58 which are directly related to the project* | | | |
| **New Construction, Rehabilitation** | *Payment of impact fees that are charged for all projects within a jurisdiction* | | | |

### Relocation Costs (for persons displaced by the project)

Relocation costs include the cost of relocation payments and other relocation assistance to persons displaced by the project.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 4.10* | ***Relocation Costs [92.206(f)]*** | | | |
| *Relocation Payments* | | | | |
| Replacement Housing Payments | | Payments for moving expenses | Payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons | |
| *Other Relocation Assistance: Staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project* | | | | |
| Timely written notices to occupants | | Referrals to comparable  & suitable replacement property | Property inspections | Counseling |
| Other assistance necessary to minimize hardship | |

### Costs Relating to Payment of Loans

If HOME funds are not used to directly pay an eligible project cost, they may be used to pay off a Construction Loan, Bridge Financing, or Guaranteed Loan.

|  |  |  |
| --- | --- | --- |
| *Table 4.11* | | ***Costs Relating to Payment of Loans [92.206(g)]*** |
| **Eligible Cost** | **Requirements of Payment of Loans** | |
| Payment of Principal and Interest | The HOME assistance must be part of the original financing for the project | |
| Loan must have been used for eligible costs as specified in the HOME Regulations and this manual | |

### Ineligible Activities, Costs, and Fees

Refer to the [General Requirement](#_heading=h.2dvym10): [Eligible Project Costs](#_heading=h.1y810tw) for a list of ineligible activities, costs, and fees under the HOME Program.

## 

## Property Standards

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion.

### General Inspection Requirement [92.504(d)]

The PJ must conduct an on-site inspection of each project prior to occupancy and at project completion to ensure that the project meets the applicable property standards.

* 1. **New construction**

New construction projects must meet the property standards below.

|  |  |
| --- | --- |
| *Table 4.12* | ***New Construction Property Standards [92.251(a)]*** |
| *State and local codes, ordinances, and zoning requirements* | |
| Must comply with all applicable State and local codes, ordinances, and zoning requirements. | |
| *Accessibility* | |
| Must comply with accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42  U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. | |
| *Disaster Mitigation* | |
| Housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or requirements, or such other requirements as HUD may establish. | |
| ***Additional Standards for New Construction of Manufactured Housing [92.251(e)]*** | |
| *Manufactured Home Construction and Safety Standards, 24 CFR part 3280* | |
| *Permanent Foundation* | |
| Must be on a permanent foundation, meaning a foundation system of supports that is capable of transferring all design loads to the ground and meets the requirements of 24 CFR § 203.43f(c)(i). This definition is consistent with the FHA mortgage insurance requirements for all manufactured homes. | |
| *Applicable State and local laws or codes* | |
| *Utility Hook-ups* | |
| At the time of completion, must be connected to permanent utility hook-ups | |
| *Location* | |
| At the time of completion, must be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability | |

**Inspection Requirement**

Construction contract(s) and documents must describe the work to be undertaken in adequate detail so that progress and final inspections can be conducted to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents.

* 1. **Rehabilitation**

All properties rehabilitated with HOME funds must meet or exceed the minimum housing rehabilitation standards set forth in the City of Chattanooga Rehabilitation Standards for HOME-Funded Projects and Programs, dated February 26, 2014, or as may be subsequently amended. These standards provide the minimum acceptable material, equipment and workmanship standards for items to be furnished and installed under the rehabilitation specifications. These standards are intended to ensure that housing rehabilitated with HOME funds is decent, safe, sanitary, and non-luxury housing with suitable amenities.

All properties rehabilitated with HOME funds must also comply with the property standards described in the table below.

The specifications for bidding should incorporate both the minimum property standards listed below and the City of Chattanooga Rehabilitation Standards for HOME-Funded Projects and Programs.

|  |  |
| --- | --- |
| *Table 4.13* | ***Rehabilitation Property Standards [92.251(b)]*** |
| *State and local codes, ordinances, and zoning requirements* | |
| Must comply with all applicable State and local codes, ordinances, and requirements. | |
| *Accessibility* | |
| Must comply with accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42  U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. | |
| *Lead-Based Paint* | |
| Must meet the lead-based paint requirements at 24 CFR part 35. | |
| *Uniform Physical Condition Standards* | |
| Upon completion, the HOME-assisted project and units must be decent, safe, sanitary, and in good repair as described in 24 CFR § 5.703. | |
| Must correct the minimum deficiencies as established by HUD in the UPCS. | |
| *Major Systems* | |
| For rehabilitation, upon project completion, each major system, as defined in 24 CFR 92.251(b)(1)(ii), had a remaining useful life of a minimum of 5 years or for a longer period if specified by the PJ in its rehabilitation standards | |
| ***Additional Standards for Rehabilitation of Manufactured Housing [92.251(e)]*** | |
| *Foundation and Anchoring* | |
| Must meet all applicable State and local codes, ordinances, and requirements. Foundation systems must be inspected and meet the applicable State or local codes, subject to the approval of the PJ’s building officials. | |
| In the absence of State and local codes, must meet the Model Manufactured Home Installation Standards at 24 CFR part 3285. | |

**Inspection Requirement**

Construction documents must be in sufficient detail so that an initial property inspection can be conducted by the PJ to identify the deficiencies that must be addressed, and so that progress and final inspections can be conducted by the PJ to determine that work was done in accordance with work write-ups.

## 

## Project Underwriting and Subsidy Layering

The PJ will evaluate the project, according to its established underwriting and subsidy layering requirements, to determine financial viability before making a funding commitment for funds for new construction or rehabilitation. Subsidy Layering also applies to homebuyer units with multiple government funding awards. Refer also to [General Requirements](#_heading=h.2dvym10): [Project Underwriting](#_heading=h.qsh70q)  [and Subsidy Layering.](#_heading=h.qsh70q)

### Underwriting Standards [92.254(f)]

The City allows agencies providing purchase assistance to conduct their own screening and loan underwriting for first-time homebuyers, so long as the underwriting procedures are substantially consistent with the following procedures and policy requirements. Each homebuyer subrecipient must provide a copy of their underwriting procedures and policy requirements that must be approved by the City in advance of executing a HOME agreement with the City.

Agencies will complete a Mortgage Subsidy Layering Worksheet provided by the City prior to executing a home loan using mortgage assistance from more than one government agency with the prospective homebuyer and will submit it to the City for approval. The City staff will review each Mortgage Subsidy Layering Worksheet to ensure that there is not an excess of HOME funds awarded to homebuyers. After receiving City approval, an Agency may proceed with the loan. The subsidy layering review documentation for each homebuyer loan will be maintained in each Agency’s Project folder.

The sale of a property and any assistance to a homebuyer require that the buyer be underwritten according to the City’s HOME project underwriting guidelines for homebuyers. This underwriting include standards for the first mortgage and establish the terms for any subordination of the HOME loan. Resale of the property during the affordability period, and if applicable, qualification of subsequent buyers will be governed by the City of Chattanooga HOME Homebuyer Program Guidelines for Resale and Recapture. (Refer to subsection g below)

The City’s underwriting guidelines specify how the PJ evaluates the homebuyer’s ability and willingness to pay, and the appropriateness of the proposed HOME subsidy amount. The homebuyer is evaluated according to:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 4.14* | ***Homebuyer Evaluation Criteria*** | | | |
| Housing debt and overall household debt | | Recurring household expenses | | Assets available to acquire the housing |
| Monthly expenses of the household | | | Financial resources available to the household to sustain homeownership | |

Development of homebuyer units where there is not a market study demonstrating demand for homebuyer housing will not be supported with HOME funds.

## 

## Methods of Assistance

### Eligible Forms of Subsidy and Subsidy Limits

The Eligible Forms of Subsidy and Subsidy Limits established in [General Requirements](#_heading=h.2dvym10): [Methods](#_heading=h.2p2csry)  [of Assistance](#_heading=h.2p2csry) apply here. The HOME-funded entities may provide gap financing in the form of a deferred loan or grant to affordable housing projects.

## 

## Minimum Long-Term Affordability Period

To ensure investments provide affordable housing over the long term, the housing must be the principal residence of a low-income household throughout the period of affordability. Funding agreements will define the term of affordability. Affordability requirements will be recorded on the property through:

* A deed restriction or covenant running with the land, and
* Loan documents.

The affordability shall be maintained for the minimum period even if the homebuyer sells the property or if the property is foreclosed.

The minimum length of an affordability period is listed in the chart below. Refer to the [Resale and](#_heading=h.2hio093)  [Recapture](#_heading=h.2hio093) subsection for more details on those provisions. The City reserves the right to extend the affordability period after the minimum HOME affordability period ends.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 4.15* | | ***HOME Affordability and Program Compliance Periods*** | | |
| **Maintaining Affordability** | **Basis for Determining Affordability Period** | | **Average Per Unit HOME Assistance** | **Minimum HOME Period of Affordability** |
| Resale Provision | Amount of HOME funds invested per unit | | <$15,000 | 5 years |
| $15,000 to  $40,000 | 10 years |
| Recapture Provision | Amount of HOME funds provided as direct assistance to a buyer | |
| >$40,000 | 15 years |

If HOME funds are used to assist with the purchase or acquisition of one or more rental units along with the homebuyer unit(s), the HOME rental affordability requirements apply to the rental units. Refer to [Rental Housing](#_heading=h.3yqobt7): [Minimum Long-Term Affordability Period](#_heading=h.4hr1b5p).

## 

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## Resale and Recapture [92.254(a)(5)]

Resale and recapture provisions apply to the use of HOME funds in homebuyer development programs. City of Chattanooga will allow for the use of either resale or recapture provisions, as appropriate.

Resale or recapture provisions are triggered when, during the period of affordability, the housing ceases to be the principal residence of the buyer who was assisted with HOME funds. The resale or recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability. Refer to the [Minimum Long-Term](#_heading=h.42ddq1a)  [Affordability Period](#_heading=h.42ddq1a) subsection. Refer to the City of Chattanooga HOME Homebuyer Program Guidelines for Resale and Recapture.

## Homebuyer Counseling [92.254(a)(3)]

Homebuyers receiving HOME assistance must receive pre- and post-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted National Industry Standards for Homebuyer Education and Counseling.

## Program Policies [92.254(f)]

The agency must use fair housing marketing practices when selling HOME units, as detailed further in [Overarching Program Regulations and Requirements](#_heading=h.1er0t5e): [Fair Housing and Civil Rights](#_heading=h.2vor4mt).

### Predatory Lending

* All HOME assisted homebuyers must obtain an appropriate term fixed rate conventional (or conforming mortgage), such as a 30-year term;
* Homebuyers must receive pre-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted National Industry Standards for Homebuyer Education and Counseling; and
* Homebuyers must receive a homebuyer counseling “certification of completion”.

## Project Completion Deadline

Typically the City must be able to execute a written agreement with the Agency for the project within 12 months of July 1 of the year in which funding is awarded. The Agency must typically be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

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

### Nine-Month Sale Deadline

Any unit not sold within nine (9) months of the completion of construction must be converted to rental housing and meet all of the requirements for HOME rental housing. HOME funds provided for any such unit that is not rented within 18 months of conversion must be repaid to the City.

## All projects and programs must comply with the [Overarching Program Regulations and](#_heading=h.1er0t5e) [Requirements](#_heading=h.1er0t5e)

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# Direct Homeownership Assistance

## Project Eligibility

### Eligible Activities

Activities allowed with the use of City of Chattanooga HOME funds are activities that support first-time homebuyers in acquiring affordable homes and that address the needs identified in the Consolidated Plan.

|  |  |
| --- | --- |
| *Table 5.1* | ***Eligible Activities*** |
| **Activity** | **Description** |
| Acquisition of Affordable Housing | Assisting eligible homebuyers to purchase affordable homes through downpayment or closing cost assistance, reducing the monthly carrying costs of a loan from a private lender, or providing mortgages for home purchase. |
| Acquisition and Rehabilitation | Assisting eligible homebuyers to perform rehabilitation after purchase, often through rehabilitation loans.\* |
| \*If a prospective homebuyer home is in need of rehabilitation, additional requirements apply. Contact City staff for more information. | |

### Eligible Properties

Properties that are eligible for HOME assistance include those properties that will serve as the purchaser’s principal residence throughout the period of affordability.

HOME assistance may be provided for the following property types:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 5.2* | ***Eligible Homebuyer Properties [92.2 and 92.254]*** | | | |
| 1-to-4 unit dwelling (single family home, duplex, triplex, or four-plex) | | Condominium unit | Cooperative unit | Manufactured home |

Families or individuals must have the following ownership of the eligible property:

|  |  |  |
| --- | --- | --- |
| *Table 5.3* | ***Homebuyer Ownership*** | |
| **Inclusions [92.2 and 92.254]** | | |
| Has **fee simple title in a 1-to-4 unit dwelling**, or a 99-year lease interest | Owns a **condominium unit** | Maintains a 50-year leasehold on **Community Land Trust** |
| **Manufactured housing**, including a mobile home, on ground leased for a period at least equal to the applicable affordability period | | |
| Owns or has membership in a **cooperative or mutual housing project** that constitutes homeownership under State law | | |
| **Exclusions** | | |
| Has a land contract | Has an installment contract | Has a contract for deeds |

***Maximum Property Value***

To be considered an eligible property, the homes acquired must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area.

HUD establishes the median purchase price limits and these limits can be found on their website: [https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-](https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/)  [after-rehab-value/](https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/). The City will provide current and updated limits.

### Entities Eligible to Administer HOME Funds

HOME funds may be administered only by eligible entities, which include:

|  |  |
| --- | --- |
| *Table 5.4* | ***Eligible Entities*** |
| **Subrecipients**: public agency or non-profit organization | **Community Housing Development Organizations (CHDO)** |

### Eligible Applicants/Beneficiaries

Homebuyer households assisted must have incomes at, or below, 80% of the area median income (AMI). Refer also to General Requirements: Project Eligibility. Income limits are established by HUD; the City will provide current and updated limits.

When determining annual income for homebuyer assistance, income must be calculated in accordance with adjusted gross income as defined for purposes of reporting under the Internal Revenue Service Form 1040 series for individual Federal annual income tax purposes.

### Income Eligibility Determination

The projected annual income of each prospective household must be determined at the time described in the table below. A reexamination of income does not need to occur unless more than six (6) months have elapsed from the time of the initial determination to the provision of HOME assistance.

|  |  |
| --- | --- |
| *Table 5.5* ***Income Eligibility Determination [92.203]*** | |
| **HOME Assistance** | **Timing of Income Eligibility Determination** |
| Contract to purchase existing housing | Determine eligibility at the time the HOME written agreement is entered into with the homebuyer |
| Contract to purchase housing being constructed | Determine eligibility at the time the HOME written agreement is entered into with the homebuyer |
| Lease-purchase agreement (for existing housing or housing to be constructed) | Determine eligibility at the time the lease-purchase agreement is signed |

Income must be documented according to the acceptable forms of documentation listed in the table below.

|  |  |
| --- | --- |
| *Table 5.6* ***Income Determination Documentation [92.203]*** | |
| Frequency | Acceptable Forms of Documentation |
| Initially (and for Subsequent Determinations if more than six (6) months have elapsed before HOME assistance is provided) | 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the household. |

|  |  |  |
| --- | --- | --- |
| *Table 5.7* ***Income Eligibility Determination [92.203]*** | | |
| **HOME Assistance** | **Timing of Income Eligibility Determination** | |
| Contract to purchase existing housing | | Determine eligibility at the time the PJ, or subrecipient, enters into a written agreement with the homebuyer |

Income must be documented according to the acceptable forms of documentation listed in the table below.

|  |  |
| --- | --- |
| *Table 5.8* ***Income Determination Documentation [92.203]*** | |
| **Frequency** | **Acceptable Forms of Documentation** |
| Initially (and for Subsequent  Determinations if more than six (6) 2 months of source documents evidencing annual income (e.g., months have elapsed before HOME wage statement, interest statement, unemployment  assistance is provided) compensation statement) for the household. | |

## 

## Eligible Project Costs [92.206]

There are a variety of costs that may be paid with HOME funds. Below is a non-exhaustive list of eligible homebuyer project costs; check with City of Chattanooga to determine the eligibility of costs that fall outside of these examples.

### Acquisition Costs

Acquisition costs include the costs of acquiring existing or newly constructed single family homes including, but not limited to, the following costs:

|  |  |
| --- | --- |
| *Table 5.9* | ***Acquisition Costs [92.206(c)]*** |
| **Eligible Activity** | **Examples of Eligible Costs** |
| Acquisition of property | Acquisition of existing standard property that meets applicable HOME standards, or substandard property in need of rehabilitation. Includes the acquisition of a manufactured housing unit. \* |
| \*The manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability. | |

### Project Related Soft Costs

Costs include other reasonable and necessary costs incurred in associated with the financing acquisition of housing assisted with HOME funds. These costs include, but are not limited to:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| *Table 5.10* | | ***Related Soft Costs [92.206(d)]*** | | | |
| **Eligible Activity** | **Examples of Eligible Costs** | | | | |
| **Acquisition** | *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 |
| Attorney’s  Fees | Private Appraisal Fees  & Fees for Independent Cost Estimate |
| *Costs to provide information services* | | | | |
| Affirmative marketing and fair housing information to prospective homeowners | | | | |
| Loan processing inspections | | | | |
| Other services related to assisting potential homebuyers, such as housing counseling (only for individuals who ultimately own or occupy a HOME unit) | | | | |

### Relocation Costs (for persons displaced by the project)

Relocation costs include the cost of relocation payments and other relocation assistance to persons displaced by the project.

Homebuyer programs must be in compliance with the Homebuyer Down Payment Assistance Program “URA-Policy 2011 #2”. Refer to the [Overarching Program Regulations and](#_heading=h.1er0t5e)  [Requirements](#_heading=h.1er0t5e): [The Uniform Act and Section 104(d)](#_heading=h.2f3j2rp).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 5.11* | ***Relocation Costs [92.206(f)]*** | | | |
| *Relocation Payments* | | | | |
| Replacement Housing Payments | | Payments for moving expenses | Payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons | |
| *Other Relocation Assistance: Staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project* | | | | |
| Timely written notices to occupants | | Referrals to comparable  & suitable replacement property | Property inspections | Counseling |
| Other assistance necessary to minimize hardship | |

### Ineligible Activities, Costs, and Fees

HOME regulations prohibit developers undertaking a homeownership project from charging servicing, origination, processing, inspection, or other fees for the costs of providing homeownership assistance. Refer to the [General Requirement](#_heading=h.2dvym10): [Eligible Project Costs](#_heading=h.1y810tw) for a list of ineligible activities, costs, and fees under the HOME Program.

## 

## Property Standards

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion.

### General Inspection Requirement [92.504(d)]

The PJ, or an approved state-licensed home inspector, must conduct an on-site inspection of each property prior to occupancy to ensure that the project meets the applicable property standards.

### Acquisition Only

For properties receiving assistance for acquisition only, the property must meet the property standards for existing housing or new construction.

|  |  |
| --- | --- |
| *Table 5.12* | ***Property Standards for Acquisition*** |
| **HOME Assistance** | **Housing Requirements** |
| Existing housing | Must be decent, safe, sanitary and in good repair, and meet all applicable state and local housing quality standards and code requirements. Housing must be free of any deficiencies identified in the Uniform Physical Condition Standards (UPCS). The current standard is housing must meet state and local housing property standards or codes, or in their absence, Housing Quality Standards (HQS), which will be in effect until HUD provides further guidance to implement UPCS. |

|  |  |
| --- | --- |
| Newly constructed housing | Must meet state and local codes, ordinances and zoning codes for new construction. |
| Existing Manufactured Housing | Foundation systems must be inspected and meet the applicable State or local  codes, subject to the approval of the PJ’s building officials. |
| In the absence of State and local codes, must meet the Model Manufactured Home Installation Standards at 24 CFR part 3285. |
| Must be connected to permanent utility hook-ups. |
| New Manufactured Housing | Foundations and anchoring must meet all applicable state and local codes and other requirement. |
| Must be on a permanent foundation, meaning a foundation system of supports that is capable of transferring all design loads to the ground and meets the requirements of 24 CFR § 203.43f(c)(i). |
| Must meet the Manufactured Home Construction and Safety Standards codified at 24 CFR part 3280. |
| Must be connected to permanent utility hook-ups. |

***Uniform Physical Condition Standards (UPCS)*** *is an inspection protocol that is used to evaluate the condition of housing. The PJ uses this inspection protocol as the minimum property condition standard.*

## Project Underwriting and Subsidy Layering

The PJ will evaluate the project, according to its established underwriting and subsidy layering requirements, to determine financial viability before making a funding commitment for funds for new construction or rehabilitation. Subsidy Layering also applies to homebuyer units with multiple government funding awards. Refer also to [General Requirements](#_heading=h.2dvym10): [Project Underwriting](#_heading=h.qsh70q)  [and Subsidy Layering.](#_heading=h.qsh70q)

### Underwriting Standards [92.254(f)]

The City allows agencies providing purchase assistance to conduct their own screening and loan underwriting for first-time homebuyers, so long as the underwriting procedures are substantially consistent with the following procedures and policy requirements. Each homebuyer subrecipient must provide a copy of their underwriting procedures and policy requirements that must be approved by the City in advance of executing a HOME agreement with the City.

Agencies will complete a Mortgage Subsidy Layering Worksheet provided by the City prior to executing a home loan using mortgage assistance from more than one government agency with the prospective homebuyer and will submit it to the City for approval. The City staff will review each Mortgage Subsidy Layering Worksheet to ensure that there is not an excess of HOME funds awarded to homebuyers. After receiving City approval, an Agency may proceed with the loan. The subsidy layering review documentation for each homebuyer loan will be maintained in each Agency’s Project folder.

The sale of a property and any assistance to a homebuyer require that the buyer be underwritten according to the City’s HOME project underwriting guidelines for homebuyers. This underwriting will include standards for the first mortgage and establish the terms for any subordination of the HOME loan. Resale of the property during the affordability period, and if applicable, qualification of subsequent buyers will be governed by the City of Chattanooga HOME Homebuyer Program Guidelines for Resale and Recapture. (Refer to subsection g below)

The PJ’s underwriting guidelines specify how the PJ evaluates the homebuyer’s ability and willingness to pay, and the appropriateness of the proposed HOME subsidy amount. The homebuyer is evaluated according to:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 5.13* | ***Homebuyer Evaluation Criteria*** | | | |
| Housing debt and overall household debt | | Recurring household expenses | | Assets available to acquire the housing |
| Monthly expenses of the household | | | Financial resources available to the household to sustain homeownership | |

Generally, underwriting (review of sources and uses) of all HOME projects is required whether or not the projects are assisted with other governmental assistance; however, the following exceptions apply to Homebuyer Assistance only:

|  |
| --- |
| *Table 5.14* ***Exceptions [92.250(b)(4)]*** |
| **HOME Assistance Exceptions to the Underwriting Requirement** |
| Homeownership The following general requirements are not required: Assistance - Market analysis  - Developer capacity assessment |

## Methods of Assistance

### Eligible Forms of Subsidy and Subsidy Limits

The Eligible Forms of Subsidy and Subsidy Limits established in [General Requirements](#_heading=h.2dvym10): [Methods](#_heading=h.2p2csry)  [of Assistance](#_heading=h.2p2csry) apply here. The City may provide gap financing in the form of a deferred loan or grant to affordable housing projects.

## Minimum Long-Term Affordability Period

To ensure investments provide affordable housing over the long term, the housing must be the principal residence of a low-income household throughout the period of affordability. Funding agreements will define the term of affordability. Affordability requirements will be recorded on the property through:

* + A deed restriction or covenant running with the land, or Loan documents.

The minimum length of an affordability period is listed in the chart below. Refer to the [Resale and](#_heading=h.2hio093)  [Recapture](#_heading=h.2hio093) subsection for more details on those provisions.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 5.15* | | ***HOME Affordability and Program Compliance Periods*** | | |
| **Maintaining Affordability** | **Basis for Determining Affordability Period** | | **Average Per Unit HOME Assistance** | **Minimum HOME Period of Affordability** |
| Resale Provision | Amount of HOME funds invested per unit | | <$15,000 | 5 years |
| $15,000 to  $40,000 | 10 years |
| Recapture Provision | Amount of HOME funds provided as direct assistance to a buyer | |
| >$40,000 | 15 years |

If HOME funds are used to help a purchase/acquire one or more rental units along with the homebuyer unit, the HOME rental affordability requirements apply to the rental units. Refer to [Rental Housing](#_heading=h.3yqobt7): [Minimum Long-Term Affordability Period.](#_heading=h.4hr1b5p)

## Resale and Recapture [92.254(a)(5)]

Resale and recapture provisions apply to the use of HOME funds in homebuyer assistance programs. City of Chattanooga will allow for the use of either resale or recapture provisions, as appropriate. When HOME funds are used as a direct subsidy, recapture provisions must be used. The chosen provision must be applied consistently across the program.

Resale or recapture provisions are triggered when, during the period of affordability, the housing ceases to be the principal residence of the buyer who was assisted with HOME funds. The resale or recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability. Refer to the [Minimum Long-Term](#_heading=h.42ddq1a)  [Affordability Period](#_heading=h.42ddq1a) subsection. Refer to the City of Chattanooga HOME Homebuyer Program Guidelines for Resale and Recapture.

## Homebuyer Counseling [92.254(a)(3)]

Homebuyers receiving HOME assistance must receive pre- and post-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted National Industry Standards for Homebuyer Education and Counseling (NISHEC).

### 

### Lender Relations [92.254(e)]

When HOME homeownership assistance is provided through a for-profit or nonprofit entity that also provides first mortgage financing to the homebuyer, the following applies:

* + A written agreement between PJ and the lender must specify the forms and amount of homeownership assistance the lender is authorized to provide to families and any conditions that apply to the provision of such homeownership assistance;
  + Before the lender provides any homeownership assistance to a family, the PJ must verify that the family is low-income and must inspect the housing for compliance with applicable property standards in 92.251;
  + The for-profit or nonprofit organizations are not permitted to charge fees (such as origination fees or points) to the family for the HOME homeownership assistance the organization provides; and
  + The PJ must determine that the fees and other amounts charged to the family by the lender for the first mortgage financing are reasonable.

## Program Policies [92.254(f)]

The agency must use fair housing marketing practices, as detailed further in [Overarching Program](#_heading=h.1er0t5e)  [Regulations and Requirements](#_heading=h.1er0t5e): [Fair Housing and Civil Rights.](#_heading=h.2vor4mt)

### Predatory Lending

* + All HOME assisted homebuyers must obtain an appropriate term fixed rate conventional (or conforming mortgage), such as a 30 year term
  + Homebuyers must receive pre- and post-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted NISHEC, and also includes education on predatory lending and other financial pitfalls; and
  + Homebuyers must receive a homebuyer counseling “certificate of completion”

## Project Completion Deadline

Typically the City must be able to execute a written agreement with the Agency for the project within 12 months of July 1 of the year in which funding is awarded. The Agency must typically be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

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

## Subordination Policy

The subordination policy sets forth the terms and conditions under which the City would subordinate to a refinancing of a new First Mortgage Loan. The City will not agree to subordinate to a new First Mortgage Loan if cash is to be taken out. The City will only agree to subordinate its position one time to refinance a new First Mortgage (on a case-by-case basis) when the intent of said refinance is to achieve the following: (1) The refinancing of the First Mortgage Loan is to obtain a lower fixed interest rate and the City's security is not diminished from its original position, (2) and that such refinancing decreases the monthly housing expense or the amortization schedule.

## Overarching Program Regulations and Requirements

All projects and programs must comply with the [Overarching Program Regulations and](#_heading=h.1er0t5e)  [Requirements](#_heading=h.1er0t5e).

# Rental Housing [92.252]

## Project Eligibility

### Eligible Activities

Activities allowed with the use of City of Chattanooga HOME funds are activities that support the development of affordable rental housing and that address the needs identified in the Consolidated Plan.

|  |  |
| --- | --- |
| *Table 6.1* | ***Eligible Rental Housing Activities*** |
| **Activity** | **Description** |
| Acquisition | Acquiring property for affordable rental housing. Acquiring vacant land or demolition is allowable only for a specific affordable housing project within allowable timeframes. |
| New Construction | Constructing affordable rental housing. |
| Reconstruction | Rebuilding housing on the same lot, without increasing or decreasing the number of units, although the number of rooms may be increased or decreased. Reconstruction also includes replacing a substandard unit of manufactured housing with new or standard unit of manufactured housing. |
| Conversion | Conversion of an existing structure to affordable housing, without adding units is considered rehabilitation. If the conversion entails adding one or more units beyond the existing walls, the project is considered new construction. |
| Rehabilitation | Altering, improving, or modifying existing structure(s) of affordable rental housing. |

### Eligible Properties

Properties that are eligible for HOME assistance include those properties that are listed in the Table below. The project may be one (1) or more buildings on a single site or multiple sites that are under common ownership, management, and financing, but the project must be assisted with HOME funds as a single undertaking.

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 6.2* | ***Eligible Rental Housing Properties*** | | |
| **Inclusions [92.2]** | | | |
| Manufactured Housing | | Manufactured Housing Lots | Elder Cottage Housing Opportunity (ECHO) units that are small free-standing, barrier- free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings |
| Permanent Housing | | Transitional Housing |
| Single-Room Occupancy Housing | | Group Homes |
| **Exclusions [92.213]** | | | |
| Emergency Shelters (including shelters for disaster victims) | | Nursing Homes | Convalescent Homes |
| Hospitals | | Residential Treatment Facilities | Correctional Facilities |
| Halfway Houses | | Housing for Students | Dormitories (including farmworker dormitories) |
| Rental properties previously financed with HOME funds cannot receive additional HOME assistance during the HOME affordability period, unless assistance is provided during the first year after project completion. | | | |
| **Public Housing [92.213]**: HOME-assisted housing units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME period of affordability.  **Exceptions**: HOME funds may be used for the development of public housing units, if the units are developed under section 24 of the 1937 Act (HOPE VI) and no Capital Fund assistance under section 9(d) of the Act is used for the development of the unit; such a unit may receive Operating Fund assistance. HOME funds may be used in a project that also contains public housing units, provided that HOME funds are not used in the public housing units and the HOME units are separately designated. | | | |

### Entities Eligible to Administer HOME Funds

HOME funds may be administered only be eligible entities, which include the following sponsors, developers and owners of rental housing:

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 6.3* | ***Eligible Entities*** | | |
| Small-scale property owners | | For-profit developers | Community housing development organizations (CHDO) |
| Nonprofit housing providers | | Local governments |
| Redevelopment organizations | | Public housing authorities |

### Eligible Applicants/Beneficiaries

HOME regulations require that all HOME funds benefit households with incomes at, or below, 80% of the area median income (AMI). In addition, PJ’s must invest HOME funds each program year for rental units, such that 90% of the units are occupied by households with incomes at or below 60% AMI, and the remainder of the units are occupied by households with incomes at or below 80% AMI. In projects with five (5) or more HOME-assisted units, at least 20% of the HOME-assisted units must be occupied by households with incomes at or below 50% AMI.

Projects must be consistent with the Consolidated Plan which further targets eligible applicants/beneficiaries. Refer also to General Requirements: Project Eligibility. Income limits are established by HUD; the City will provide current and updated limits.

Income must be calculated in accordance with 24 CFR § 5.609 (commonly referred to as the “Part 5 (Section 8 Program) definition”). The passbook savings rate for calculation of imputed asset income over $5,000 shall be the same passbook savings rate utilized by the City. The projected annual income of each household must be determined initially and annually thereafter during the period of affordability. Income must be documented according to the acceptable forms of documentation listed in the table below.

|  |  |  |
| --- | --- | --- |
| *Table 6.4* | | ***Income Determination Documentation [92.203]*** |
| **Frequency** | **Acceptable Forms of Documentation** | |
| Initially | 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the household. | |
| Subsequent Determinations | 2 months of source documents | |
| Written statement\* (and certification that the information is complete and accurate) from the household of the amount of the household’s annual income and family size. The certification must state that the household will provide source documents upon request. | |
| Written statement from the administrator of a government program under which the household receives benefits and which examines each year the annual income of the household. | |
| \* An owner of a multifamily project with an affordability period of 10+ years who uses this form of documentation to re-examine tenant’s  annual income, must examine the income of the tenant by 2 months of source documents every 6th year of the affordability period. [92.252(h)] | | |

When designated rental units become vacant during the period of affordability, subsequent households must be income-eligible and must be charged the applicable rent.

An owner must have written tenant selection policies and criteria that are consistent with the purpose of providing housing for the very low-income and low-income households. An owner cannot refuse to lease HOME-assisted units to persons with a voucher for Section 8 Tenant- Based Assistance. An owner must comply with the PJ’s affirmative marketing requirements; refer to [Overarching Program Regulations and Requirements](#_heading=h.1er0t5e): [Fair Housing and Civil Rights](#_heading=h.2vor4mt).

## Eligible Project Costs [92.206]

There are a variety of costs that may be paid with HOME funds. Funding is limited to the amount necessary to facilitate completion of the project and will not exceed a proportionate share of costs in a project. Below is a non-exhaustive list of eligible Rental Housing project costs; check with City of Chattanooga to determine the eligibility of costs that fall outside of these examples.

### Acquisition Costs

Acquisition Costs include the costs of acquiring improved or unimproved real property, including, but not limited to, the following costs:

|  |  |
| --- | --- |
| *Table 6.5* | ***Acquisition Costs [92.206(c)]*** |
| **Eligible Activity** | **Examples of Eligible Costs** |
| Acquisition of property | Acquisition of existing standard property that meets applicable HOME standards, or substandard property in need of rehabilitation. Includes the acquisition of a manufactured housing unit. \*\* |
| Acquisition of vacant land | Acquisition of vacant land ONLY if construction will begin on a HOME project within 12 months of project commitment. Includes the acquisition of the land upon which a manufactured housing unit is located. \*\* |
| \*After acquisition, rental units must meet HOME rental occupancy, affordability, and lease requirements  \*\* The manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability. | |

### Development Hard Costs

The actual costs of constructing or rehabilitating housing are considered eligible Development Hard Costs. Eligible costs include, but are not limited to:

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 6.6* | | ***Development Hard Costs [92.206(a)]*** | |
| **Eligible Activity** | **Examples of Eligible Costs** | | |
| **Acquisition** (of Standard Housing) | Site Improvements | | Improvements to the project site (only property owned by the project owner, where the project is located) necessary to the development of the project and in keeping with improvements of surrounding, standard projects; including: on-site roads, sewer lines, water lines. |
| Utility Connections | | Creation of utility connections including off-site connections from the property line to the adjacent street. |
| **New Construction** | Generally | | The actual cost of construction. |
| Demolition | | Demolition of existing structures (Uniform Relocation Act and Section 104(d) only if construction will begin on the HOME project within 12 months of project commitment. |
| Site Improvements | | Refer to Acquisition Site Improvements above for Examples. |
| Utility Connections | | Refer to Acquisition Utility Connections above for Examples. |
| Laundry and Community Facilities | | For multi-family rental housing only, costs to construct or rehabilitate laundry and community facilities located within the project and that are for the use of project residents. |
| **Rehabilitation** | Generally | | Alteration, improvement, or modification of an existing structure, including costs to meet Rehabilitation Property Standards. |
| Conversion | | Conversion of an existing structure from another use to affordable rental housing. |
| Demolition | | Refer to New Construction Demolition above for Examples of Eligible Costs. |
| Reconstruction [92.2] | | Rebuilding, on the same lot, of housing standing on a site at the time of project commitment. |
| Site Improvements | | Refer to Acquisition Site Improvements above for Examples. |

|  |  |  |
| --- | --- | --- |
|  | Utility Connection | Refer to Acquisition Utility Connections above for Examples. |
|  | Laundry and Community Facilities | For multi-family rental housing only, refer to New Construction Laundry and Community Facilities above for Examples. |

### 

### Project Related Soft Costs

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:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| *Table 6.7* | | ***Related Soft Costs [92.206(d)]*** | | | | | |
| **Eligible Activity** | **Examples of Eligible Costs** | | | | | | |
| **Acquisition, New Construction, Rehabilitation** | *Costs required to prepare plans, drawings, specifications, or work write- ups* | | | | | | |
| Architectural Services | | | Engineering Services | | Professional Services | |
| *Other development costs* | | | | | | |
| 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 Independent Cost Estimate | | Builders or Developers Fees |
| *Costs of a project audit* | | | | | | |
| Certification of costs performed by a certified public accountant that the PJ may require with respect to the development of the project | | | | | | |
| *Costs to provide information services* | | | | | | |
| Affirmative marketing and fair housing information to prospective tenants for projects containing 5 or more HOME assisted units. | | | | | | |
| *Costs of environmental review in accordance with 24 CFR part 58 which are directly related to the project* | | | | | | |
| **New Construction Rehabilitation** | *Costs of funding an initial operating deficit reserve* | | | | | | |
| A reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months) and which may only be used to pay project operating expenses, scheduled payments to replacement reserve, and debt service | | | | | | |
| *Payment of impact fees that are charged for all projects within a jurisdiction* | | | | | | |

### Relocation Costs (for persons displaced by the project)

Relocation costs include the cost of relocation payments and other relocation assistance to persons displaced by the project.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 6.8* | ***Relocation Costs [92.206(f)]*** | | | |
| *Relocation Payments* | | | | |
| Replacement Housing Payments | | Payments for moving expenses | Payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons | |
| *Other Relocation Assistance: Staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project* | | | | |
| Timely written notices to occupants | | Referrals to comparable  & suitable replacement property | Property inspections | Counseling |
| Other assistance necessary to minimize hardship | |

### 

### Refinancing

Regulations indicate that HOME may be used to refinance existing debt on rental projects being rehabilitated with HOME funds, if refinancing is necessary to permit or continue long-term affordability, and is consistent with PJ-established refinancing guidelines. However, the City of Chattanooga does not currently permit HOME funds for refinancing of existing debt secured on a rental housing project as part of the rehabilitation costs. Should this policy be revised in the future, City of Chattanooga will adopt refinancing guidelines and state them in the Consolidated Plan consistent with the HOME regulations.

For rental projects that are HOME assisted for construction or rehabilitation and City holds a lien, subordinate position, if refinancing is necessary to permit or continue long-term affordability, the City will consider requests for refinancing. Refinancing will only be considered if there is prior notification and only with written approval from the City.

The City will allow refinancing or recapitalization that preserve affordability and HOME compliance, including re-subordination of new debt, assumption of the HOME debt by a new owner, and addition of new sources that enable the buyout and necessary rehabilitation.

### Costs Relating to Payment of Loans

If HOME funds are not used to directly pay an eligible project cost, they may be used to pay off a Construction Loan, Bridge Financing, or Guaranteed Loan.

|  |  |  |
| --- | --- | --- |
| *Table 6.9* | | ***Costs Relating to Payment of Loans [92.206(g)]*** |
| **Eligible Cost** | **Requirements of Payment of Loans** | |
| Payment of Principal and Interest | The HOME assistance must be part of the original financing for the project | |
| Loan must have been used for eligible costs as specified in the HOME Regulations and this manual | |

### Ineligible Activities, Costs, and Fees

Refer to the [General Requirement](#_heading=h.2dvym10): [Eligible Project Costs](#_heading=h.1y810tw) for a list of ineligible activities, costs, and fees under the HOME Program.

## Property Standards

Housing that is newly constructed with HOME funds must meet all applicable State and local codes, ordinances, and zoning requirements. HOME-assisted new construction projects must meet State or local residential and building codes, as applicable or, in the absence of a State or local building code, the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council. The housing must meet the applicable requirements upon project completion.

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion.

### General Inspection Requirement [92.504(d)]

The City must conduct an on-site inspection of each project at project completion and during the period of affordability to determine that the project meets the applicable property standards. Additional inspection requirements may apply, depending on the activity. City of Chattanooga may charge fees to cover the cost of ongoing monitoring and physical inspection of HOME projects during their period of affordability.

### Acquisition of Existing Housing

The property standards for acquisition vary depending on the HOME assistance provided. The requirements below apply when existing housing is acquired without rehabilitation or construction.

|  |  |
| --- | --- |
| *Table 6.10* ***Property Standards for Acquisition [92.251(c)]*** | |
| **HOME Assistance** | **Housing Requirements** |
| **Rental Housing** that was Newly Must meet the New Construction or Rehabilitation Constructed or Rehabilitated Less than 12 Property Standards, as applicable, which are described Months before the Date of Commitment below.  of HOME funds | |
| **Rental Housing** acquired with HOME funds Must meet the applicable Rehabilitation Property  (i.e. housing that was not newly Standards, which are described below. Property that does constructed or rehabbed within 12 months not meet these standards cannot be acquired with HOME  of project commitment) funds unless it is rehabilitated to meet this standard. | |

***Inspection Requirement***

An inspection must be conducted by the PJ no earlier than 90 days before the commitment of HOME assistance in order to document compliance. In addition, for Rental Housing that was newly constructed or rehabilitated less than 12 months before the date of commitment of HOME funds, the approved building plans and Certificates of Occupancy must be reviewed to document compliance.

### New Construction

New construction projects must meet the Property Standards below.

|  |  |
| --- | --- |
| *Table 6.11* | ***New Construction Property Standards [92.251(a)]*** |
| *State and local codes, ordinances, and zoning requirements* | |
| Must comply with all applicable State and local codes, ordinances, and zoning requirements. | |
| *Accessibility* | |
| Must comply with accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42  U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. | |
| Covered multifamily dwellings, as defined at 24 CFR § 100.201, must also meet the design and construction requirements at 24 CFR § 100.205, which implements the Fair Housing Act (42 U.S.C. 3601- 3619). | |
| *Broadband* | |
| *After January 19, 2017 for a new construction housing project of a building with more than 4 rental units, the construction must include installation of broadband infrastructure, as this term is defined in 24 CFR 5.100, except where the participating jurisdiction determines and, in accordance with § 92.508(a)(3)(iv)* | |
| *Disaster Mitigation* | |
| Housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or other requirements, or such other requirements as HUD may establish. | |
| ***Additional Standards for New Construction of Manufactured Housing [92.251(e)]*** | |
| *Manufactured Home Construction and Safety Standards, 24 CFR part 3280* | |
| *Permanent Foundation* | |
| Must be on a permanent foundation, meaning a foundation system of supports that is capable of transferring all design loads to the ground and meets the requirements of 24 CFR § 203.43f(c)(i). This definition is consistent with the FHA mortgage insurance requirements for all manufactured homes. | |

|  |
| --- |
| *Applicable State and local laws or codes* |
| *Utility Hook-ups* |
| At the time of completion, must be connected to permanent utility hook-ups |
| *Location* |
| At the time of completion, must be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability |

***Inspection Requirement***

Construction contract(s) and documents must describe the work to be undertaken in adequate detail so that progress and final inspections can be conducted to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents.

### Broadband Infrastructure

For new HOME commitments made after January 19, 2017 for a new construction housing project of a building with more than 4 rental units, the construction must include installation of broadband infrastructure, as this term is defined in [***24 CFR 5.100***](https://www.ecfr.gov/current/title-24/section-5.100), except where the City determines and, in accordance with [***§ 92.508(a)(3)(iv)***](https://www.ecfr.gov/current/title-24/section-92.508#p-92.508(a)(3)(iv)), documents the determination that:

1. The location of the new construction makes installation of broadband infrastructure infeasible; or
2. The cost of installing the infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden

### Rehabilitation

All properties rehabilitated with HOME funds must meet or exceed the minimum housing rehabilitation standards. These standards are intended to ensure that housing rehabilitated with HOME funds is decent, safe, sanitary, and non-luxury housing with suitable amenities.

All properties rehabilitated with HOME funds must also comply with the property standards described in the table below, and the current implementation procedures which may be obtained from City staff.

The specifications for bidding should incorporate both the minimum property standards listed below and the City of Chattanooga Rehabilitation Standards for HOME-Funded Projects

|  |  |
| --- | --- |
| *Table 6.12* | ***Rehabilitation Property Standards [92.251(b)]*** |
| *State and local codes, ordinances, and zoning requirements* | |
| Must comply with all applicable State and local codes, ordinances, and requirements. | |
| *Accessibility* | |
| Must comply with accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42  U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. | |
| Covered multifamily dwellings, as defined at 24 CFR § 100.201, must also meet the design and construction requirements at 24 CFR § 100.205, which implements the Fair Housing Act (42 U.S.C. 3601- 3619). | |
| *Lead-Based Paint* | |
| Must meet the lead-based paint requirements at 24 CFR part 35. | |
| *Broadband* | |
| January 19, 2017 for a substantial rehabilitation project of a building with more than 4 rental units, any substantial rehabilitation, as defined in 24 CFR 5.100, must provide for installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, with exceptions. | |
| *Major Systems* | |
| For rehabilitation, upon project completion, each major system, as defined in 24 CFR 92.251(b)(1)(ii), had a remaining useful life of a minimum of 5 years or for a longer period if specified by the PJ in its rehabilitation standards | |
| ***Additional Standards for Rehabilitation of Manufactured Housing [92.251(e)]*** | |
| *Foundation and Anchoring* | |
| *Must meet all applicable State and local codes, ordinances and requirements. Foundation systems must be inspected and meet the applicable State and local codes, subject to the City’s building officials.*  *In the absence of State and local codes, must meet the Model Manufactured Home Installation Standards at 24 CFR.* | |

### Inspection Requirement

Construction documents must be in sufficient detail so that an initial property inspection can be conducted by the PJ or a qualified 3rd party, as identified in the current implementation procedures which may be obtained from City staff to identify the deficiencies that must be addressed, and so that progress and final inspections can be conducted by the PJ or the 3rd party to determine that work was done in accordance with work write-ups.

### Broadband Infrastructure

For new commitments made after January 19, 2017 for a substantial rehabilitation project of a building with more than 4 rental units, any substantial rehabilitation, as defined in 24 CFR 5.100, must provide for installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the participating jurisdiction determines and, in accordance with § 92.508(a)(3)(iv), documents the determination that:

1. The location of the substantial rehabilitation makes installation of broadband infrastructure infeasible;
2. The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
3. The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

### Rental Housing - Ongoing Property Standards

HOME-assisted rental housing must meet all ongoing property condition standards throughout the HOME affordability period to ensure the housing is maintained as decent, safe, and sanitary housing in good repair.

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| --- | --- |
| *Table 6.13* | ***On-going Property Condition Standards [92.251(f)]*** |
| *State and local codes, ordinances, and requirements* | |
| Must comply with all applicable State and local codes, ordinances, and requirements, including Uniform Physical Condition Standards (UPCS) inspectable areas as prescribed by HUD. | |
| *Health and Safety* | |
| Must be free of all health and safety defects. | |
| Must immediately address life-threatening deficiencies as described in the Combined Funders’ HOME  Hazardous Site Inspection Deficiencies List. | |
| *Lead-Based Paint* | |
| Must meet the lead-based paint requirements at 24 CFR part 35. | |

***Inspection Requirement***

Owners of rental properties will be required to provide an Annual Owner’s Certification as to the continued operations of the housing in compliance with the HOME requirements and established local standards. In addition, the PJ must conduct ongoing property inspections, in accordance with § 92.504(d). HOME properties will be inspected utilizing the Uniform Physical Condition Standards (UPCS), or other such standard acceptable to the City. At least 20% of the HOME units will be inspected for compliance with these standards; however, 100% of units will be inspected for projects with one-to-four HOME assisted units.

City of Chattanooga will perform an inspection within 12 months of project completion and every three (3) years thereafter (until the affordability period ends). More frequent inspections may occur based on risk assessment.

### Correction of Deficiencies

If the City identifies deficiencies, the City must conduct a follow-up inspection within 12 months to ensure the deficiencies have been corrected. However, for certain non-hazardous deficiencies, a third party, may document (i.e., through a paid invoice for work order) that the deficiency has been corrected.

Any deficiencies affecting health and safety must be corrected immediately. The PJ has adopted a more frequent inspection schedule for properties that have such deficiencies.

## Project Underwriting and Subsidy Layering

The PJ will evaluate the project, according to its established underwriting and subsidy layering requirements, to determine financial viability before making a funding commitment for funds for new construction or rehabilitation. Refer also to [General Requirements](#_heading=h.2dvym10): [Project Underwriting and](#_heading=h.qsh70q)  [Subsidy Layering.](#_heading=h.qsh70q)

**In addition, for multi-family rental housing projects of 26 more total units,** the PJ must determine that all work will be performed in the rehabilitation of the housing and the long-term physical needs of the project through a capital needs assessment of the project.

## Methods of Assistance

### Eligible Forms of Subsidy and Subsidy Limits

The Eligible Forms of Subsidy and Subsidy Limits established in [General Requirements](#_heading=h.2dvym10):  [Methods of Assistance](#_heading=h.2p2csry) apply here. The City will provide gap financing in the form of a loans or grants to affordable housing projects, with terms determined by the City in its underwriting review of the project.

### Home and Low-Income Housing Tax Credits

HOME funds may be used with low-income housing tax credits (LIHTCs). Where HOME and LITHTC regulations vary, generally, the more restrictive regulation applies.

### Projects Containing both HOME and Non-HOME Units

When HOME funds are used to fund rental housing projects with multiple units, the HOME funds should reflect the proportional allocation of development costs to the HOME-Assisted units.

When a project contains HOME and non-HOME units, the owner, developer, or sponsor of the rental housing may designate, at the time of project commitment, whether the units are “fixed” or “floating.” This designation must be contained in the written agreement between the City and the owner, and the HOME units must be identified no later than the time of initial occupancy of the unit. Regardless of the designation, the number of HOME-assisted units must be the number determined by the City.

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| --- | --- |
| *Table 6.14* ***Fixe*** | ***d versus Floating Units [92.252(j)]*** |
| **Fixed** | **Floating** |
| Units designated as HOME remain the same throughout the period of affordability. | Units designated as HOME change over time but must remain comparable to the non-assisted  units over the affordability period in terms of size, features, and number of bedrooms. The total number of HOME-assisted units must remain constant. |

## Minimum Long-Term Affordability Period

Funding agreements will define the term of affordability. The HOME requirements described in this Rental Housing section apply throughout the period of affordability. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. Refer to the [General Requirements](#_heading=h.2dvym10): [Minimum Long-Term Affordability Period](#_heading=h.3o7alnk).

The City will utilize deed restrictions, covenants running with the land, use restrictions, or other HUD approved mechanisms to ensure compliance with the period of affordability.

The City requires an affordability period for rental housing projects beyond the minimum HOME affordability period so that the total affordability period is 40 years (i.e., HOME compliance

+ City Compliance = 40 years). The City is currently reviewing this policy and will consider input on whether it should maintain a 40-year City affordability period for rental housing projects or should reduce the term of the City affordability period for these types of projects in the future. The current 40-year policy remains in effect until such time as it may be revised.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Table 6.15* | ***HOME Affordability and Program Compliance Periods*** | | | |
| **Eligible Activity** | | **Average Per Unit HOME Assistance** | **Minimum HOME Period of Affordability** | **City of Chattanooga Maximum**  **Affordability Period** |
| Acquisition and/or rehabilitation of existing housing | | <$15,000/unit | 5 years | 20 years |
| $15,000 to  $40,000/unit | 10 years |
| >$40,000/unit | 15 years |
| Refinance of Rehabilitation project | | Any $ amount | 15 years |
| New Construction of or acquisition of new housing | | Any $ amount | 20 years |

## HOME Rent Requirements

The HOME program establishes two (2) types of rent restrictions, which apply to the rent plus the utilities (or the utility allowance, as applicable). The applicable maximum rents are established by HUD annually for each category. The City will provide current and updated maximum rents. The owner must maintain documentation to back up rent and utility allowance calculations.

There are two HOME rents established for rental projects: High HOME rents and Low HOME rents. For all rental housing, 90 percent of the units must be occupied by households making 60 percent or less of area median. These households can be charged no more than the High HOME rent. In rental projects with five or more HOME units, 20 percent of the HOME-assisted rental units have to be occupied by households making no more than 50 percent of area median income and shall be charged no more than the Low HOME rent during the entire HOME period of affordability.

### Home and Low-Income Housing Tax Credits

If the assisted unit has multiple financing sources, e.g. HOME, State Housing Trust Fund, LIHTC, etc., the most restrictive guidelines must be met for the rent and income limits. The tenant can at no time be charged more than HOME rent limits even in conjunction with another program, except where there are federal or state project-based rent subsidy programs.

### Fees

HOME regulations prohibit owners from charging fees that are not customarily charged in rental housing, such as laundry room access fees, and other fees. However, rental project owners may charge reasonable application fees to prospective tenants, may charge parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; may charge fees for services such as bus transportation or meals, as long as such services are voluntary.

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| --- | --- |
| *Table 6.16* | ***Rent Restrictions [92.252(a) to (c)]*** |
| **Rent Restriction** | **Description** |
| High HOME Rents | The maximum High HOME rent is the lessor of:  - HUD-established Fair Market Rent (FMR) |

|  |  |  |
| --- | --- | --- |
|  | | OR  - Rent does not exceed 30% of the *adjusted* income of a family whose annual income equals 65% of the area median income (AMI) as determined by HUD. |
| Low HOME Rents | | * Rent does not exceed 30% of the *annual* income of a family whose annual income equals 50% AMI.   OR   * Rent does not exceed 30% of the family’s *adjusted* income. If the unit receives Federal or State project-based rental subsidy and the very-low- income family pays as a contribution toward rent no more than 30% of the family’s adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.   AND if the Low HOME rent is higher than the High HOME rent, Tenant pays High HOME rent [92.252(b)(1)] |
| Additional Restrictions for SRO projects | Units with both sanitary and food preparation facilities | The maximum HOME rent is based on the zero-bedroom FMR; use the High and Low HOME Rents, as applicable, as established above. |
| Units without sanitary and food preparation facilities (or only 1 of the 2) | The maximum HOME rent is based on 75% of the zero-bedroom FMR. |

## Utility Allowance Calculations

The PJ is required by 24 CFR Section 92.252(d)(1) to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. The PJ was originally required to use the HUD Utility Schedule Model or otherwise determine the utility allowance for the project based on the type of utilities used at the project. *HUD provided further guidance on* the utility allowance (UA) requirement and what methods a PJ may use to establish the UA for HOME-assisted rental units. This guidance is contained in HOMEfires – Vol. 13 No. *2*, *originally published in May 2016 and revised in August 2016 and is found here:*

[https://www.hudexchange.info/resource/5034/homefires-vol-13-no-2-guidance-on-how-to-](https://www.hudexchange.info/resource/5034/homefires-vol-13-no-2-guidance-on-how-to-establish-utility-allowances-for-home-assisted-rental-units/)  [establish-utility-allowances-for-home-assisted-rental-units/](https://www.hudexchange.info/resource/5034/homefires-vol-13-no-2-guidance-on-how-to-establish-utility-allowances-for-home-assisted-rental-units/).

City of Chattanooga requires properties receiving HOME funding to submit annual utility allowance calculation for approval. Utility Allowance submission including all back up documentation must be submitted. If your project’s utility allowance has been approved by another funder, their approval and utility allowance documentation must be provided for review.

City of Chattanooga may approve one of the following methods when establishing property specific UA for projects with HOME funds committed prior to 8/23/13**:**

* + - 1. Public Housing Authority utility allowance
      2. Completed HUD Utility Schedule Model found at <http://huduser.org/portal/resources/utilmodel.html>
      3. Multifamily Housing Utility Analysis following methodology in HUD Notice H-2015-04 at <https://portal.hud.gov/hudportal/documents/huddoc?id=15-04hsgn.pdf>
      4. A Utility Company Estimate per 26CFR 1.42-10(b)(4)(B)
      5. Low Income Housing Tax Credit Agency Estimate per 26CFR 1.42-10(b)(4)(C)
      6. Energy Consumption Model per 26CFR 1.42-10(b)(4)(D)

The City may approve one of the following methods when establishing project specific utility allowance for projects with HOME funds committed on or after 8/23/13**:**

1. Completed HUD Utility Schedule Model found at <http://huduser.org/portal/resources/utilmodel.html>
2. Multifamily Housing Utility Analysis following methodology in HUD Notice H-2015-04 at <https://portal.hud.gov/hudportal/documents/huddoc?id=15-04hsgn.pdf>
3. A Utility Company Estimate per 26CFR 1.42-10(b)(4)(B)
4. Low Income Housing Tax Credit Agency Estimate per 26CFR 1.42-10(b)(4)(C)
5. Energy Consumption Model per 26CFR 1.42-10(b)(4)(D)

HOME projects with funds committed on or after August 23, 2013 must notify the City when a recipient of a Housing Choice Voucher (HCV) is occupying a HOME unit and the utility allowance differs from the HCI approved utility allowance.

Once the HOME Period of Affordability (POA) ends, the property will follow the general UA requirements:

1. Utility Allowance for Special Housing Types
2. Single Room Occupancy (SRO) - Per 24 CFR CH. IX 982.605 utility allowances for an assisted person residing in SRO housing is 75 percent of the zero (0) bedroom utility allowance.
3. Group Home - Per 24 CFR CH. IX 982.612 utility allowances for each assisted person residing in a group home is the pro-rate portion of the utility allowance for the group home unit size

## Annual Review of Rents [92.252(f)]

Every unit assisted with HOME funds is subject to annually updated rent limits, which are recalculated after HUD publishes updated FMRs and AMIs. The City will publish on its website the current HUD HOME Program Monthly Rent Limits for Low and High HOME Rents by unit size. Regardless of changes in FMRs and AMIs over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment. The PJ must review and approve (or dis-approve) the rents for each HOME-assisted rental project each year to ensure that they comply with the HOME limits and do not result in undue increases from the previous year. Owners must annually provide the PJ with information on rents and occupancy of HOME-assisted units to demonstrate that rents do not exceed the HOME maximum rent limits. The City will provide implementation guidance, once HUD has issued further guidance on the PJ’s annual review and approval/disapproval of rents.

Owners may adjust rents as soon after the effective date as the lease permits. For any increases in rent, the owner must provide tenants with not less than 30 days written notice.

Occupants of HOME-assisted units must be recertified as income eligible on an annual basis. If a households’ income has changed, the owner may increase or decrease the rent, while maintaining the agreed upon number of units renting in the High and Low HOME rent categories. If a unit moves from one category to the other, the rent for the next available unit must be set to bring number of units back into compliance.

Tenants who no longer qualify as low-income must pay as rent the lesser of the amount payable by the tenant under State or local law or 30% of the household’s adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent not in excess of limits governed by section 42. For tenants in HOME units designated as floating, who no longer qualify as low-income, rent must not exceed the FMR for comparable, unassisted units in the neighborhood, and as may be otherwise regulated by other regulatory agreement limits.

## Tenant Leases

The tenant and the owner of rental housing must enter into a written lease agreement of not less than one year, unless a shorter period is mutually agreed upon.

The following lease provisions are explicitly prohibited; refer to the regulation for a description of these prohibited lease provisions.

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| --- | --- | --- | --- | --- | --- |
| *Table 6.17* | ***Prohibited Lease Provisions [92.253(b)]*** | | | | |
| Agreement to be sued | | Treatment of property | Waiver of a jury trial | | Waiver of notice |
| Excusing owner from responsibility | | | Waiver of right to appeal court decision | | |
| Tenant chargeable with cost of legal actions regardless of outcome | | | | Waiver of legal proceedings | |
| Mandatory supportive services (except as permitted in transitional housing projects) | | | | | |

### Violence Againist Women Reauthorization Act Of 2013 (“Vawa”)

All leases must comply with the household protection requirements of 24 CFR 92.253 and 24 CFR Part 5, Subpart L, as those protections are enhanced by the Violence Against Women Reauthorization Act of 2013 (“VAWA”). Projects must provide each new household applicant for any unit in the project a notice and certification form in form approved by the City at the time applicant is admitted to a unit or denied admission based on the project’s tenant selection policies and criteria and concurrent with any notification of eviction from a unit. Master leasing of short term rentals is prohibited throughout the project during the affordability period.

### Lease Terminations

Termination of the lease requires a 30-day notice of refusal to renew or termination of tenancy. Owners may only refuse to renew or terminate the lease of a tenant residing in a HOME-assisted unit for good cause. Good cause is defined as: repeated violation of lease terms; violations of federal, State or local law; or for transitional housing: completion of the tenancy period or a failure to follow any required transitional housing supportive services plan. An increase in a tenant’s income *does not* constitute good cause for termination of, or refusal to renew, a lease. Terminating the occupancy of a tenant whose income increases could result in creating a disincentive for tenants to increase their incomes, for fear of losing their housing.

## Financial Management and Oversight

### Disbursement of Funds

HOME funds are available as reimbursement for eligible expenses. All costs must be in direct relation to the City’s approved budget, and supporting documentation of all expenditures is required for all costs paid with HOME funds.

If the HOME funds will be reimbursing construction related costs, eligible costs will be reimbursed at a pro rata share, i.e. if the City’s portion of the total development costs is 25%, the City will reimburse 25% of the eligible construction related costs on each invoice.

If the Agency is a non-profit organization receiving a forgivable HOME loan or HOME grant, a minimum of 5% construction retainage will be withheld from each invoice by the City. The City will reimburse retainage fees after the construction is complete and releases have been received.

Before monies are released, a loan agreement must be executed between the City and the Agency. The agreement must satisfy Federal requirements and establish the terms under which the funding is provided. Funds will not be released until a written funding agreement is executed and all applicable regulatory compliance has been met (i.e., Uniform Act, environmental review, Section 3, prevailing wages, etc.)

### Project Close-Out

As part of the project close-out requirements with the City, the owner shall prepare a final accounting, including Sources and Uses, for the final development costs. In the event a Cost Certification is required by another funder, a copy of the Cost Certification will be provided to the City. The developer/owner should also submit the Initial Occupancy Report for review by the City.

### Financial Oversight

The City must examine the financial condition of HOME-assisted rental projects to determine the continued financial viability of the project. The purpose of this requirement is to enable the PJ to identify HOME-assisted projects that may become financially troubled before problems become severe. If the financial review indicates potential problems, The PJ must take actions to correct those problems, to the extent feasible.

Based on unit inspections and occupancy compliance reports, at its discretion, the City may request information on projects from owners to assess project viability. If problems are identified, the City may offer technical assistance and/or request additional documentation and corrective action.

### Troubled HOME-Assisted Rental Housing Projects

A HOME-assisted rental unit is considered no longer financially viable when its operating costs significantly exceed its operating revenue. For troubled projects, the City may take the following actions with prior written HUD approval:

|  |  |
| --- | --- |
| *Table 6.18* | ***Actions for Troubled Projects [92.210]*** |
| **Action** | **Description** |
| Investment of additional HOME funds | With HUD pre-approval, City of Chattanooga may invest additional funds to rehabilitate the HOME-assisted units, to recapitalize project reserves, or take other pre-approved actions, for the HOME units.  The total HOME funding for the project (initial investment amount plus the additional funds) may not exceed the maximum per unit subsidy, established at § 92.250(a). This determination is made using the maximum per unit subsidy that is in effect at the time the additional funds are invested.  HUD’s approval for this action must be in the form of a written memorandum of agreement. In granting approval for an additional investment of funds, HUD may require an extension of the affordability period and/or an increase in the number of HOME-assisted units. |
| Reduction of the number of HOME-assisted units | A reduction in the number of HOME-assisted units is permitted only if the project contains more than the minimum number of units required to be designated as HOME- assisted units under § 92.205(d). |

## Project Completion Deadline and Lease-Up

The following deadlines apply to all HOME rental housing projects:

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| --- | --- |
| *Table 6.19* | ***Deadlines for Completion and Lease-Up [92.252]*** |
| **Deadline** | **Description** |
| Within two (2) years of contract execution | Projects must be completed within two (2) years of the date of the executed loan agreement, in accordance with the HOME [Project Completion](#_heading=h.3rdcrjn) deadline. City of Chattanooga may request a one-year extension of this deadline to HUD for their review and approval. Refer also to [General Requirements](#_heading=h.2dvym10): [Project](#_heading=h.vx1227)  [Completion Deadline and Terminated Projects](#_heading=h.vx1227).  Rental projects must be complete, meaning 100% of HOME funds have been disbursed for the project; and the project completion information has been entered in the disbursement and information system (IDIS) established by HUD (completion may occur after construction is completed, but before occupancy as long as beneficiary data is provided when the units are occupied). |
| Within six (6) months of project completion | The HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of this section to qualify as affordable housing. If eligible tenants do not occupy the housing within this timeframe, the Developer must submit marketing information and, if appropriate, a marketing plan. |
| Within 18 months of project completion | HOME funds invested in any housing unit that have not been rented to eligible tenants within this timeframe shall be **repaid** to City of Chattanooga and/or HUD. The tenant must have a written lease that complies with § 92.253. |

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# Community Housing Development Organization (CHDO)

City of Chattanooga currently makes up to five percent (5%) of the annual HOME allocation available for CHDO Operating Support Grants. The City annually invites existing and potential CHDOs to submit an application for operating support funds, which specifies the amount of the request, how the funds will be utilized, and describes how the funds will support or build the CHDO’s capacity to develop HOME-assisted units which are under development.

The City encourages agencies that may be interested in becoming a City CHDO to contact staff in the Office of Housing and Community Development (OHCD). OHCD staff will explain the certification process and provide technical assistance to agencies in order to increase the number of CHDOs developing affordable housing within the City.

## CHDO Eligibility

### Eligible Entities

Private non-profit organizations with a HOME-funded project under development

### Capacity and Experience

The organization must have demonstrated staff, developer, and financial capacity for carrying out affordable housing activities similar to those assisted with HOME funds.

## Eligible Use of Funds

Eligible costs are defined as “reasonable and necessary costs for the operation of the community housing development organization. Such costs include:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| *Table 7.1* | | ***Eligible Use of Funds\**** | | | | |
| Salaries, wages, and other employee compensation and benefits | | | | | Employee education | |
| Training | Travel | | Rent | Utilities | | Communication costs |
| Taxes | Insurance | | Equipment | Materials | | Supplies |
| \*These operating funds are **not** a supplemental funding source for the HOME project which qualifies the CHDO for the operating support grant. | | | | | | |

The City may only provide an operating support grant to a CHDO that has been awarded HOME capital funds for development of a specific project. The City does not currently offer pre-development loan funds.

## CHDO Certification

Organizations interested in applying for, or maintaining their current CHDO status, must meet all HOME and City of Chattanooga requirements for certification. Agencies that occasionally develop affordable housing projects will be encouraged to receive technical assistance from the City and other CHDOs.

The CHDO certification process requires current and potential CHDOs to meet all of the HOME/CHDO regulations including the following:

* Have paid staff, responsible for the day-to-day operations of the CHDO, with relevant development experience with similar projects (this requirement cannot be met through volunteer, donated staff, shared staff, or board members).
* Have a proven track record of developing housing, with three (3) or more projects during the preceding five (5) years;
* Have the organizational, administrative and financial capacity to develop housing;
* Not have any findings from the City or HUD when their work is monitored or reviewed;
* Is willing to participate in City activities in terms of planning for affordable housing; and
* Have the capacity to provide technical assistance to other organizations.

## Overarching Program Regulations and Requirements

All projects and programs must comply with the [Overarching Program Regulations and](#_heading=h.1er0t5e) RequirementsTenant-Based Rental Assistance

## Project Eligibility

HOME tenant-based rental assistance (TBRA) must be provided to allow individuals and families to locate permanent housing (i.e., housing that does not have a designated length of stay) of their choice. Three (3) key features distinguish [HOME Rental Housing](#_heading=h.3yqobt7) and HOME TBRA.

|  |  |  |  |
| --- | --- | --- | --- |
| *Table 8.1* | | ***TBRA [92.209] versus Rental Housing [92.252]*** | |
| **Feature** | **TBRA** | | [Rental Housing](#_heading=h.3yqobt7) |
| **Eligible Applicants** | Assists individual households | | Subsidizes particular rental projects |
| **Portability** | TBRA assistance moves with the tenant if the tenant wishes to rent a different unit; however, TBRA assistance may be provided only within City, except as permitted by the Violence Against Women Act (VAWA). | | Rental Housing assistance stays with the building(s) on a single site |
| **Method of Assistance** | The subsidy varies depending on the  tenant’s income | | The subsidy is tied to the High and Low Income Rents |

### 

### Eligible Activities

Activities allowed with the use of City of Chattanooga HOME funds are activities that provide financial assistance to households to obtain and maintain permanent housing and that address the needs identified in the Consolidated Plan.

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| --- | --- |
| *Table 8.2* | ***Eligible TBRA Activities [92.209]*** |
| **Activity** | **Description** |
| Project Delivery | Administering rental assistance |
| Rental Assistance | Subsidy designed to make housing more affordable |
| Security Deposit and Utility Deposit | Subsidy designed to assist households move in to housing |

Eligible Properties

Properties that are eligible for HOME assistance include those properties that are listed in the Table below. Households must be able to select the unit of their choice within City.

|  |  |  |
| --- | --- | --- |
| *Table 8.3* ***TBRA Housing Units*** | | |
| **Eligible Properties** | | |
| Privately owned housing | Public Housing including Section 811, Section 202, HOPE VI, Continuum of Care Program, and HOPWA | Housing units developed or rehabilitated with HOME assistance [92.209(c)(3)] |
| **Ineligible Properties** | | |
| Resident owner of a cooperative of mutual housing unit | Overnight or temporary shelter | A housing unit that is receiving rental assistance that already reduces the tenant’s rent payment to 30% of monthly income. |

### Entities Eligible to Administer HOME Funds

HOME funds may be administered only by eligible entities (Agencies), which include:

|  |  |  |
| --- | --- | --- |
| *Table 8.4* | ***Eligible Entities [92.209(k)]*** | |
| Participating Jurisdiction | Public Housing Authority | Other agencies with the capacity to operate TBRA |

### Eligible Applicants/Beneficiaries

Only eligible applicants/beneficiaries may apply to receive TBRA assistance. The Agency must maintain an individual file for each household served.

### Income Eligibility

While HOME regulations require that all HOME funds benefit households with incomes at, or below, 80% of the area median income (AMI), the City has further restricted this through the Consolidated Plan. 100% of rental housing must be available to Eligible tenants with incomes at or below 60% AMI. Refer also to [General Requirements](#_heading=h.2dvym10): [Project](#_heading=h.1ksv4uv)  [Eligibility.](#_heading=h.1ksv4uv) Income limits are established by HUD; the City will provide current and updated limits.

Income must be calculated in accordance with 24 CFR § 5.609 (commonly referred to as the “Part 5 (Section 8 Program) definition”). The passbook savings rate for calculation of imputed asset income over $5,000 shall be the same passbook savings rate utilized by the local the City. The projected annual income of each household must be determined initially, before assistance is provided, and at least annually thereafter during the period of assistance; the Agency may establish a more frequent reexamination schedule (i.e., for decreases in income, changes in household composition, etc.) as long as this schedule is applied consistently to all participants. If security deposit assistance alone is provided (without rental assistance) income determinations are required only at the time the security deposit assistance is provided.

When an Agency determines, at reexamination, that a tenant is over-income, the Agency must provide the tenant and landlord/owner with reasonable notice that assistance will be terminated.

### Housing Status Eligibility

Additionally, as permitted by § 92.209(c)(2), TBRA assistance is targeted for persons with the Housing Statuses listed in the Table below. For homeless households, referrals must be accepted from the [Investing in Futures (IIF) Coordinated Entry System (CES)](http://www.snohomishcountywa.gov/2238/Investing-In-Futures). Housing status must be determined initially, before assistance is provided.

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| --- | --- | --- | --- | --- |
| *Table 8.5* | ***Eligible Beneficiaries [92.209(c)]*** | | | |
| **Housing Status** | | | | **Income Eligibility** |
| Homeless, as defined in the HUD Defining “Homeless” Rule | | At Risk of Homelessness | High System Utilizers who are Homeless or At Risk of Homelessness | Extremely Low Income: At or below 30% AMI |
| Low Income: At or below 50% AMI |

### Income Determination Documentation

Income must be documented according to the acceptable form of documentation listed in the Table below. In determining income-eligibility, the Agency must re-verify the household size, composition, as well as income.

|  |  |
| --- | --- |
| *Table 8.6* ***Income Determination Documentation [92.203]*** | |
| **Frequency** | **Acceptable Forms of Documentation** |
| Initial and Subsequent Determinations (minimum annually) | 2 months of source documentation evidencing annual income (e.g. wage statements, interest statements, unemployment compensation documentation, etc.) |

### Housing Status Documentation

Housing status must be documented according to the applicable rules and/or regulations listed in Table 8.5 for the housing status (i.e., documentation of homelessness must be in accordance with the HUD Defining “Homeless” Rule).

### HOME TBRA Assistance and Tenants on Section 8 Waiting List [92.209(L)]

Tenants on the Section 8 waiting list should not lose their place on the waitlist if they are selected to receive HOME TBRA assistance.

## Eligible Project Costs

Activities and costs are eligible for HOME assistance only if the housing, upon project completion, meets the applicable minimum property standards described in [General Requirements](#_heading=h.2dvym10): [Property](#_heading=h.1ci93xb)  [Standards,](#_heading=h.1ci93xb) as well as the property (unit) standards specific to Tenant-Based Rental Assistance, as described below.

### Project Delivery Costs

Such eligible costs include the costs to administer the TBRA. Administering Rental Assistance, which includes only the specific costs in the table below, is listed in the regulation as an Administration cost, however, these costs may be considered a project delivery cost.

*Table 8.7* ***Administering TBRA [92.207(a)(5)]***

Inspecting housing occupied by a TBRA recipient Determining income eligibility of applicants

Please note that calculating the amount of TBRA assistance and disbursing the assistance are *not* considered eligible project delivery costs; instead, these costs are considered Administrative costs, which are not reimbursable as project delivery costs.

### Rental Assistance

TBRA assistance may be used to provide up to twenty-four (24) months (extensions may be provided subject to HOME funding availability) of rental assistance on behalf of an income- eligible household. Rental assistance must be provided to allow individuals and families to locate housing of their choice within City, except as permitted by the Violence Against Women Act (VAWA). If the household later moves to another suitable unit, the rent assistance may be applied to the new unit. Refer to [Methods of Assistance](#_heading=h.4bewzdj) for rental assistance parameters. Rental assistance does not include rental arrears.

### Security Deposits and Utility Deposits

TBRA assistance may be used to pay for security deposits either with or without Rental Assistance. Only an eligible applicant/beneficiary may apply for HOME assistance; while HOME regulations permit payments directly to the tenant, City of Chattanooga policy is that the payment, either as a loan or a grant, must be made directly to the landlord/owner.

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| --- | --- |
| *Table 8.8* | ***Security Deposit Costs [92.209]*** |
| **Eligible Costs** | |
| **Security Deposit Payments** (a one-time payment of up to two (2) month’s rent) | **Utility Deposit Assistance\*** *only if* this assistance is provided with rental assistance or security deposit payment |
| **\*Inclusions: electric, gas, water, trash**  **Exclusions: telephone, internet access, cable television** | |

### Ineligible Activities, Costs, and Fees

Refer to the [General Requirement](#_heading=h.2dvym10): [Eligible Project Costs](#_heading=h.1y810tw) for a list of ineligible activities, costs, and fees under the HOME Program.

## Property (Unit) Standards

The Agency must approve the housing unit before assistance is provided on behalf of an eligible household to ensure compliance with the TBRA Property (Unit) Standards. The Agency must inspect housing units before assistance is provided and at least annually thereafter during the period of assistance to ensure that the following property (unit) standards are met. If security deposit assistance alone is provided (without rental assistance) Housing Quality Standards inspections are required only at the time the security deposit assistance is provided.

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| --- | --- | --- |
| *Table 8.9* | ***TBRA Property (Unit ) Standards [92.251(d)]*** | |
| **Standard** | **Frequency** | **Requirements** |
| **Housing Standards** | Initially, Annually | Must comply with all Housing Quality Standards (HQS), 24 CFR § 982.401; if a unit initially fails HQS, the landlord/owner may be given a reasonable amount of time (generally 30 days) to correct any deficiencies and the Agency must re-inspect the unit. |
| **Occupancy Standards** | Initially, Annually | The unit must have at least one (1) bedroom or living/sleeping room for each two (2) persons |
| **Rent Reasonableness** | Initially, Annually | Gross rent\* must be reasonable in relation to other units of comparable size and amenities in the region; rent reasonableness must be documented through the Rent Reasonableness Certification.  To demonstrate that the assisted unit is rent reasonable, the Agency must compare the proposed unit’s gross rent to the rent of at least three (3) comparable unassisted units in the area. By completing a Supplemental Analysis of three (3) comparable units on a unit-by-unit basis using other data sources. |
| **Lead-Based Paint Visual Assessment** | Initially, Annually | Must meet the lead-based paint requirements at 24 CFR part 35. |
| \*Gross rent is rent plus tenant-paid utilities, which may include gas, electricity, water, sewer and garbage. The following are excluded from utilities: telephone, cable or satellite television service, and internet service. | | |

### Inspection Requirement

In addition to the inspections conducted by the Agency, the PJ must conduct annual on-site inspections to determine compliance with the applicable standards. [92.504(d)(iii)].

## Methods of Assistance

### Payment (Rent) Standard

City of Chattanooga establishes the rent standard annually based on a market analysis of moderately-priced units that meet Housing Standards in City; City of Chattanooga uses this local data to establish the rent standard according to the unit size based on the number of bedrooms. The City will provide current and updated payment standards.

### Eligible Forms of Subsidy and Subsidy Limits

The rental assistance subsidy varies depending on the participant’s income, which must be calculated according to 24 CFR § 5.609 and 24 CFR § 5.611(a). Income-eligible tenants must contribute towards the contract rent in order to receive TBRA rental assistance according to the following parameters:

|  |  |
| --- | --- |
| *Table 8.10* ***Rental Assistance [92.209(h)]*** | |
| **Minimum Tenant Contribution** | **Maximum Rental Assistance Payment** |
| 30% of the household monthly adjusted gross The difference between the rent standard and 30% income of the household monthly adjusted gross income | |

A graduated subsidy model must be used and must be tailored to the individual household being served. The exact subsidy amount and schedule must be determined collaboratively with the household as part of the assessment and planning process, but should be adjusted during program enrollment if household circumstances change. The amount of monthly rental assistance provided with HOME funds may not exceed the difference between the rent standard for the unit size and 30% of the household’s monthly adjusted income. At no time should the rent paid by the household combined with the rental assistance payment exceed the contract rent. In addition, the gross rent for the unit must meet the rent reasonableness requirement in VIII. C. above. The model must be applied consistently to all participants.

### Utility Allowances

In calculating the tenant contribution, a utility allowance must be factored into the calculation if utilities are not included in the unit rent. The utility allowance schedule established annually by the local Public Housing Authority must be used. Where a utility reimbursement must be made, the reimbursement must be paid to the utility company on behalf of the tenant; while HOME regulations permit payments directly to the tenant, City of Chattanooga policy is that utility reimbursements may not be paid directly to the tenant.

## Housing Agreements [92.209(k)]

### Tenant Leases

The tenant and the owner of rental housing must enter into a written lease agreement of not less than one (1) year, unless a shorter period is mutually agreed upon. The Agency must review and approve all leases; if the lease is not reasonable, the Agency may not approve it. The Agency must review any rent increases by the landlord/owner. Please note that it is considered a conflict of interest for the Agency to approve the lease of an Agency-owned unit; therefore, for any unit that is owned by the Agency, the PJ must approve the lease before assistance is provided. All leases must comply with the household protection requirements of

24 CFR 92.253 and the following lease provisions are explicitly prohibited; refer to the regulation for a description of these prohibited lease provisions.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| *Table 8.11* | ***Prohibited Lease Provisions [92.253(b)]*** | | | | |
| Agreement to be sued | | Treatment of property | Waiver of a jury trial | | Waiver of notice |
| Excusing owner from responsibility | | | Waiver of right to appeal court decision | | |
| Tenant chargeable with cost of legal actions regardless of outcome | | | | Waiver of legal proceedings | |
| Mandatory supportive services | | | | | |

### Lease Terminations

Termination of the lease requires a 30-day notice of refusal to renew or termination of tenancy. Landlords/owners may only refuse to renew or terminate the lease of a tenant residing in a HOME-assisted unit for good cause. Good cause is defined as: repeated violation of lease terms; violations of federal, State or local law. As discussed further below under [Rental Assistance Agreement](#_heading=h.1j4nfs6): [Between the Agency and the Tenant](#_heading=h.2i9l8ns), termination of assistance is not required if the lease is terminated; the Agency may continue assistance subsequent to termination of a lease once the participant enters into a new lease. However, the Agency must develop standards regarding whether assistance will continue after the termination of a lease and the circumstances under which this may occur; these standards must be applied consistently to all participants.

### Rental Assistance Agreement

The term of a rental assistance agreement, both between the Agency and the owner/landlord, as well as between the Agency and the tenant, may not exceed twenty-four (24) months, but may be renewed, subject to the availability of HOME funds. The rental assistance agreement must begin on the first day of the term of the lease. Rental assistance agreements must be fully executed before assistance is provided on behalf of the tenant.

### Between The Agency and the Owner/Landlord

The Agency may make rental assistance payments only to landlords/owners with whom the entity has a rental assistance agreement. The rental assistance agreement must include the terms under which rental assistance will be provided, the term of the agreement (which must terminate on the termination of the lease or within a reasonable amount of time after a tenant is determined to be over-income), that the landlord/owner will provide the Agency with a copy of all written notices to the participant (including notices to vacate, notices of noncompliance, etc.) and that the landlord/owner will comply with HOME regulations.

### Between The Agency and the Tenant

The Agency must enter into a rental assistance agreement with the tenant. The rental assistance agreement must include the terms under which rental assistance will be provided, the term of the agreement (which must terminate within a reasonable amount of time after a tenant is determined to be over-income; but which need not terminate on the termination of the lease (however, no payments may be made after lease termination until the participant enters a new lease)), that the landlord/owner will provide the Agency with a copy of all written notices to the participant (including notices to vacate, notices of noncompliance, etc.).

## Supportive Services [92.209(c)(2)]

Supportive services are not an eligible activity or cost under TBRA. Tenants receiving rental assistance may be required to participate in a self-sufficiency program as a condition of receiving assistance; however, rental assistance may not be terminated for a failure to continue participating in such a program. Appropriate, non-mandatory services may be provided to recipients of TBRA assistance through another program, but receipt of TBRA assistance may not be tied to services.

## 

## TBRA Assistance Summary

The following Table, which provides an overview of the steps of providing TBRA assistance, is intended to be a summary only and does not include all of the requirements.

|  |
| --- |
| ***Table 8.12 Summary*** |
| **Determine Eligibility of Applicants**  The Agency must [determine and document eligibility](#_heading=h.46ad4c2) of all persons applying for assistance. |
| **Approval of Housing Unit**  The Agency must approve the housing unit before assistance is provided; the unit must meet all applicable [Property (Unit) Standards.](#_heading=h.3c9z6hx) |
| **Housing Agreements are Executed**  [Housing Agreements,](#_heading=h.4bewzdj) including tenant leases (which must be approved by the Agency) and Rental Assistance Agreements must be entered in to. |
| **TBRA Assistance Begins**  The Agency begins providing TBRA assistance on behalf of the participant; the Agency must ensure ongoing compliance with Property (Unit) Standards. |

## Overarching Program Regulations and Requirements

All projects and programs must comply with the [**Overarching Program Regulations and**](#_heading=h.1er0t5e) [**Requirements**](#_heading=h.1er0t5e)**.**

# Overarching Program Regulations and Requirements

## Fair Housing and Civil Rights

Agencies must comply with federal, State, and local fair housing and civil rights laws, regulations, and Executive Orders, including Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq); the Fair Housing Act (42 U.S.C. 3601-3620); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259); and the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107).

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| *Table 9.1* | ***Protected Classes*** | | | | | |
| Race or Color | | | National Origin | | Disability | |
| Creed | | Sex | | Marital Status | | Familial Status |
| Sexual Orientation or Gender Identity | | | | Veteran or Military Status | | |

## Affirmative Marketing [92.351]

City of Chattanooga requires all Agencies receiving HOME funds for projects with five (5) or more HOME-assisted units and for housing programs (direct homeownership assistance, homeowner rehabilitation, and tenant-based rental assistance) to have plans to affirmatively market housing to eligible populations. This requirement is included in the contracts between City of Chattanooga and Agencies receiving the HOME funds.

As part of the application process, Agencies are asked to describe their affirmative marketing plan for the HOME-assisted units and HOME-assisted programs. The affirmative marketing plan must include information on:

* + 1. How the Agency will inform the public and potential residents about fair housing laws;
    2. How the Agency will affirmatively market the project units or program assistance and inform persons who might not normally apply for housing through special outreach; and
    3. How the Agency will document affirmative marketing efforts and evaluate their success.

The marketing plans are reviewed by City staff when the projects are monitored. Housing projects must display the Equal Housing Opportunity information and logo in an area that is accessible to eligible households.

Agencies shall use the Equal Housing Opportunity Slogan, logo, or statement in all advertisements, public service announcements, press releases, and information mailings. The HUD Fair Housing poster must be displayed in offices where rental activity takes place for all properties with five (5) or more units.

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

* Race
* Color
* National origin
* Sex
* Religion
* Familial status
* Disability

The affirmative marketing requirements and procedures adopted by the sponsor must include:

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

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

Agencies must also comply with additional required affirmative marketing procedures for the City of Chattanooga.

## Housing Accessibility for Persons with Disabilities

Agencies must comply with the following laws:

1. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) and the Fair Housing Amendments Act of 1998 (Amendments Act – FHAA) prohibit discrimination in the provision of housing on the basis of a protected class.
2. Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to those receiving federal assistance
3. The Americans with Disabilities act (ADA) of 1990 addresses public accommodations, which include rental offices and common areas.

### Disability Rights in Housing

Federal laws define a person with a disability as "[a]ny person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment." Major life activities include walking, talking and hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

Federal laws provide specific protections for persons with disabilities in both public and private housing:

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| --- | --- |
| *Table 9.2* | ***Rights of Persons with Disabilities*** |
| **Prohibition of Discrimination** | Agencies may not refuse to rent/sell to persons because of a disability. It is unlawful to treat persons with disabilities different than persons who are not disabled (i.e., housing providers may not impose different application/qualification criteria, rental fees or sales prices, rental or sales terms or conditions, etc.) |
| **Reasonable Accommodations** | Persons with disabilities have the right to reasonable accommodations. A reasonable accommodation is changing the rules, policies, or services so that a person with a disability has equal opportunity to use and enjoy a dwelling unit or common space. |
| **Reasonable Modifications** | Persons with disabilities have the right to reasonable modifications. A reasonable modification is modifying a structure so that a person with a disability has the full enjoyment of the housing and related facilities.  Reasonable modifications are generally made at the residents’ expense, with the exception of federally funded housing. |

### Design and Construction Requirements

The Fair Housing Act requires that new multifamily housing, including both public and private housing, is designed and constructed to be accessible. In covered multifamily housing consisting of four (4) or more units built for first occupancy after March 13, 1991, *with* an elevator, all units must comply with the following seven (7) design and construction requirements listed in the Table below; for this type of housing *without* an elevator, all ground floor units must comply with these requirements.

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| --- | --- | --- | --- | --- | --- | --- |
| *Table 9.3* | | ***Design and Construction Requirements*** | | | | |
| Accessible Entrance on an Accessible Route | | | Accessible Public and Common- Use Areas | | Usable Doors | |
| Accessible Route into and through the Dwelling Unit | Accessible Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls | | | Reinforced Walls in Bathrooms (to permit installation of grab bars) | | Usable Kitchens and Bathrooms |

Limited exemptions to these requirements apply only for owner-occupied buildings with fewer than four (4) units, single- family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

### People with Disabilities in Federally Assisted Housing

Programs that receive federal assistance must comply with the requirements of Section 504; Section 504 prohibits discrimination against an otherwise qualified individual with a disability, solely on the basis of the disability.

Housing that complies with Section 504 must meet the Uniform Federal Accessibility Standards (UFAS). Below are examples of Section 504 requirements:

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| --- | --- | --- |
| *Table 9.4* | ***Examples of Section 504 Requirements*** | |
| **Type of Assistance** | | **Requirement** |
| **New Construction of Multifamily Housing** | | * 5% of the units (but not less than 1 unit) must be accessible to persons with mobility impairments, and * An additional 2% of the units (but not less than 1 unit) must be accessible to individuals with sensory impairments |
| **Substantial Rehabilitation\* of Multifamily Housing** | |
| **Rehabilitation** that is less extensive than Substantial Rehabilitation\* | | * Alterations must (to the maximum extent feasible) make the unit accessible to and usable by persons with disabilities until 5% of the units are accessible to persons with mobility impairments * Alternations to the common areas must (to the maximum extent feasible) make the project accessible |
| \* Substantial Rehabilitation includes construction in a project with 15+ units for which the rehabilitation costs will be 75% or more of the replacement cost | | |

### The Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against persons based on disability and applies to all programs, services, and activities (including housing) provided or made available by public entities. For instance, Title II applies to housing operated by public housing authorities, States, or units of local government.

While the ADA generally applies to places of public accommodation and not to residential housing, Title III of the ADA applies to the public and commons use areas in housing developments, if those areas are open to the general public.

## Equal Opportunity

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

### Section 3 of the Housing and Urban Act of 1968 (Section 3)

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD financial assistance is directed to low- and very low-income persons to the greatest extent feasible. In accordance with the City of Chattanooga Section 3 Plan, any construction contract of more than $200,000 must meet, to the greatest extent feasible, the following labor goals:

1. Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are worked by Section 3 Workers;

Section 3 Labor Hours/Total Labor Hours = 25%

And

1. Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are worked by Targeted Section 3 Workers, as defined at 24 CFR Part 75.21.

Targeted Section 3 Labor Hours/Total Labor Hours = 5%

The City’s Section 3 Plan outline all requirements and goals related to Section 3.

### Women- and Minority-Owned Business Enterprises

The City is required to take affirmative actions to allow Women- and Minority-Owned Business Enterprises (WMBE) to benefit from federal funds. The City passes this requirement on to funded Agencies, which must make a good faith effort to employ WMBE firms when implementing projects/programs. These efforts can include advertising for professional services or construction contractors in minority publications, notifying WMBE firms directly of employment opportunities, or requiring that contractors hire WMBE subcontractors. Solicitation of MBE firms is required during procurement for any construction contract of $50,000 or more.

## Labor Standards

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

### Davis-Bacon and State Prevailing Wages

Any contract for the construction of affordable housing with **12 or more HOME-funded units (inclusive of City and other jurisdictions’ HOME funding)** will require that all laborers and mechanics who are employed to perform work on the project be paid wages at federal rates which are not less than those that prevail in The City.

State Prevailing Wage requirements at RCW 39.12 also apply to all Public Works projects funded with a forgivable HOME loan or HOME grant. Public Work is defined as “All work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein.”

When both Davis-Bacon and state prevailing wages are applicable to a project, all contractors and subcontractors must pay the higher of federal or state prevailing wages to all laborers and mechanics.

### Related Acts

The Contract Work Hours and Safety Standards Act (CWHSSA) requires contractors and subcontractors to pay laborers and mechanics one and one-half (1.5) times their standard rate of pay for all hours worked in excess of 40 hours in a workweek.

Copeland Anti-Kickback Act prohibits a contractor or subcontractor from inducing an employee into giving up any part of wages they are entitled to.

### Use of Volunteers

It is permissible to use the services of volunteers to perform work as a laborer or mechanic on a project assisted with HOME funds as long as the requirements of 24 CFR part 70 are met. Individuals cannot be considered a volunteer if, during construction of the project, they are employed in the same type of work as they are performing on the project. (i.e. a plumber cannot perform voluntary plumbing work but can perform work unrelated to plumbing).

## Environmental Review

The environmental effects of each activity must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD’s implementing regulations at 24 CFR parts 50 and 58. The City, as Responsible Entity, assumes the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in 24 CFR part 58.

The applicability of environmental review regulations is based on the type of project scope (new construction, rehabilitation, acquisition, etc.) or activity (tenant-based rental assistance), not the particular cost paid. For example, if a HOME-assisted project is a new construction project, but the HOME funds are used for acquisition of vacant land for the project, the environmental review is based on new construction of housing, as well as the acquisition of the land.

Any funds committed to an activity or project will be conditional on the completion of the environmental review and approval of the request for release of funds and related certification as needed, except as authorized by 24 CFR part 58. Incurring costs, expenditure of funds, or beginning any work on the project site prior to completion of an environmental review may jeopardize current and future funding for the project. The environmental review process may take up to 90 days or longer depending on the scope of the project.

## Lead-Based Paint Hazards [92.355]

All housing units assisted with City funds must comply with the requirements of the Lead- Based Paint Poisoning Prevention Act of 1971, as amended (42 U.S.C. 4821-4846); the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856); and 24 CFR part 35.

Exemptions to the requirements are:

* Units built after January 1, 1978
* Units which house only the elderly
* Studio units and Single Room Occupancy (SRO) units

## The Uniform Act and Section 104(d)

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

### Acquisition

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

Agencies are exempt from complying with most acquisition requirement of the Uniform Act (Subpart B) *only* if an identified site can be acquired “voluntarily” in accordance with Section 49 CFR § 24.101 of Subpart B. A “voluntary” acquisition requires the Agency (buyer) to inform the seller, prior to executing an agreement to purchase:

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

### Estimating Fair Market Value

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

### Section 104(d)

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

Section 104(d) has two distinct components:

|  |  |
| --- | --- |
| *Table 9.5* | ***Components of Section 104(d)*** |
| **Component** | **Requirement** |
| **One for One Replacement** | Requires one-for-one replacement of lower-income dwelling units that are demolished or converted to another use. For Section 104(d) purposes “conversion” is defined as: Altering a housing unit that would rent at or below the fair market rent (FMR) so that it is used for non-housing purposes, rents for above the FMR or is used as an emergency shelter. |
| **Relocation of Lower Income Tenants** | Requires relocation assistance for displaced lower-income residential tenants and does not provide protection or assistance for persons with incomes above the Section 8 Low Income Limit. |

### Housing Replacement

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

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

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

### Relocation

The City strongly discourages the permanent displacement of low-income households by project and programs. The URA stipulates the content and timing of notices for residents of properties to be acquired with HOME funds. If residents will be displaced by the project, they must receive moving cost reimbursement, relocation assistance payments, and relocation assistance services.

If an otherwise feasible and fundable project does necessitate permanent or temporary displacement and relocation, the relocation must be carried out in strict compliance with the URA. Prior to selection for funding, the Agency must demonstrate that:

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

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

No relocation may be initiated prior to funding award except with the prior written approval of the City. If relocation is required, a detailed **Relocation Plan** must be submitted with an application for HOME funds. (A relocation plan template is available on the City’s Web page.)

### Temporary Relocation

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

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

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

If the project requires tenants to be temporarily relocated off site, a detailed **Temporary Relocation Plan** is required. (A temporary relocation plan template is available on the City’s web page.)

### City of Chattanooga URA and Section 104(d) Policies

The following URA & Section 104(d) Policies provide guidance on complying with the URA and Section 104(d) requirements, and are available upon request:

1. URA Policy 2011 #1 – Section 104(d) Policy
2. URA Policy 2011 #2 – Homebuyer Down Payment Assistance Program
3. URA Policy 2011 #3 – Appeals Policy
4. URA Policy 2011 #4 – Installment Policy

## Procurement

It is important to keep the solicitation of bids for goods and services as well as professional services and construction contracts open and competitive.

a. At a minimum all Recipients must comply with 2 CFR 200.318 - 326.

b. All Recipients must have adopted procurement policies and procedures that meet state and federal requirements.

c. Recipients must seek to obtain three (3) to five (5) quotes or bids using formal advertising or requests for proposals for the procurement of professional or construction services.

d. There must be an established selection procedure and a written rationale for selecting the successful bid or proposal.

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

Procurement requirements are provided in the City’s funding notices or written agreements. Agencies are encouraged to contact City staff if they have any questions regarding which procurement requirements will apply to their specific project.

Agencies will be expected to provide a copy of their procurement policies and procedures that meet applicable federal and state regulations with their application for funding. If a project includes any construction or rehabilitation, a required component of a completed application for funding will be a written description of how the Agency intends to procure prime or general contractors, subcontractors, architects, engineers, consultants, etc. in a competitive manner.

Prior to publishing a Notice of Bid Opening, the City requires review and approval of all bid documents to ensure that all federal, state, and City requirements are included before they are finalized. All other applicable federal requirements will be included in bid specifications, including but not limited to Section 3 of the Housing and Urban Development Act of 1968 and Minority Business Enterprises (MBE).

Only contractors and subcontractors who are not federally debarred or suspended and have current Tennessee State business licenses with current Workers’ Compensation accounts including proper insurance and bonding can work on capital construction projects. The City will check the status of the general contractor for federal debarment and suspension, licensing, insurance, bonding, and Workers’ Compensation accounts for capital construction projects. The entity receiving funding is responsible for checking the status of all subcontractors for federal debarment, suspension, licensing, insurance, and Workers Compensation accounts. Licensing and debarment checks for owner-occupied housing rehabilitation and minor home repair clients, contractors and subcontractors are to be conducted by the entity receiving funding from the City. Debarment status can be verified through System for Award Management (SAM), available via this link: <https://sam.gov/content/home>

## Use of Architect and Engineer for Housing Projects

Plans that are required to have A Design Professional's Tennessee (Architect or Engineer) Stamp affixed to them include:

* All Assembly (50 or more people), Educational, and Institutional occupancies.
* Buildings and structures two stories or more high.
* Buildings and structures 5,000 sq. ft. (465m) (Add floors together) or more in area

## Financial Management Requirements

Agencies receiving HUD funds must abide by the financial management requirements of the Federal Office of Management and Budgets found at 2 CFR part 200.

### Audit Requirements

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

## Program Income

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

|  |  |
| --- | --- |
| *Table 9.6* ***Pr*** | ***ogram Income Categories*** |
| **Income from the use or rental of HOME-assisted real property** owned by the City, or a public or nonprofit agency selected by the City to operate a portion of its housing program minus the costs of generating the income | |
| **Payments of principal and/or interest on loans Proceeds from the sale of real property** which was made with HOME funds purchased or rehabilitated with HOME funds | |

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

1. Program income be spent before drawing funds from the City’s HOME Trust account;
2. Program income be spent only for eligible activities; and
3. Written agreements with agencies that will generate program income must specify whether program income must be returned to the City or used by the agency for an eligible activity.

Program Income does not include gross income from the use, rental, or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the City.

## Conflict of Interest

The federal conflict-of-interest provisions at 2 CFR part 200 prohibit any employee, officer, agent, or elected official or appointed official of the City from participating in the award of funds for any activity if either a real or apparent conflict of interest exists. A conflict of interest would occur if any of covered persons had, or would be in a position, to gain a financial interest in any funded activity.

The HOME Program has additional conflict of interest provisions [24 CFR § 92.356]. The additional provisions state that: anyone who has, or has had, any role related to the use of HOME funds, or has been in a position to participate in decision-making or obtain inside information cannot have or obtain a financial interest or benefit from any HOME activity or have an interest in any contract or agreement representing themselves or anyone with whom they have a business or family relationship. The prohibition applies for one year after the person leaves the position in which they had a conflict. Covered familial relationships are limited to immediate family members.

Immediate family members of an officer, employee, agent, elected or appointed official or consultant of an Agency are prohibited from occupying a HOME-assisted affordable housing unit in a project. The restriction on occupancy applies during the period of affordability only, and not to the entire period of ownership by the entity that received the HOME assistance.

## Recordkeeping

Agencies must maintain records demonstrating compliance with HOME requirements. All documentation of compliance with the HOME Program will be kept in the City’s electronic files in accordance with the HUD recordkeeping requirements of 24 CFR 92.508 and the City’s record retention schedule.

**Rental Housing Project Records**

* General records are kept for seven years after project completion; and
* Tenant income, rent and inspection information are kept for the most recent five years, until five years after the affordability period ends.

**Homeownership Records:**

* Seven years after project completion; and
* For recaptured records, seven years after the affordability period ends.

Agreements are maintained for seven years after the agreement end date.

TBRA Records must be kept for seven years after rental assistance ends.

HOME contractors must also maintain an accurate and complete set of accounting records for all financial transactions. They must also maintain supporting documents, statistical records, and all other records pertinent to the HOME Program until all loans made under the HOME Program have been repaid, or for a period of sevev years after the Project Completion, whichever occurs later.

Records and files shall include, at a minimum, the following:

* HOME Program Application;
* Agreement and any modification thereto;
* Correspondence to the City describing steps taken to satisfy agreement condition(s) and

supporting documentation;

* Correspondence from the City accepting compliance with the agreement condition(s);
* Environmental review documentation;
* HOME Program Activity Budgets;
* Expenditure Summary Request Forms submitted to the City

## Annual Income/Income Determination

### Income Limits

HOME funds can only be used to benefit low and very low income households. The income limits applicable are the current "Income Limits for Low-Income and Very Low-Income Families" (adjusted for family size) produced by the Department of Housing and Urban Development. Tennessee figures are list at https://chattanooga.gov/economic-development/home-application.

### Annual Income (Gross Income)

The City’s HOME program uses the income definitions of the Section 8 program to determine the annual income (gross income) used to classify a household for purposes of eligibility. Annual income means all amounts, monetary or not, which:

* 1. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member;
  2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date. In other words, it is the household's *future or expected* ability to pay rather than its past earnings that is used to determine program eligibility. If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period; and
  3. Which are not specifically excluded in paragraph 6.8 (Income Exclusions) below.
  4. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
  5. MONTHLY GROSS INCOME - Monthly gross income is Annual Gross Income divided by 12 months.

### Assets

In general terms, an asset is a cash or noncash item that can be converted to cash. There is no asset limitation for participation in the HOME program. Income from assets is, however, recognized as part of Annual Gross Income. Assets have both a market value and a cash value.

* 1. MARKET VALUE - The market value of an asset is simply its dollar value on the open market. For example, a stock's market value is the price quoted on a stock exchange on a particular day, and a property's market value is the amount it would sell for on the open market. This may be determined by comparing the property with similar, recently sold properties.
  2. CASH VALUE - The cash value of an asset is the market value less reasonable expenses required to convert the asset to cash, including:
     1. Penalties or fees for converting financial holdings. Any penalties, fees, or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value (e.g., penalties charged for premature withdrawal of a certificate of deposit, the transaction fee for converting mutual funds, or broker fees for converting stocks to cash); and/or
     2. Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property, and any legal fees associated with the sale of real property are deducted from the market value to determine equity in the real estate.
     3. Under Section 8 rules, only the cash value (rather than market value) of an item is counted as an asset.

### Income from Assets

The income counted is the actual income generated by the asset (e.g., interest on a savings or checking account.) The income is counted even if the household elects not to receive it. For example, although a household may elect to reinvest the interest of dividends from an asset, the interest or dividends is still counted as income.

1. The income from assets included in Annual Gross Income is the income that is anticipated to be received during the coming 12 months.
   * 1. To obtain the anticipated interest on a savings account, the current account balance can be multiplied by the current interest rate applicable to the account; or
     2. If the value of the account is not anticipated to change in the near future and interest rates have been stable, a copy of the IRS 1099 form showing past interest earned can be used.
     3. Checking account balances (as well as savings account balances) are considered an asset. This is a recognition that some households keep assets in their checking accounts, and is not intended to count monthly income as an asset. Grantees should use the average monthly balance over a 6-month period as the cash value of the checking account.
2. When an Asset Produces Little or No Income:
   * 1. If the family's assets are $5,000 or less, actual income from assets (e.g., interest on a checking account) is not counted as annual income. For example, if a family has $600 in a non-interest bearing checking account, no actual income would be counted because the family has no actual income from assets and the total amount of all assets is less than
        1. $5,000.
     2. If the family's assets are greater than $5,000, income from assets is computed as the greater of:
        1. actual income from assets, or
        2. imputed income from assets based on a passbook rate applied to the cash value of all assets. For example, if a family has $3,000 in a non-interest bearing checking account and $5,500 in an interest-bearing savings account, the two amounts are added together. Use the standard passbook rate to determine the annual income from assets for this family.
3. Applicants who dispose of assets for less than fair market value (i.e., value on the open market in an "arm's length" transaction) have, in essence, voluntarily reduced their ability to afford housing. Section 8 rules require, therefore, that any asset disposed of for less than fair market value during the 2 years preceding the income determination be counted as if the household still owned the asset.
   * 1. The value to be included as an asset is the difference between the cash value of the asset and the amount that was actually received (if any) in the disposition of the asset (less any fees associated with disposal of property, such as a brokerage fee).
     2. Each applicant must certify whether an asset has been disposed of for less than fair market value. Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce or separation is not included in this calculation.
     3. These procedures are followed to eliminate the need for an assets limitation and to penalize people who give away assets for the purpose of receiving assistance or paying a lower rent.

### Assets Include

1. Amounts in savings accounts and six month average balance for checking accounts.
2. Stocks, bonds, savings certificates, money market funds and other investment accounts.
3. Equity in real property or other capital investments. Equity if the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset. *DO NOT INCLUDE EQUITY OF PRINCIPAL RESIDENCE AS AN ASSET FOR HOMEOWNER REHABILITATION PROGRAMS.*
4. The cash value of trusts that are available to the household.
5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in penalty.
6. Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.
7. Assets which, although owned by more than one person, allow unrestricted access by the applicant.
8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.
9. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
10. Cash value of life insurance policies.
11. Assets disposed of for less than fair market value during two years preceding certification or recertification.

### Assets Do Not Include

1. Necessary personal property, except as noted under paragraph 6.5(9) (Assets Include) above
2. Interest in Indian Trust lands
3. Assets that are part of an active business or farming operation.

NOTE: Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant/tenant's main occupation.

1. Assets not accessible to the family and which provide no income to the family.
2. Vehicles especially equipped for the handicapped.
3. Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

### Income Inclusions

The following are used to determine the annual income (gross income) of an applicant's household for purposes of eligibility:

1. The full amount, before any payroll deductions, of wages and salaries, over-time pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. The net income for the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness cannot be used as deductions in determining net income; however, an allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness cannot be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income includes the greater of the actual income derived from net family assets or a percentage of the value of such assets based on the current passbook saving rate, as determined by HUD.
4. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except Supplemental Security Income (SSI) or Social Security).
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see paragraph (3) under Income Exclusions).
6. Welfare Assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income consists of:
   * 1. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; **plus**
     2. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph is the amount resulting from one application of the percentage.
7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling.
8. All regular pay, special pay and allowances of a member of the Armed Forces (see paragraph (8) under Income Exclusions).

***Income Exclusions***  The following are excluded from a household's income for purposes of determining eligibility:

* 1. Income from employment of children (including foster children) under the age of 18 years.
  2. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone).
  3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except for payments in lieu of earnings – see paragraph (5) of Income Inclusions.
  4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
  5. Income of a live-in aide.
  6. Certain increases in income of a disabled member of the family residing in HOME assisted housing or receiving HOME tenant-based rental assistance (see 7. under L: Determining Whose Income to Count).
  7. The full amount of student financial assistance paid directly to the student or to the educational institution;
  8. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
     1. Amounts received under training programs funded by HUD.
     2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
     3. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care etc.) which are made solely to allow participation in a specific program.
     4. Amount received under a resident’s service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the owner or manager on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination and serving as a member of the governing board. No resident may receive more than one such stipend during the same period of time.
     5. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded must be received under employment training programs with clearly defined goals and objectives, are excluded only for the period during which the family member participates in the employment training program.
  9. Temporary, nonrecurring or sporadic income (including gifts).
  10. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
  11. Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse).
  12. Adoption assistance payments in excess of $480 per adopted child.
  13. For public housing only, the earnings and benefits to any family member resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the 1937 Act, or any comparable federal, state or local law during the exclusion period.
  14. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
  15. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
  16. Amounts paid by a state agency to a family with member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
  17. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which exclusions set forth in 24 CFR 5.609(c) apply. The following is a list of types of income that qualify for that exclusion (9/27/89 regulations):
      1. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;
      2. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through VISTA; Retired Senior Volunteer Program, Foster Grandparents Program, youthful offenders incarceration alternatives, senior companions);
      3. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a));
      4. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 259e);
      5. Payments or allowances made under the department of Health and Human Services' Low- Income Home Energy Assistance Program (42 U.S.C. 8624(f));
      6. Payments received under programs funded in whole or in part under the Job Training Partnership Act;
      7. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians;
      8. The first $2,000 of per capita shares received from judgement funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117);
      9. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
      10. Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f));
      11. Any earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;
      12. Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other funds established pursuant to the settlement in the In Re Agent Orange product liability litigation MDL No. 381 (E.D.N.Y.)
      13. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
      14. Payments received under the Maine Indian Claims Settlement Act of 1980.
      15. Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job corps, veterans employment programs, state job training programs and career intern programs, Americorps);
      16. Payments made by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
      17. Allowances, earnings, and payments to Americorps participants under the National and Community Service Act of 1990;
      18. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;
      19. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance); and
      20. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998.

***Timing of Income Certifications***

All households that receive HOME assistance must be income eligible. At a minimum, income certification must be completed before assistance begins. A preliminary determination of eligibility may be made much earlier in the process.

* + 1. Application processing is labor intensive. Early screening for income eligibility can eliminate excessive work in processing an ineligible applicant.
    2. Establishing a deadline for formal eligibility determinations is a challenging part of the planning process. Generally, the HOME Program permits verification dated no earlier than 6 months prior to eligibility.
    3. The Grantee must calculate the annual income of the household by projecting the prevailing rate of income of the family at the time the Grantee determines that the family is income eligible. The eligibility of a household must be re-determined if more than six months elapses between the date the Grantee determines that a household is income-eligible and the date HOME assistance is provided.

1. For homeowner rehabilitation projects, the date assistance is provided is the date of the rehabilitation contract.
2. For homeownership programs, the income eligibility of the families is timed as follows:
   * 1. In the case of a contract to purchase existing housing, it is the date of the purchase;
     2. In the case of a lease-purchase agreement for existing housing or for housing to be constructed, it is the date the lease-purchase agreement is signed; and
     3. In the case of a contract to purchase housing to be constructed, it is the date the contract is signed.

### Income Verification

Grantees must examine at least 2 months of source documents evidencing annual income (e.g. wage statement, interest statement, unemployment compensation statement) for each member of the family. Grantees must verify and retain documentation of all information collected to determine a household's income. Under the Section 8 Program, there are three forms of verification which are acceptable: third-party, review of documents, and applicant certification.

1. THIRD-PARTY VERIFICATION - Under this form of verification, a third party (e.g., employer, Social Security Administration, or public assistance agency) is contacted to provide information. Although written requests and responses are generally preferred, conversations with a third party are acceptable if documented through a memorandum to the file that notes the contact person and date of the call.
2. To conduct third party verifications, a Grantee must obtain a written release from the household that authorizes the third party to release required information.
3. Third-party verifications are helpful because they provide independent verification of information and permit Grantees to determine if any changes to current circumstances are anticipated. Some third-party providers may, however, be unwilling or unable to provide the needed information in a timely manner.
4. REVIEW OF DOCUMENTS - Documents provided by the applicant (such as pay stubs, IRS returns, etc.) may be most appropriate for certain types of income and can be used as an alternative to third-party verifications. Copies of documents should be retained in project files.

Grantees should be aware that although easier to obtain than third-party verifications, a review of documents often does not provide needed information. For instance, a pay stub may not provide sufficient information about average number of hours worked, overtime, tips and bonuses.

1. APPLICANT CERTIFICATION - When no other form of verification is possible, a certification by the applicant may be used. For example, it may be necessary to use an applicant certification for an applicant whose income comes from "odd jobs" paid for in cash.

Applicant certification is the least reliable form of verification and may be subject to abuse. In some cases, the applicant certification can be supplemented by looking at the applicant's past history. The Grantee can review the previous year's income tax return to determine if the current year's income is consistent with activity for the previous year.

### Calculation Methodologies

Grantees must establish methodologies that treat all households consistently and avoid confusion.

* 1. It is important to understand the basis on which applicants are paid (hourly, weekly or monthly, and with or without over-time). An applicant who is paid "twice a month" may actually be paid either twice a month (24 times a year) or every two weeks (26 times a year).
  2. It is important to clarify whether over-time is sporadic or a predictable component of an applicant's income.
  3. Annual salaries are counted as Annual Income regardless of the payment method. For instance a teacher receives an annual salary whether paid on a 9- or 12-month period.

### Determining Whose Income to Count

Knowing whose income to count is as important as knowing which income to count. Under the Section 8 definition of income, the following income *is not counted*:

1. INCOME OF LIVE-IN AIDES - If a household includes a paid live-in aide (whether paid by the family or a social service program), the income of the live-in aide, regardless of its source, is not counted. (Except under unusual circumstances, a related person can never be considered a live-in aide);
2. INCOME ATTRIBUTABLE TO THE CARE OF FOSTER CHILDREN - Foster children are not counted as family members when determining family size to compare with the Income Limits. Thus, the income a household receives for the care of foster children is not included; and
3. EARNED INCOME OF MINORS - Earned income of minors (age 18 and under) is not counted. However, unearned income attributable to a minor (e.g., child support, AFDC payments, and other benefits paid on behalf of a minor) is counted.
4. TEMPORARILY ABSENT FAMILY MEMBERS - The income of temporarily absent family members is counted in Annual Income - regardless of the amount the absent family member contributes to the household. For example, a construction worker earns $600/week at a temporary job on the other side of the State. He keeps $200/week for expenses and sends $400/week home to his family. The entire $600/week is counted in the family's income;
5. ADULT STUDENTS LIVING AWAY FROM HOME - If the adult student is counted as a member of the household in determining the Income Limit used for eligibility of the family, the first $480 of the student’s income must be counted in the family’s income. Note, however, that the $480 limit does not apply to a student who is head of household or spouse (their full income must be counted); and
6. PERMANENTLY ABSENT FAMILY MEMBER - If a family member is permanently absent from the household (e.g., a spouse who is in a nursing home), the head of household has the choice of either counting that person as a member of the household, and including income attributable to that person as household income, or specifying that the person is no longer a member of the household.
7. PERSONS WITH DISABILITES – During the annual recertification of a family’s income, increases in the income of a disabled member of qualified families residing in HOME assisted housing or receiving HOME tenant- based rental assistance is excluded. 24 CFR 5.61(a) outlines the eligible increases in income. These exclusions from annual income are of limited duration. The full amount of increase to an eligible family’s annual income is excluded for the cumulative 12-month period beginning on the date the disabled family member is first employed or the family first experiences an increase in annual income attributable to the employment. During the second cumulative 12-month period, 50 percent of the increase in income is excluded. The disallowance of increased income of an individual family member who is a person with disabilities is limited to a lifetime 48-month period.

### Using Adjusted Gross Income

Adjusted Gross Income is *not* used for HOME homeowner rehabilitation programs, homeownership programs, or for determining tenant eligibility for rental housing programs. Adjusted Gross Income is needed only to calculate:

1. The rent for a tenant in a HOME assisted rental unit whose rent must be adjusted because the household income increases above 80 percent of the area median; and
2. A household's eligibility for and the amount of assistance to be provided under the Uniform Relocation Act or Section 104(d) relocations and tenant assistance requirements

### Calculating Adjusted Gross Income

Adjusted gross income is the annual gross income minus any of the five following deductions (also called allowances) that apply to the household. The household’s eligibility for deductions depends, in part, on the type of household that it is. Monthly adjusted income is Annual Adjusted Income divided by 12 months.

1. FOR ALL HOUSEHOLDS:
   * 1. $480 for each dependent. (A dependent is a person, other than the head or spouse, who is under 18, or handicapped or disabled, or a full-time student of any age)
     2. Reasonable child care expenses (for children 12 and under) that enable a family member to work or go to school and are not reimbursed. The allowable expenses cannot exceed the income generated by that household member during the period the care is being provided. To document that the anticipated child care expenses can be deducted, the household must (1) identify the child(ren) who will be cared for; (2) identify the family member who is enabled to work or attend school because of child care (generally the person with the lowest income – the person who would quit work to take care of the children if no child care were available – is considered the family member enabled to work). This family member must provide documentation that he or she is employed, actively looking for work or is currently enrolled in a vocational program or degree-granting institution. The family member does not need to be a full time student. (3) demonstrate that no other adult household member is available to care for the child; (4) identify the child care provider; and (5) provide documentation of costs.
     3. Expenses (in excess of 3% annual gross income) for the care of a handicapped or disabled family member that enable that person or another person to work (includes care attendant and necessary equipment and apparatus). Expenses may be deducted only if (1) they are reasonable; (2) they are not reimbursed from another source, such as insurance; (3) they do not exceed the amount of income generated by the person enabled to work; and (4) they are in excess of three percent of annual income.
2. FOR ELDERLY OR DISABLED HOUSEHOLDS ONLY:
   * 1. An elderly household is any household in which the head, spouse, or sole member is 62 years of age or older. For example, a husband, age 59, and wife, age 62, would be considered an elderly household.
     2. A disabled household is any household in which the head, spouse or sole member is a person with disabilities. For example, a husband, age 42, and wife, age 38 and disabled, would be considered a disabled household.
     3. Living with an elderly or disabled relative does not qualify a household for this deduction unless the relative is the head or spouse of the family. For example, if a non-elderly, non- disabled couple take in an elderly parent; this is not a qualified elderly or disabled household. But if the couple moves in with the elderly or disabled parent, the parent is the head of household and the family is qualified for the deduction.
     4. Medical expenses in excess of 3% of annual income that are not reimbursed by insurance or other sources.
     5. Any household that meets the definition of an elderly or disabled household is entitled to a deduction of $400 per household.

The definition of annual income varies by the type of HOME assistance provided. Refer to the applicable HOME assistance section for further detail on calculating annual income.

## Other Federal Requirements

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

### Loan Provisions

HOME funds for housing programs, such as homeowner rehabilitation or homebuyer purchase assistance programs, will generally be provided to the entity operating the program. HOME funds will be provided to eligible entities for eligible housing projects and programs as grants or loans (no-interest or low- interest loan, either deferred payment or amortizing. The form of assistance will be determined on a case-by-case basis, as will be the specific terms.

As feasible or required, funding, required use, and affordability is secured by a deed of trust, promissory note, and restrictive covenants. Funding is due and payable if the sponsor 1) fails to maintain the housing at the agreed upon affordability levels for the intended population or 2) changes the use of the project without prior City approval.

### Site Control

An Agency need not own the site of a proposed project at the time of application. However, the Agency must demonstrate site control (ownership or executed purchase and sale agreement) before the City will contract for funds.

### Appraisal Requirements

Prior to contracting for funds, Agencies will provide the City with an as-is appraisal of any real property to be acquired in conjunction with a housing project. This policy will ensure that no more than current fair market value (FMR) is paid for land or buildings to be acquired for City- assisted housing projects. The appraisal must be in a form acceptable to the City, and have been prepared no more than twelve (12) months prior to the date of the application for funding.

For acquisition /rehab of multi-family rental projects:

1. An appraisal to substantiate the purchase price is required at application,
2. An updated appraisal is not required once the purchase price has been set, and
3. If an after-rehab appraisal is being required by a private bank, or another entity. The City of Chattanooga requires a copy of it as soon as it is completed. The City may require a third party estimate of after-rehab value if an after-rehab appraisal is not ordered by another lender.

For new construction of either multi-family rental or home-ownership projects to be built on vacant land:

1. An appraisal to substantiate the purchase price of the land is required at application, and
2. An as-built appraisal is required by the City if it is necessary to secure private bank financing, 9% tax credits, or 4% bond financing, and shall be provided to the City by the Agency in conjunction with the application for those funds. The City may require a third party estimate of as-completed value if an as-built appraisal is not ordered by another lender.

For acquisition / rehab of home-ownership projects:

1. An appraisal to substantiate the purchase price is required at application (or with purchase and sale agreement), and
2. The City requires an appraisal before rehab begins (after the scope of work is finalized) to make sure that the after rehab value won’t exceed 95% of the area median purchase price (per HOME regulation 92.254(2)(ii)). These two valuation requirements could be met in one appraisal with both as-is and after-rehab values.

The HCI Manager will have the right to approve the purchase of land or buildings for a price in excess of the as-is appraised value if the price can be justified based on other factors of importance to the City, such as the emergency need for the housing or the positive community development impacts of the project.

The City also reserves the right to require an after-rehabilitation appraisal if the circumstances of the project warrant such information.

### Development Fees

The City recognizes the developer fee as the mechanism for compensating the developer, either nonprofit or for-profit, for services provided and risks taken in developing the project. The following table lists activities generally covered by the development fee.

|  |  |  |
| --- | --- | --- |
| *Table 9.7* | ***Development Stages*** | |
| **Feasibility** | **Pre-Development** | **Construction** |
| * Site search * Identifying funding sources * Develop preliminary development and operating budgets * Evaluate ownership structures | * Obtain predevelopment financing * Negotiate purchase and sale agreement * Assemble development team * Conduct due diligence * Revise budgets as needed base don due diligence * Negotiate any changes with seller based on due diligence * Review plans and drawings * Prepare financing applications * Development management plan * Prepare relocation plan if needed * Review loan documents * Close purchase of property | * Monitor design * Obtain permits * Develop bid/contract documents * Solicit bids or pre-qualify contractors * Negotiate contracts * Hold preconstruction conference * Monitor construction * Review and act on change orders * Review and act on draw requests * Coordinate relocation if needed * Oversee project closeout * Oversee project rent-up, sale of units, etc. |

Agencies may propose a development fee as part of their funding application. In the application, the Agency will be asked to provide a basis for the amount of the fee. An evaluation of the amount and schedule for drawing the fee will be part of the review process. In evaluating the fee, attention will be paid to how much the fee represents as a percentage of total development cost and the complexity of the project.

For projects receiving Low Income Housing Tax Credits (LIHTC), particular attention will be paid to the Agency’s proposal for the amount of the fee to be taken during the development period, and the amount to be loaned to the project and paid through the cash flow.

The developer fee will be considered “at risk” until the completion of the project. If, in the course of the development, the project needs funds in excess of budgeted contingencies, the City considers the developer fee a source for payment of those costs.

### Mixed-Use Projects

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

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

### Management of Housing Units

Owners/Sponsors of HOME-assisted housing projects will be required to address their management capabilities in the fund application. Agencies with adopted management plans will be asked to submit a copy along with the application. Those without such a plan will be asked to describe, in detail, how the units will be managed. Whether addressed through an adopted management plan or in the application, Agencies will need to describe:

1. Occupancy standards
2. Tenant selection
3. Rent collection, late payment, and eviction
4. Process for determining and implementing rent increases
5. Experience serving the proposed population
6. Description of management staff
7. Use of reserves
8. Long-term maintenance plan
9. Marketing of units, including affirmative marketing
10. Form of leases or rental agreements

Sponsors of emergency shelters, transitional housing, or special needs housing will also need to describe the service program being provided to residents, the projected availability of service funding, the process by which residents are referred to and from the housing, and any contractual relationships with service providers. The management information will be evaluated in the review process and considered by the staff and TAC in scoring and ranking each proposal.

An owner must have written tenant selection policies and criteria that are consistent with the purpose of providing housing for the very low-income and low-income households. The agency’s tenant selection process/plan must ensure:

1. HOME-assisted units are limited to very low-income and low-income families
2. Qualified applicants with completed applications will be selected for available rental units on a first come, first served basis.
3. All qualified applicants will be placed on a waiting list according to chronological order, based on the date received
4. All applicants who are placed on a waiting list will be so notified.
5. All applicants who are rejected for any cause shall be notified of the reason(s) for their rejection. Said notification shall be hand-delivered or mailed to the applicant at his/her/their last known address within ten (10) days after rejection of the application.

### Contracting Requirements

The City of Chattanooga Council typically approves the housing awards as part of the annual City of Chattanooga Action Plan in May of each year. Although the federal funds are generally available July 1st, the federal funds cannot be committed until funding agreements are executed between the City and HUD, which usually happens in late July or August.

The City will develop contract documents, including the mortgage, deed of trust, promissory note, and rental covenant for funded projects when all funds have been secured. Preparation and negotiation of final legal agreements can take from 30 to 60 days depending on the complexity of the project*.* The documents will be provided in draft form to the fund recipient for review prior to signing.

As a general policy, the City will only execute contract documents if the fund recipient can show evidence that all funds for the project have been committed; that the recipient has complied with any conditions that were part of the City’s funding award; and has complied with all statutory and regulatory prerequisites. This process can take anywhere from 3 months to a year after the funds have been awarded by the Council. Projects can incur costs for eligible activities from the time of the Council approval only if prior written approval from City of Chattanooga has been received.

### Monitoring

The City of Chattanooga is responsible for managing the day- to-day operations of the HOME program, for monitoring the performance of all entities receiving HOME funds to assure compliance, and for taking appropriate action when performance problems arise. The City of Chattanooga has monitoring policies and procedures that will be followed in monitoring all programs/projects. Scope and type of monitoring will be determined using risk assessments of subrecipients/grantees. Risk assessments will be done annually for all subrecipients.

### Monitoring During Project Development

City of Chattanooga will monitor new construction and rehab projects which are funded by HCI. If a project has multiple funding sources, City will work with the other funders to determine who will take the lead for construction monitoring.

The monitoring will consist of:

1. A review of any bid documents (negotiated, informal or formal) before they are finalized to determine if application federal, state or local requirements are included;
2. Documentation of labor standards;
3. Review of change orders;
4. Review of payment requests and supporting documentation; and
5. Periodic inspection of the work being done; and final inspection before final invoice is approved.

### On-Going Monitoring

The HOME Program requires that the City periodically monitor housing projects after completion and rent-up. The City will conduct on-site inspections of HOME housing projects at least every three (3) years. Monitoring will be conducted through the review of annual reports submitted by fund recipients and on-site visits by City staff. The City will monitor projects for compliance with the requirements of the contract documents including rent and occupancy, maintenance of the property, on-going financial feasibility of the project, maintenance and use of reserves, and recordkeeping.

## Reporting

All funded projects will be required to submit an Annual Report for the preceding calendar year by July 31st, unless otherwise negotiated. The Report will cover occupancy information, occupant characteristics, income and taxes, records, etc. Occupancy information will address unit suitability for occupancy based on health and safety codes. The Report will be required each year for the duration of the use restriction covenant. All HOME funded projects will be required to submit a Project Completion Report within 90 days of their last invoice request. The report includes type of housing activity, objective and outcome, all sources of funding, and household characteristics. Other reports may be required depending on the source of funds and scope of the project.

## IDIS and Other HUD HOME Reports

IDIS completion reports for HOME projects must be entered into IDIS within 120 of the last draw for an activity in IDIS.

Regularly scheduled monitoring of IDIS and other HUD HOME reports is a key factor in ensuring that the City HOME Program is in compliance with federal requirements related to expenditure deadlines, project completion, and income and rent limits. Viewing these reports regularly also provides program performance measurement data. Reports are printed from the HUD website on a periodic basis.

Partner entities and subrecipients are required to submit status reports, at minimum, on a quarterly basis. These reports are used to track progress on expenditures and performance. IDIS completion reports for HOME projects must be entered into IDIS within 120 days of the last draw. On a monthly basis, IDIS and IDIS reports are used to monitor “Open” activities and for stalled projects. Partner entities with slow or stalled projects are contacted for updates and explanations. If projects are not demonstrating continuous progress as outlined in the project agreement timelines, they must be cancelled.

They following reports are used in managing compliance with HOME-funded activities:

* IDIS Report PR02 List of Activities by Program Year and Project; lists all activities by activity number and name and for each provides the funded amount, disbursed amount, and balance. The report also lists program year totals for all activities.
* IDIS Report PR22 Status of HOME Activities: lists activities by type and for each activity lists the activity number, address, committed and disbursed amounts, percent of disbursed to committed fund, status (open, final draw, completed or cancelled), and status date.
* IDIS Report PR 25 Status of CHDO Funds by Fiscal Year
* IDIS Report PR 27 Status of HOME Grants: displays the status of commitments, requirements, disbursements and administration funds.
* HUD HOME Performance Snap Shots: These quarterly cumulative performance reports are useful in tracking progress of activities undertaken with HOME funds.
* HUD HOME Deadline Compliance Status Report These monthly Reports assist in monitoring compliance with the 2-year commitment and CHDO reservation requirements and the 5-year expenditure requirement.
* HUD HOME Status of Open Activities: This report is an MS Excel spreadsheet, which lists open activities in IDIS including activities with 100 percent of the funds drawn and with a status code of FD, or final draw. The HOME final rule at 24 CFR 92.502(d)(1) requires PJs to enter project completion data into IDIS within 120 days of making a final draw for a project. In addition, one can view activities that have been open (OP) for several years with little or no HOME funds drawn. These projects, if not progressing, should be cancelled.

## Privacy Information

The City, subrecipients, grantees, and contractors must comply with provisions regarding protection of personally identifiable information as required by 2 C.F.R. §200.303 and 2 C.F.R. §200.512. As a pass-through entity providing a subaward to subrecipients to carry out part of a Federal program, the City through its Housing & Community Investment (HCI) Division must ensure that sub-recipients have adequate procedures in place to collect and process applicant-provided information while providing assurances that any Personally Identifiable Information (PII) will be handled properly and sufficiently protected.

This policy has been created in order to communicate the City’s requirements related to the proper handling and securing of Personally Identifiable Information (PII) for sub-recipient administered activities assisted with HUD funding from the City. The purpose of this policy is to ensure the confidentiality and integrity of PII information provided in a hard copy format and/or electronically stored or transmitted over the City’s, sub-recipient, contractor, and/or vendor computer networks and telephone systems.

This policy outlines the methods to collect, document, and properly dispose of applicant hard copy paperwork that contains PII as well establishing acceptable uses and methods of transmission of PII data. Basic components of this policy are to establish proper protocols to:

* Ensure proper handling of hard copy documentation and files.
* Secure hard copy PII in applicant files or documents that are being actively reviewed or worked.
* Establish parameters related to the use of applicant data transmitted and maintained in electronic media.
* Establish protocols should a breach of data occur during the administration of the Sub-Recipient’s activities.

**Definitions**

1. Personally Identifiable Information (PII). Defined in OMB M-07-16 as “...information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.”
2. Sensitive Personally Identifiable Information (SPII). PII that when lost, compromised or disclosed could substantially harm an individual. Examples of sensitive PII include social security or driver’s license numbers, medical records, and financial account numbers (credit or debit card numbers).

**Steps to Take To Help Ensure Compliance**

Subrecipients should take the following steps to help ensure compliance to the Privacy Act and other privacy-related laws:

1. Limit Collection of PII. Do not collect or maintain sensitive PII without proper authorization. Collect only the PII that is needed for the purposes for which it is collected.
2. Manage Access to Sensitive PII
   1. Only share or discuss sensitive PII with those who have a need to know for work purposes.
   2. Do not distribute or release sensitive PII to others until the release is authorized.
   3. Before discussing sensitive PII on the telephone, confirm that you are speaking to the right person and inform him/her that the discussion will include sensitive PII. Do not leave messages containing sensitive PII on voicemail.
   4. Avoid discussing sensitive PII if there are unauthorized persons in the adjacent cubicles, rooms, or hallways who may overhear your conversations.
   5. Hold meetings in secure spaces (no unauthorized access or eavesdropping possible) if sensitive PII will be discussed.
   6. Treat notes and minutes from such meetings as confidential unless you can verify that they do not contain sensitive PII. Record date, time, place, subject, chairperson, and attendees at any meeting involving sensitive PII.
3. Protect Hard Copy and Electronic Files Containing Sensitive PII
   1. Clearly label all files containing sensitive PII. Examples of appropriate labels might include – *For Official Use Only,* or *For [Name of Individual/Office] Use only*.
   2. Lock up all hard copy files containing sensitive PII in secured file cabinets. Do not leave sensitive PII in open area unattended.
   3. Protect all media (e.g., thumb drives, CDs, etc.) that contain sensitive PII and do not leave unattended. This information should be maintained either in secured file cabinets or in computers that have been secured.
   4. Keep accurate records of where PII is stored, used and maintained.
   5. Periodically audit all sensitive PII holdings to make sure that all such information can be readily located.
   6. Secure digital copies of files containing sensitive PII. Protections include encryption, implementing enhanced authentication mechanisms such as two-factor authentication and limiting the number of people allowed access to the files.
   7. Store sensitive PII only on workstations that can be secured, such as workstations located in areas that have restricted physical access.
4. Protecting Electronic Transmissions of Sensitive PII via fax, email, etc.
   1. When faxing sensitive PII, use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. Ensure that none of the transmission is stored in memory on the fax machine, and that all paper waste is disposed of properly (shredded). If possible, use a fax machine that uses a secure transmission line.
   2. When sending sensitive PII via email or via an unsecured information system make sure the information and any attachments are encrypted.
   3. If a secure line is not available, contact the recipient office prior to faxing to inform them that information is coming. Then, contact the recipient office following transmission to ensure they received it. For each event, the best course of action is to limit access of PII only to those individuals authorized to handle it, create a paper trail, and to verify information reached its destination.
   4. Do not place PII on shared drives, multi-access calendars, the Intranet, or the Internet.
   5. Do not let PII documents sit on a printer where unauthorized employees or contractors can have access to the information.

For the purpose of determining which PII may be electronically transmitted, the following types of PII are considered sensitive when they are associated with an individual. Secure methods must be employed in transmitting this data when associated with an individual:

* + Place of birth
  + Date of birth
  + Full Name
  + Mother’s maiden name
  + Biometric information and personal characteristics including; photographic images, fingerprints, handwriting, retina scan, voice signature, and facial geometry
  + Medical information, except brief references to absences from work
  + Personal financial information (account numbers, award amounts, income, etc.)
  + Credit card or purchase card account numbers
  + Passport numbers, driver’s license number and taxpayer ID
  + Potentially sensitive CDBG-DR information related to grant or loan awards (applicant identification number, grant/loan amounts, etc.)
  + Criminal history
  + Any information that may stigmatize or adversely affect an individual
  + SSN and partial SSN do NOT need to be associated with an individual to be considered PII. A SSN or the last 4 digits of a SSN alone, with no other information are considered PII
  + In rare cases something like age has been found by the court to be PII. A case where a 99-year- old female’s patient information was viewed publicly resulted in a court finding that her age was PII. She was the only 99-year-old female in community. If in doubt, it is necessary to err on the side of caution; treat files, data and information as if it is sensitive PII.

This list is not exhaustive, and other data may be sensitive depending on specific circumstances. In no case shall an applicant’s PII be released to another party without written consent of the applicant. In addition, no staff should be permitted access to any file where there could be a potential or perceived conflict of interest. Access to all files should be subject to the Sub-Recipient’s administrative “Need to Know” policy.

Non-PII

The following additional types of PII may be transmitted electronically without protection because they are not considered sufficiently sensitive to require protection.

* Work phone numbers
* Work addresses
* Work e-mail addresses
* Documents that do not include an SSN or where the SSN is removed
* General background information about individuals found in their application for assistance

The determination that certain PII is non-sensitive does not mean it is publicly releasable. The determination to publicly release any information can only be made by the sub-recipient official authorized to make such determinations.

1. Protecting Hard Copy Files Containing Sensitive PII
   1. Do not remove records with sensitive PII from facilities where relevant information is authorized to be stored, or access remotely (i.e., from locations other than such physical facilities), unless approval is first obtained from a supervisor.
   2. Do not use interoffice or translucent envelopes to mail sensitive PII. Use sealable opaque solid envelopes. Mark the envelope to the person’s attention
   3. When using the U.S. postal service to deliver information with sensitive PII, double- wrap the document (use two envelopes – one inside the other)and mark only the inside envelope as confidential with the statement – To Be Opened by Addressee Only.
   4. If PII needs to be sent by courier, mark “signature required” when sending documents, in order to create a paper trail in the event items are misplaced or lost.
2. Records Management, Retention and Disposition
   1. Follow all applicable records management laws, regulations, and policies.
   2. Do not maintain records longer than required.
   3. Destroy records after retention requirements are met.
   4. Dispose of sensitive PII appropriately – permanently erase electronic records. Shred hard copy records.
3. Incident Response. A data breach occurs when PII is viewed, leaked, or accessed by anyone who is not the individual or someone authorized to have access to this information as part of his/her official duties. **Promptly report all suspect compromises of sensitive PII related to affected parties.**