CITY OF SAN ANTONIO
NEIGHBORHOOD & HOUSING SERVICES DEPARTMENT

PROGRAM POLICIES FOR HUD-FUNDED AFFORDABLE HOUSING ACTIVITIES

City Council Consideration: November 18, 2021

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Executive Summary

The City of San Antonio (the City) receives federal funding from the U.S. Department of Housing and Urban Development (HUD) to include the Community Development Block Grant, HOME Investment Partnerships Program and Neighborhood Stabilization Program (one time award) Funding. This funding is intended to assist low to moderate income households through community development and affordable housing activities. Staff initiated a comprehensive review and update to the Program Policies for HUD-Funded Affordable Housing Activities (Program Policies). The Program Policies do not provide a funding strategy nor do they allocate funding. The Program Policies are a streamlined document that includes HUD statutory requirements and policies the City is required to define when delivering affordable housing programs.

This document supersedes the Program Policies adopted by City Council on January 18, 2018 in Ordinance No. 2018-01-18-0026 and constitutes the mandatory program policies and requirements applicable to the City's CDBG, HOME and NSP programs.

Eligibility Waiver and Appeal Process

Although these program policies provide direction and guidance for the delivery of these federal programs, at any time, the Director has the discretion to waive the policies on a case by case basis so long as such waiver does not conflict with the federal, state and local regulations. Applicants of these federally funded programs have the ability to appeal the department's eligibility determination for program assistance. Applicants must submit an appeal in writing. The Director will have 60 days to make a determination.

Federal Funding Awards are Conditional

All funds awarded by the City to an applicant or for a project are subject to all applicable federal, state and local laws, regulations, ordinances, policies, procedures and other assurances. The Director has the discretion to cancel an award of funds when the department determines that an award of funds may cause the City to be in non-compliance with any applicable legal authority including the policies contained herein and the appendices attached hereto.

After an award of funds is made by the City, the City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. An award may be cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents (e.g., program agreement, loan documents, covenants) by the City and approved as to form by the City Attorney's Office.

The City is not liable for any loss incurred as a result of a reduction, cancellation, termination or rescission of an award and is under no obligation to fund the applicant or project under such circumstances.

Owner-Occupied Rehabilitation/Reconstruction Program & Minor Repair Program

Program Overview

CDBG and HOME funds will be used for the Owner-Occupied Rehabilitation and Reconstruction Program (OORRP) to assist eligible homeowners in need of substantial rehabilitation or reconstruction of their single-family homes. CDBG funds will be used for the Minor Repair Program to assist eligible homeowners with essential home repairs to ensure that basic needs are met, which may include but are not limited to the elimination of health and safety hazards, code deficiencies, and ADA modifications.

Eligibility Requirements

The table below outlines the eligibility requirements that are applicable to each of the two programs outlined in this section.

Applicability of Eligibility Requirements	OORRP HOME	OORRP CDBG	Minor Repair CDBG
Applicant's annual gross income must be at or below 80% of the Area Median Income.	Yes	Yes	Yes
The property must be located within the city limits of San Antonio and Applicant must have occupied the dwelling for at least six months from date of application.	Yes	Yes	Yes
Applicant must confirm ownership of property, ensure property is not for sale and is their primary residence/homestead, as indicated per Bexar County Tax Records and utility records.	Yes	Yes	Yes
The property must be a single-family detached home, condominium unit, or manufactured home. Duplexes, triplexes, quad-plexes, and structures with more than 5 units are not eligible for rehabilitation/reconstruction assistance under this program.	Yes	Yes	Yes
Applicant must not have an existing HUD-funded OORRP rehabilitation loan, excluding the City of San Antonio's Green and Healthy Homes (SAGHH) program.	Yes	Yes	No
Applicant must not have an existing HOME down payment affordability covenant.	Yes	No	No
Real estate taxes must be current or paid in full.	Yes	Yes	No
Property insurance must be maintained on the property (with coverage adequate to insure the City's lien position). If a property is located in a flood plain, flood insurance must also be maintained with coverage adequate to insure the City's lien position. If the property is in a flood plain, flood insurance is required.	Yes	Yes	Yes, for $15,000 or more in funding
Applicant must be current with the mortgage loan; the loan is no more than 30 days delinquent.	Yes	Yes	Yes
Applicant must be a U.S. Citizen or Legal Resident.	Yes	Yes	Yes

The existing mortgage for property cannot be included in a Chapter 7 or Chapter 13 bankruptcy.	Yes	Yes	No
The after-rehabilitation value of the property cannot exceed 95% of the median purchase price for the area, as published by HUD per 24 CFR Part 92.254(b)(1).	Yes	No	No

Maximum Assistance Limits

Program	Limit	
Rehabilitation	$130,000	This amount excludes lead remediation, environmental, and administrative soft costs necessary to engage the client and property.
Reconstruction	$145,000	
Minor Repair Program	$25,000	

*The maximum assistance limits are based on an assessment of the Homeownership Value Limits and the current cost of construction to meet the City's written rehabilitation standards and applicable local residential codes.

Terms of Assistance

Owner-Occupied Rehabilitation and Reconstruction Program

The Owner-Occupied Rehabilitation and Reconstruction Program assistance will be provided in the form of a deferred forgivable loan as outlined in the schedule below:

Amount of Assistance Invested	Term	Form of Assistance
Less than $50,000.00	10 years	Deferred Forgivable Loan
$50,000.01 and Over	15 years	
Reconstruction Only	20 years	

This loan amount will not include environmental, lead remediation, inspections, construction management and administrative soft costs necessary to engage the Applicant and property. The rehabilitation loan will be divided equally over the applicable term and forgiven on an annual basis provided that the home remains the primary residence of the Applicant and property taxes and insurance remain current during the term of the loan agreement. If a home is vacated or leased during the term of the loan, the outstanding balance is due immediately and payable in full. If the property is transferred through sale during the loan term, the balance is due immediately and payable in full.

A restrictive covenant will be recorded for the term of the loan.

CDBG Minor Repair Program
The CDBG Minor Repair Program assistance will be provided in the form of a grant not to exceed $25,000 and forgiven as outlined in the schedule below:

Amount of Assistance Invested	Covenant Period	Form of Assistance
Less than $5,000.00	1 year	Grant
$5,000.01 to $10,000.00	2 years	
$10,000.01 to $15,000.00	3 years	
$15,000.01 to $20,000.00	4 years	
$20,000.01 to $25,000.00	5 years	

This amount will not include environmental, lead remediation and administrative soft costs necessary to engage the Applicant and property. The rehabilitation loan will be divided equally over the applicable term and forgiven on an annual basis provided that the home remains the primary residence of the Applicant. If a home is vacated or leased during the term of the loan, the outstanding balance is due immediately and payable in full. If the property is transferred through sale during the loan term, the balance is due immediately and payable in full.

Income Limits and Part 5 Requirements
Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the "Section 8 Low-Income Limit". To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Property Standards
Owner-Occupied Rehabilitation and Reconstruction Program
Properties rehabilitated through the HOME Owner-Occupied Rehabilitation and Reconstruction Program must comply with 24 CFR 92.251. All HOME-funded housing activities must meet certain minimum property standards at project completion. Appendix J outlines the minimum property standards that apply to each type of HOME activity. These property standards apply to project commitments on or after January 24, 2015.

Minor Repair Program
The Minor Repair Program will address health and safety issues.

Optional Relocation Assistance Policy
The City may provide optional relocation assistance to reimburse households who are voluntarily displaced or temporarily relocated due to participation in the OORRP. The Optional Relocation Assistance Policy is found in Appendix E.

Lead-Based Paint Requirements
All housing units must comply with the regulations found at 24 CFR Part 35. The Lead-Based Paint Requirements are found in Appendix F.

Environmental Review Requirements
Before committing funds to an activity, the City must evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Other Federal Requirements
HOME and CDBG is subject to a number of cross-cutting Federal regulations known as “Other Federal Requirements.” Appendix A includes a listing of “Other Federal Requirements” with applicability by activity type.

Sub-recipient Oversight
Sub-recipients delivering these programs can charge up to 18% in Project Delivery Costs for the OORRP and 22% for the Minor Repair Program.

Homebuyer Activities (Acquisition Only, Acquisition/Rehabilitation or New Construction)

Program Overview

The goal of this program is to acquire or develop affordable single-family housing for first-time homebuyers at or below 80% AMI, who intend to occupy the home as their principal residence.

Eligible Activities

HOME funds may be utilized to assist an affordable housing developer to acquire and rehabilitate substandard properties. The properties will then be sold to eligible homebuyers or utilized for the development of new construction single-family housing. In addition, HOME funds may be used to assist with down payment and closing cost assistance for first-time homebuyers at or below 80% AMI.

Terms of Assistance

For Affordable Housing Development

Funding will be provided to CHDOs, governmental entities, or public facility corporations at zero percent (0%) simple interest, which will be forgiven upon sale of the property to an eligible homebuyer.

For Acquisition Only (Homebuyer Incentive Program)

Up to $30,000 for down payment and closing cost assistance will be provided to eligible homebuyers. Assistance is provided as a forgivable loan which is forgiven over a 5-year period (affordability period) with 1/5th of the loan being forgiven on the anniversary date each year.

Subsidy Limits

For homebuyer activities, the minimum HOME investment is $1,000 per HOME assisted unit.

For Acquisition Only (Homebuyer Incentive Program), the maximum subsidy for down payment and closing cost assistance will be provided to eligible homebuyers is $30,000.

For homeownership housing development activities, the maximum subsidy per unit will be $75,000.

HOME Match Requirements

The HOME Program requires that the City provide match in an amount equal to no less than 25% of the total HOME funds drawn down for affordable housing development activities. HOME match is a permanent contribution to affordable housing and is not leveraging. More details on HOME Match Requirements are found in Appendix C.

Maximum Allowable Sales Price

An assessment of the market to base sales price decisions on home price data from recent sales and other information about home values in the area including differences in size, quality, condition, location, and other amenities should be conducted.

HUD HOME Value Limits for newly constructed single-family units is 95% of the median purchase price for the area based on Federal Housing Administration (FHA) single-family mortgage program data for newly constructed housing. For existing properties, the HOME Homeownership Value Limit is 95% of the median purchase price of the area based on the FHA single-family mortgage program data for existing housing.

HUD updates the HOME Value Limits annually. https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/

For new construction housing development funded by the City or for acquisition only of a new construction home, the maximum sales price per unit cannot exceed the HOME Value Limits for new construction homes.

> *For example, the 2021 Homeownership Value Limit for a single-family new construction unit is $243,000. The maximum sales price is $243,000.*

For acquisition/rehabilitation housing development funded by the City or for acquisition only of an existing home, the maximum sales price per unit cannot exceed the HOME Value Limits for existing homes.

> *For example, the 2021 Homeownership Value Limit for a single-family existing unit is $196,000. The maximum sales price is $196,000*

Eligible HOME Costs

The eligible HOME Costs are detailed in the table below:

<table>
<tr><th>Construction Hard Costs</th><th>Construction Soft Costs</th></tr>
<tr><td>• Acquisition of land (for a specific project) and existing structures
• Site preparations or improvement, including demolition
• Securing of buildings
• Construction materials and labor</td><td rowspan="3">• Financing fees
• Credit reports
• Title binders and insurance
• Surety fees
• Recordation fees, transaction taxes
• Legal and accounting fees, including cost certification
• Appraisals
• Architectural/engineering fees, including specifications and job progress inspections
• Environmental reviews
• Builders’ or developers’ fees
• Affirmative marketing, initial leasing and marketing costs
• Staff and overhead costs incurred by the CITY that are directly related to a specific project
• Operating deficit reserves (up to 18 months)</td></tr>
<tr><td>Relocation Costs</td></tr>
<tr><td>• Payment for replacement housing, moving costs and out-of-pocket expenses
• Advisory services
• Staff and overhead related to relocation assistance and services</td></tr>
</table>

Homebuyer Assistance:

Loan Costs		*Reserve/ Pre-Paid Costs*
Administration Fee Processing Fee Underwriting Fee Funding Fee Interest Rate Reduction Fee Rate Lock Fee Rate Lock Extension Fee Appraisal Fee Appraisal Review Fee Appraisal Final Inspection Fee Attorney Review Fee Attorney Document Preparation Fee Document Signing Fee Document Handling Fee Credit Report Fee Flood Certification Fee Land Survey Fee Title Endorsement Fee Lender's Title Insurance Fee Owner's Title Insurance Fee	Settlement Fee Escrow Fee Closing Fee Title Copy Fee Title Wire Fee State of Texas Guaranty Fee Courier / Overnight / Messenger Fee E-Recording Fee Tax Service Fee HOA Transfer Fee HOA Conveyance Fee HOA Capitalization Fee HOA SOA Reimbursement HOA Initial Assessment Fee Verification of Employment Fee Mortgage Credit Certificate FEE HFA Tax Service Fee HFA Funding Fee	Homeowner Insurance Premium Homeowner Insurance Reserve/Escrow for up to 2 months Flood Insurance Premium Flood Insurance Reserve / Escrow for up to 2 months Loan Interest for up to 15 days Pest Inspection Fee Home Inspection Fee HOA Dues *Government Fees* Document Recording Fee

<u>Property Standards for Acquisition Only of Existing Housing for Homeownership</u>

Existing housing that is acquired for homeownership (e.g., down payment assistance) must be decent, safe, sanitary, and in good repair. The housing must meet all applicable State and local housing quality standards, code requirements and the housing does must not contain the specific deficiencies proscribed by HUD based on the applicable inspectable items and inspected areas in HUD-prescribed physical inspection procedures (Uniform Physical Condition Standards) pursuant to 24 CFR 5.705. The City must inspect the housing and document compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the housing does not meet these standards, the housing must be repaired /improved or it cannot be acquired with HOME funds. HOME funds may not be used for the required repairs. Details of these requirements are contained in the City's Residential Construction Management Policy (RCMP) found in Appendix J.

<u>Homebuyer Agreement</u>

For Homeownership Housing Development, the City must execute a written agreement with each homeowner that complies with the written agreement requirements of the HOME Program. The written agreement must specify the form and amount of HOME assistance the City is providing to eligible households, directly or indirectly, including a development subsidy, and must delineate any conditions that apply to the provision of HOME assistance, including the City's homebuyer program policies, as established in accordance with §92.254(f).

Lead-Based Paint Requirements
All housing units must comply with the regulations found at 24 CFR Part 35. The Lead-Based Paint Requirements are found in Appendix F.

Homebuyer Selection Requirements
Eligible homebuyers/properties must meet the following criteria:

- Homebuyers projected annual household income must not exceed 80% AMI, adjusted by household size, at the time of application (see paragraph labeled, "Income Limits and Part 5 Requirements").
- Homebuyer must be U.S. Citizens or legal residents.
- Property to be purchased must be the homebuyer's primary residence.
- Property to be purchased must be located in the city limits of San Antonio. Properties in the extraterritorial jurisdiction are not eligible for HOME funding.
- Homebuyers must make minimal initial cash investment of $500 toward purchase of home.
- Home must meet the requirements outlined in the City's Residential Construction Management Policy (RCMP)
- Homebuyer must be a first-time homebuyer according to HUD's definition. This means, they must not have owned a home during the three year period immediately prior to application.
    - The following are exceptions to the "three year" rule: displaced homemakers (an adult, 21 years of age or older who has not worked full time in the labor force for a number of years, but has during those years worked primarily as a homemaker, who is unemployed and experiencing difficulty in obtaining employment) or single parents (an individual who is unmarried or legally separated from a spouse and who has custody of one or more minor children, or someone who is pregnant at the time of application).
- Homebuyer must meet the City's credit standards as follows:
    - No Chapter 7 Bankruptcy must be 5 years from the date of discharge.
    - No Chapter 13 Bankruptcy must be 2 years from the date of discharge.
    - Qualifying debt to income ratios are 33% housing ratio on the front end and 45% total debt ratio on the back end including compensating factors.
- Maximum loan is up to and is subject to the first lien holder's approval of Combined Loan to Value (CLTV).
- Predatory lending describes lending practices that take advantage of clients by charging usurious interest rates or excessive fees and penalties. Loans will not be made with an interest rate more than two percent (2%) above the prevailing market rate.
    - The origination fee will be capped up to 1% of the loan amount.
    - The discount points will be capped at up to 2 points.
    - The loan processing fee will be capped up to $500.
    - The underwriter fee will be capped up to $500.
    - Loan cannot have pre-payment penalties.
- Homebuyer must complete a pre-purchase homebuyer education course prior to the loan closing date. The HOME regulations at §92.254 (a)(3) require that all homebuyers who receive HOME assistance or purchase units developed with HOME funds must receive housing counseling. Under the rule, all homebuyers assisted under the HOME program must receive housing counseling that is performed by a certified housing counselor who has passed the HUD certification examination

and is employed by a HUD-approved housing counseling agency, effective August 1, 2020. Evidence of this housing counseling completion should be submitted to the City for review.

Income Limits and Part 5 Requirements
Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the "Section 8 Low-Income Limit". To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Affordability Period
Beginning after project completion, the HOME-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table. The affordability requirements listed below may be extended at the Director's sole discretion. However, per HUD regulations, the affordability periods may not be reduced.

Amount of Funds	Required Affordability
Less than $15,000.00	5 Years
$15,000.01 to $40,000.00	10 Years
$40,000.01 and over	15 Years

Long-Term Affordability
To meet Long-Term Affordability requirements for the HOME Program, the City established the Resale/Recapture Requirements found in Appendix D for Homebuyer Activities. Resale or recapture requirements shall be included in all written agreements.

Nine-Month Sale Deadline
For homeownership housing development, affordable housing units must be sold to eligible homebuyers within nine months of the date of completion of construction or rehabilitation. Failure to do so will require the unit be rented to an eligible tenant in accordance with the HOME rental requirements at 24 CFR Part 92.252 or that the HOME funds be repaid.

CHDO Proceeds
CHDO proceeds are income to the CHDO resulting from the CHDO's investment of the City provided CHDO set-aside funds. Examples of CHDO proceeds are funds resulting from:

- The permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan;
- The sale of CHDO sponsored rental housing to a second non-profit;
- The sale of CHDO developed homeownership housing;
- The principal and interest payments from a homebuyer to a loan for CHDO developed homeownership housing.

The City may, at its sole discretion, allow a CHDO to retain some or all of the CHDO proceeds it receives. The decision to allow a CHDO to retain CHDO proceeds will be made on a case-by-case basis. The funding contract between the City and the CHDO will state whether CHDO proceeds may be retained by the CHDO or must be returned to the City. In addition, the contract will also specify that the CHDO must report on a continuous basis the amount of CHDO proceeds received and the eligible expenditure of these proceeds.

The CHDO must use any CHDO proceeds which it is authorized to retain, for HOME-eligible or other housing activities to benefit low-income families, as required by 24 CFR 92.300(a)(2). Examples of affordable housing activities which may be funded with CHDO proceeds include, but are not limited to:

- Emergency repairs
- Project operating costs and reserves
- Housing refinancing costs
- CHDO operating expenses and homebuyer counseling
- Development of additional affordable housing units

CHDO proceeds which are retained by a CHDO are not subject to the requirements of the HOME regulations, except for 24 CFR 92.300(a)(2). Thus, the Davis-Bacon Act, National Environmental Policies Act and Uniform Relocation Assistance and Real Property Acquisition Policies Act do not apply to the use of CHDO proceeds. However, because CHDO proceeds are derived from the expenditure of HOME funds, any activities which are funded with CHDO proceeds may not be contributed as match.

Examples of CHDO proceeds are funds resulting from: the permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan, the sale of CHDO developed homeownership housing, and the principal and interest payments from a homebuyer's loan CHDO developed homeownership housing.

Program Income

Program income is the repayment, interest and return on the non-CHDO set-aside investments. Program income means gross income generated from the use of HOME/CDBG funds and matching contributions. When program income is generated by housing that is only partially assisted with HOME/CDBG funds or matching funds, the income shall be prorated to reflect the percentage of HOME/CDBG funds or match used. The following is a list of examples; please note that this is not an exhaustive list:

- Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME/CDBG funds or matching contributions;
- Gross income from the use or rental of real property, owned by the subrecipient, that was acquired, rehabilitated, or constructed with HOME/CDBG funds or matching contributions, less costs incidental to generation of the income;
- Payments of principal and interest on loans made using HOME/CDBG funds or matching contributions;
- Proceeds from the sale of loans made with HOME/CDBG funds or matching contributions.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Underwriting & Subsidy Layering Standards

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Underwriting and Subsidy Layering Policy (USLP) found in Appendix I. To be eligible for funding, the City must determine that no more assistance is provided than is needed, and that the level of profit or return on owner's or developer's investment in a project is reasonable. HOME funding will not be awarded without an Underwriting Report.

Environmental Review Requirements

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Funding Award Loan Closing

The owner of the property to be developed will be required to provide the following items for development project's loan closing:

- Acceptable Commitment for Title Insurance Policy showing the City's interest in the total amount of the City's Deferred Payment Loan;
- Credit Reports on all Borrowers with a fifteen percent (15%) or greater ownership interest in the project;
- List of all real property assets included in the project and their value; and
- A copy of the insurance policy for fire and extended coverage for eighty percent (80%) of the value of the property with City named as co-insured.

Other Federal Requirements

HOME is subject to a number of cross-cutting Federal regulations known as "Other Federal Requirements." Appendix A includes a listing of "Other Federal Requirements" with applicability by activity type.

Rental Housing Development Activities (New Construction or Rehabilitation)

Program Overview

HOME funds may be used to develop affordable rental housing through acquisition of land, new rental housing construction, or rehabilitation of existing rental housing properties. The housing must be permanent or transitional housing. The following policies are applicable for Rental Housing Development and Rehabilitation Gap Financing activities. These activities may be implemented by the City of San Antonio or by external non-profit or for-profit partners.

Project Eligibility

To be eligible for HOME funding for rental housing development, the proposed property must be a single-family (1-4 units) or multi-family (5 or more units) rental dwelling located within the municipal boundaries of the City of San Antonio. (Note: ETJ areas are not eligible for HOME funding). Eligible activities include real property acquisition, site improvements, rehabilitation, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations.

Eligible HOME Costs

Eligible HOME Costs are detailed in the table below:

Construction Hard Costs	*Construction Soft Costs*
• Acquisition of land (for a specific project) and existing structures • Site preparations or improvement, including demolition • Securing of buildings • Construction materials and labor	• Financing fees • Credit reports • Title binders and insurance • Surety fees • Recordation fees, transaction taxes • Legal and accounting fees, including cost certification • Appraisals • Architectural/engineering fees, including specifications and job progress inspections • Environmental reviews • Builders' or developers' fees • Affirmative marketing, initial leasing and marketing costs • Staff and overhead costs incurred by the CITY that are directly related to a specific project • Operating deficit reserves (up to 18 months)
Relocation Costs	*Loan Guarantee Accounts*
• Payment for replacement housing, moving costs and out-of-pocket expenses • Advisory services • Staff and overhead related to relocation assistance and services	• Amount based upon 20 % of the total outstanding principal balance of guaranteed loans • A loan in default can be repaid in full

Subsidy Limits

The minimum amount of HOME funds that must be invested in a project involving rental housing is $1,000 times the number of HOME-assisted units in the project. The maximum allowable subsidy limit per unit is listed in the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects which vary according to number of bedrooms and adjusted by a High Cost Percentage (HCP). These limits shall be used for new construction and rehabilitation of rental housing. HUD's Office of Multifamily Housing updates the Section 234 Basic Mortgage Limits annually and publishes them in the Federal Register. The actual subsidy provided will be subject to cost allocation and subsidy layering analysis.

Cost Allocation

HOME funds may be used to fund one or more housing units in a multi-unit rental project. Any unit in which HOME funds are invested is a "HOME-assisted unit," and is subject to the HOME requirements. HOME funds can pay only for the costs of HOME-assisted units, and a proportional share of common area costs. HOME rules create a floor for the number of HOME-assisted units a project must have. This floor is based on the proportional share of total eligible costs to be paid with HOME funds. Details of the calculations used to determine the number of HOME-assisted units required for a given project is contained in the City's Underwriting and Subsidy Layering Policy (USLP), found in Appendix I. The City may require a higher number of HOME-assisted units in a project.

Designating HOME-Assisted Units

For properties with both HOME-assisted and non-assisted units, the City must select whether the HOME-assisted units will be "fixed" or "floating" during the underwriting process. This determination is subject to the size, features, and comparability of the units.

Eligible Property Type and Location

HOME rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management, and financing. The project must be assisted with HOME funds under a single undertaking. The project includes all activities associated with the site or building. HOME funds may be used to assist mixed income projects but only HOME eligible tenants may occupy HOME-assisted units. Transitional as well as permanent housing including group homes and single residential occupancy is allowed.

In addition, HOME funds may be used for the initial purchase and initial placement costs of Elder Cottage Housing Opportunity (ECHO) units that meet the HOME requirements. ECHO units are small, free standing, barrier free, energy efficient, and removable units designed to be installed adjacent to existing single-family dwellings.

Property Standards

New construction and acquisition/rehabilitation, the property must meet all applicable state or local codes, rehabilitation standards and ordinances, and zoning ordinances. New Construction must meet the International Energy Conservation Code. Details of these requirements are contained in the City's Residential Construction Management Policy (RCMP) located in Appendix J. All assisted housing must meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. All codes and standards must be met at the time of occupancy. The project must comply with Title VI of the Civil Rights Act of 1964, Executive Order 11063 and HUD regulations issued pursuant thereto so as to promote greater choice of housing opportunities.

The site and neighborhood standards apply to new construction of rental housing.

Lead-Based Paint Requirements

All housing units must comply with the regulations found at 24 CFR Part 35. The Lead-Based Paint Requirements are found in Appendix F.

Long-Term Affordability

HOME-assisted housing must meet the long-term affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The affordability requirements listed below may be extended at the City Department Director or Grants Administrator's sole discretion. However, per HUD regulations, the affordability periods may not be reduced.

Activity	Per-Unit HOME Investment	Required Affordability Period
Rehabilitation or Acquisition of Existing Housing	Less than $15,000.00	5 Years
	$15,000.01 to $40,000.00	10 Years
	Over $40,000.01	15 Years
New Construction	Any Amount	20 Years

Rent and Income Eligibility Requirements

The HOME program has established rules in relation to acceptable rent and occupancy requirements. HUD will annually publish Fair Market Rents and calculations for rents affordable to families earning 65% and 50% AMI. These are called High HOME and Low HOME rent, respectively. The program funds rule specifies that 90% of the total households assisted through the rental program have incomes that do not exceed 60% of the area median income. For properties with five or more HOME assisted units, at least 20% of the units must have rents that meet the "Low HOME" criteria and must be occupied by households at or below 50% AMI. The CDBG program will utilize the High HOME rents and assist households at 60% AMI or below.

Rent and occupancy requirements are enforced through a covenant running with the property. In addition, utility allowances are imposed as a mechanism for reducing the maximum allowable HOME rents when some or all utilities are paid by the tenant. The utility allowances schedule must be approved by the City annually.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the "Section 8 Low-Income Limit". To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Loan Terms

GAP Financing

The City deferred debt (deferred forgivable or surplus cash) shall only be used for and based upon the financing gap on affordable units. The City loan shall not exceed the financing gap.

Balloon Mortgages

Ballooning senior debt mortgages may require additional mitigating factors depending on overall project sources and uses of funds, projected loan-to-value, and other risk factors. Under no circumstances will the City participate in a transaction where a senior balloon term is less than 15 years.

Surplus Cash Mortgages

The City's surplus cash loans will be defined as the sum of:

(a) Project cash and cash equivalents (excluding the reserves for replacements required by the senior lender or the U.S. Secretary of Housing and Urban Development ("HUD") under the Regulatory and other HUD-required reserves); (b) short-term investments; (c) project-based Section 8 Housing Assistance payments earned but not yet received by Borrower; and (d) any amounts approved for withdrawal but not yet withdrawn from the reserve for replacements or any other reserves or escrow accounts; after deducting:

- (i) All sums due or required to be paid within the calendar month following the date as of which Surplus Cash is calculated under the terms of the senior loan documents (including without limitation principal, interest, mortgage insurance premium deposits, deposits to the reserve for replacements and other reserves as may be required by HUD, and tax and insurance escrow deposits);
- (ii) all special funds required to be segregated by the HUD Regulatory Agreement, the senior loan documents, or program obligations (as such terms is used in the HUD Regulatory Agreement), including tenant security deposits and any other amounts held in trust for tenants; and
- (iii) all other obligations the Project payable within the next thirty (30) days, unless the obligation is paid subject to available Surplus Cash or subject funds for payment of the obligation are set aside or HUD has approved deferment of payment.

Eligible Cash shall be defined as:

- Surplus cash available for partnership distribution, less
- Any outstanding:
  - Credit adjustments
  - Asset management fees
  - Operating reserve account replenishment
  - Approved limited partner loans
  - Deferred developer fees
  - Approved supplemental replacement reserve deposits

Note: Incentive management fees have been deliberately omitted from the above list. Payment of incentive management fees shall be subordinate to repayment of the City's loan(s).

Projects shall submit, on an annual basis, the City's Computation of Surplus Cash Form, with the project audit. When HUD financing and general HUD distribution policies are involved, the City will invoice the project and allow for repayment to occur up to the end of the current calendar year. Otherwise, the surplus cash payment will be due within 45 days of the invoice postmark. Late payments will be assessed a 5% late charge. The loan will be in default if payments are more than 75 days late. The default interest rate shall be 500 basis points (5%) over the note interest rate.

Deferred/Forgivable Loans
CHDOs may qualify for a deferred/forgivable loan of up to 50% of the loan amount. Forgiveness will occur annually and only after successful completion (i.e. no findings) of the yearly compliance review completed by the City.

Single-Family Dwellings (1-4 units)
Owners of single-family dwellings are eligible for a loan of up to 50% of total development costs. The City loan is fully repayable and the interest rate varies by the type of Borrower. The interest rate for a certified CHDO or a Public Facility Corporation owner, developer, sponsor shall be one percent (1%) simple annual interest. The interest rate for all other Borrowers shall be four percent (4%). The maximum maturity for a single-family rental loan shall be no more than 240 months from the completion of construction. Repayment of single-family rental housing loan principal and interest should be in equal monthly installments.

Multi-Family Dwellings (5 or more units)
Assistance for developers of multi-family rental property can be provided in the form of a repayable loan with scheduled payments or, if the project involves housing tax credits, a surplus cash loan. The City loan is fully repayable and the interest rate varies by the type of Borrower. The Interest rate for a qualified CHDO or a Public Facility Corporation owner, developer, or sponsor shall be one percent (1%) simple annual interest. The base interest rate for all other Borrowers shall be four percent (4%). The loan term will be determined based on underwriting analysis and to comply with senior loan requirements.

Funding Loan Conditions
In the assessment by the City, at its sole discretion, the developer must be able to demonstrate managerial, technical and financial capacity to undertake the project. Borrowers must be an Eligible Mortgagor as defined by Federal regulations and the document herein.

- Single asset entities are required for non-recourse loans. Loans to multiple asset entities will have recourse.
- Guarantor (amortizing loans) or financially responsible party (deferred loans) must have acceptable performance on previous or current City loans and must not be undercapitalized for the scale of the proposed project.
- A full credit review for all loans is required for final loan approval.
- The Developer is responsible for the costs of the appraisal, environmental reviews, credit underwriting report, market study, title insurance, closing and legal fees, publication and all other costs incurred by the Borrower as a result of the Borrower applying for or securing a loan with the City.

As a condition of the City Loan, the Developer must agree:

- The property must remain a residential rental property under the existing ownership for the entire loan term. If the property is transferred by any means during the loan term, the remaining unforgivable portion plus interest will become immediately due and payable. The interest portion will be calculated based on the existing market at the time of transfer.
- For rent of these properties to be in accordance with affirmative marketing standards and the current HUD Section 8 rental income guidelines for the Period of Affordability and the federal equal housing opportunity requirements in the Fair Housing Act.
- Not to discriminate on the basis of race, religion or national origin.
- Not to discriminate against lower income prospective tenants, solely on the basis of their receipt of Section 8 Housing assistance support.
- Not to convert the property to condominiums for the duration of the loan term.
- To maintain the property and ensure it is in a safe, sanitary and decent condition, and in compliance with the Residential Construction Management Policy throughout the term of the public sector note.
- To provide evidence of having paid annual property taxes and secured fire and extended insurance coverage for the property.
- Comply with Annual Re-certification of tenant's annual income, in which the property owner must document the income of the tenant yearly by reviewing documents such as W-2's, pay stubs, etc. in order to ensure that their income meets the low-income requirements.
- The City will examine the funding sources and uses for each project and determine whether the costs are eligible and reasonable, the return to the developer is appropriate (not excessive), and the other sources of funds needed for the project are firm commitments. "Reasonableness" of development costs should be based on the following factors:
    - Costs of comparable projects in the same geographical area;
    - Qualifications of the cost estimators for the various budget line items; and
    - Comparable costs published by recognized industry cost index services
- To adhere to Lead-Based Paint Abatement policies for all properties built in 1978 and before.
- To conduct a property inspection one (1) year after the rehabilitation and every two (2) years thereafter during the period of affordability. The owner must agree to cooperate with and assist in this inspection effort, and to resolve all deficiencies cited within the designated correction period allotted.
- To pay real property taxes and maintain adequate fire and extended coverage insurance with City named as co-insured on the subject property for the full term of the loan. The City will require owner to provide documentation of tax payment and insurance coverage on an annual basis.
- The Borrower must maintain reserves for maintenance.
- No further HOME assistance may be granted during the affordability period. .

Failure to comply with any of the conditions outlined above will constitute a default of the public sector loan, requiring the balance to become immediately due and payable.

During the term of the public sector loan, if the property is sold, or ownership transferred through any means, the balance of the note, including the remaining deferred forgivable portion, is immediately due and payable in full.

For HOME projects, a determination of fixed or floating HOME units must be made during the underwriting process. Fixed units must remain the same throughout the period of affordability. Floating units may change in order to maintain conformity so that the total number of units meets the required number of bedrooms of the originally designated HOME-assisted unit(s).

The City loan will be secured by a lien on the property. The lien position will be no less than second, except upon approval of the Grants Administrator. The City will be subordinate only to a private financial institution's superior lien for a loan in a greater amount. The City may also require additional security for its loan, including, but not limited to, a first lien position on other investment property of the owner, as well as personal and/or corporate guarantees, if necessary, to secure the loan.

The terms of payment will continue throughout the entire term of the note, provided the borrower complies with each and every term and condition of the loan documents. If the borrower does not comply, or if the borrower at any time defaults under the terms of the note, the interest on the unpaid principal will thereafter:

- accrue at a rate of 500 basis points over the Note interest rate, and
- be immediately payable in addition to the remaining outstanding principal balance.

Funding Loan Closing

The property owner will be required to provide the following items for loan closing:

- For substantial rehabilitation projects, the after-rehabilitation appraisal of the property showing the appropriate value relative to the proposed loan.
- Title Insurance Policy showing the City's interest in the total amount of the City's Deferred Payment Loan.
- List of all real property assets and their value.
- Copy of the insurance policy for fire and extended coverage for 80% of the value of the property with City named as co-insured.

Closing in Balance When City Provides Construction and Bridge Financing

Except as noted below, all sources of funds must be available at closing or bridge funding must be provided to pay development costs through construction completion whenever the City is providing its funds during or prior to construction completion and stabilized occupancy. In such instances, equity (including syndication proceeds not bridged) will be held by a title company or approved escrow agent. For tax credit projects with equity pay-ins to be made during construction, the City will, at its sole discretion, determine the need to bridge these funds based on a review of the project, the pay-in schedule, the investor, general partner, developer, and general contractor.

In addition to syndication proceeds, other sources commonly required to be bridged are tax increment financing, other public sector grants and loans, interim income (existing properties), and any rebates that are included in the sources of financing.

Cost Savings

Cost savings remaining at the end of the construction or rehabilitation, may be deposited in the Replacement Reserve Account, utilized to reduce the City funding, or be put to another appropriate use approved in writing by the City.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Underwriting & Subsidy Layering Standards

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Underwriting and Subsidy Layering Policy (USLP) found in Appendix I. To be eligible for funding, the City must determine that no more assistance is provided than is needed, and that the level of profit or return on owner's or developer's investment in a project is reasonable. HOME Funding will not be awarded without an Underwriting Report.

Refinancing

HOME funds may be to utilized to refinance existing debt secured by multifamily housing that is being rehabilitated with HOME funds if refinancing is necessary to permit or continue affordability as described in 24 CFR §92.206(b). The City shall use its underwriting and evaluation criteria and standards, as found in its City Council adopted Program Policies for Federally Funded Affordable Housing Activities and the HOME Final Rule. At a minimum, these rules require:

- Rehabilitation to be the primary eligible activity for developments involving refinancing of existing debt;
- HOME funds may not be used to refinance affordable housing development constructed within the past 10 years;
- A minimum funding level for rehabilitation on a per unit basis;
- A review of management practices to demonstrate that disinvestments in the property have not occurred, when applicable;
- Long term needs of the property can be met;
- Financial feasibility of serving the targeted population can be demonstrated over an extended affordability period, as applicable;

- State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both;
- Specify the required period of affordability, whether it is a minimum of 15 years or longer;
- Specify whether the investment of HOME funds may be jurisdiction-wide or limited to a specific geographic area, such as a neighborhood identified in a neighborhood revitalization strategy under 24 CFR 91.215(g) or a federally designated Empowerment Zone or Enterprise Community; and
- Ensure HOME funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.

Environmental Review Requirements

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Other Federal Requirements

HOME is subject to a number of cross-cutting Federal regulations known as "Other Federal Requirements." Appendix A includes a listing of "Other Federal Requirements" with applicability by activity type.

Community Housing Development Organization (CHDO)

A Community Housing Development Organization (CHDO) is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves. The City is required to set aside a minimum of 15% of its HOME allocation for affordable housing development activities delivered by qualified CHDOs.

Eligible CHDO Activities

In accordance with HUD regulations, undertakings eligible for CHDO set-aside funds are limited to certain activities. These eligible set-aside activities include the following when carried out by a CHDO acting as an owner, sponsor, or developer:

- Acquisition and/or rehabilitation of substandard rental housing;
- New construction of rental housing;
- Acquisition and/or rehabilitation of homebuyer properties;
- New construction of homebuyer properties; and
- Direct financial assistance to purchasers of HOME-assisted housing sponsored or developed by a CHDO with HOME funds.

Note: CHDO-eligible organizations may play the role of a "subrecipient" and may undertake all other HOME-eligible activities, but these activities do not count toward the CHDO set-aside. The organization is acting as a CHDO under the HOME Program when it has been certified as meeting the CHDO requirements and funded by the City for a specific project out of the CHDO set-aside.

Application, Evaluation and Selection Process

HOME regulations require the City to certify an organization as a CHDO each time it commits funds to a CHDO set-aside project. Outside of the context of committing funds to the organization for a specific project, there can be no general “certification” that an organization is a CHDO.

The City will issue a Request for Application (RFA) for CHDO eligible projects when CHDO set-aside funding is available. The RFA application will include a CHDO certification section. Non-profit organizations shall submit the CHDO certification package along with the application in accordance with RFA instructions. Based on that submission, the City will complete a checklist of required CHDO qualifying criteria and use that to determine the non-profit’s eligibility. The City shall retain documentation of the organization’s CHDO certification in City maintained project files.

Any award is conditioned upon the City’s approval, which may be withheld in its sole discretion. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

CHDO Status for Non-HOME Related Activities

The City may, at its sole discretion, provide a letter to non-profit organizations stating that they meet the general requirements of a CHDO. These may be issued upon request of the non-profit organization for taxation purposes, inclusion in TDHCA applications, or other specific instances where qualification of the non-profit as a CHDO is required for non-HOME related activities.

CHDO Proceeds

CHDO proceeds is income to the CHDO resulting from the CHDO's investment of its City-provided CHDO set-aside funds. Examples of CHDO proceeds are funds resulting from:

- the permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan;
- the sale of CHDO sponsored rental housing to a second non-profit;
- the sale of CHDO developed homeownership housing;
- the principal and interest payments from a homebuyer's loan for CHDO developed homeownership housing.

The City may, at its sole discretion, allow a CHDO to retain some or all of the CHDO proceeds it receives. The decision to allow a CHDO to retain CHDO proceeds will be made on a case by case basis, and will be outlined in the written agreement with the CHDO.

The CHDO must use any CHDO proceeds which it is authorized to retain for HOME-eligible or other housing activities to benefit low-income families, as required by 24 CFR 92.300(a)(2). Examples of affordable housing activities which may be funded with CHDO proceeds include, but are not limited to:

- emergency repairs,
- project operating costs and reserves,
- housing refinancing costs,
- CHDO operating expenses and homebuyer counseling,
- Development of additional affordable housing units.

CHDO proceeds which are retained by a CHDO are not subject to the requirements of the HOME regulations, except for 24 CFR 92.300(a)(2). Thus, the Davis-Bacon Act, National Environmental Policies Act and Uniform Relocation Assistance and Real Property Acquisition Policies Act do not apply to the use of CHDO proceeds. However, because CHDO proceeds are derived from the expenditure of HOME funds, any activities which are funded with CHDO proceeds may not be contributed as match.

CHDO Operating Expense Funding

Program Overview

The City may provide general operating assistance to CHDOs that are receiving set-aside funds for an activity, or a CHDO that is expected to receive set-aside funds within 24 months of the date of the CHDO operating funding agreement. This can include the award of operating funds to a potential CHDO that does not currently meet the requirement for staff capacity but otherwise meets all other requirements for certification as a CHDO.

Project Eligibility

In order to be eligible to receive CHDO operating funds, the entity must be a non-profit organization capable of meeting CHDO certification criteria. Operating funds are awarded to a CHDO based on financial need and the expectation that the organization is utilizing, or will utilize, the City's CHDO set aside funding within 24 months of the award.

An organization is ineligible to apply for or receive CHDO operating funds if:

- The entity has received CHDO operating funds within the last 24 months and has not been awarded CHDO set aside funds within 24 months.
- The HOME award exceeds $50,000 or 50% of the organization's total annual operating expenses for that fiscal year, whichever is greater. CHDO operating expense funds may not supplant CHDO set-aside funds for project costs.

Eligible Uses

CHDO operating expenses are expenses that are reasonable and necessary costs for the operation of the CHDO. Eligible operating expenses include:

- Salaries, wages, benefits, and other employee compensation;
- Capacity-building for the organization related to a specific future set-aside project (i.e., hire, train staff, etc.);
- Employee education, training, and travel to perform job (i.e., to attend a training on how to develop affordable housing) or carry out the functions related to the organization;
- Office rent and utilities;
- Communication costs;
- Taxes and insurance;
- Equipment, materials, and supplies.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Other Federal Requirements

HOME is subject to a number of cross-cutting Federal regulations known as "Other Federal Requirements." Appendix A includes a listing of "Other Federal Requirements" with applicability by activity type.

Tenant Based Rental Assistance (TBRA)

<u>Program Overview</u>

Tenant based rental assistance (TBRA) is an allowable activity under the HOME Program. TBRA is used to help individual households acquire housing and afford housing costs by providing rental subsidies to the household with or without rental security deposits and/or utility deposits. TBRA assistance moves with the tenant. The level of TBRA subsidy varies based upon the income of the household, the particular unit the household selects, and the rent reasonableness standard.

<u>NOTE</u>: The City may use HOME funds for tenant-based rental assistance only if it makes the certification about inclusion of this type of assistance in its consolidated plan in accordance with 24 CFR 91.225(d)(1), 91.325(d)(1), or 91.425(a)(2)(i), and specifies local market conditions that led to the choice of this option.

<u>Types of Assistance</u>

TBRA may assist eligible households with the following housing costs:

- Rent
- Security deposit in conjunction with rent at the same address (A security deposit may not exceed the equivalent of two month's rent for the unit).
- Utility costs in conjunction with rent at the same address
- Utility deposit in conjunction with rent at the same address
- Utility deposits, utility payments and security deposits may only be provided to clients who are also receiving rental assistance.

TBRA payments will be made directly to an agency working on behalf of the tenants or directly to the landlord. No payments will be made directly to the tenant household.

<u>Ineligible Program Activities</u>

- TBRA may not be used for utility or security deposit without rental assistance
- TBRA cannot be used to assist a legal homeowner of the housing unit
- TBRA cannot be used to assist a resident owner of a cooperative or mutual housing unit unless: unit is considered rental housing under state law or tenant who rents from an owner of a cooperative or mutual housing unit
- TBRA may not be used to provide overnight or temporary shelter for homeless persons
- TBRA may not duplicate existing rental assistance programs that already reduce the tenant's rent payment to 30 percent of income (for example, if a household is already receiving assistance under the Section 8 Program, they would not qualify for HOME TBRA)
- TBRA cannot be used beyond a 24-month lease approval, although leases can be renewed, subject to the availability of funds.
- TBRA cannot be used to assist households whose income exceeds 60% of AMI at time of initial application

Applicant Eligibility and Tenant Selection

To qualify for TBRA, the applicant household must have income at or below 60% of the Area Median Income. Income eligibility must be established and documented prior to the execution of a TBRA Program contract with the tenant. The City will follow a written tenant selection policy that specifies how households will be selected for participation in its TBRA program(s). The City may design one or more TBRA programs that assist:

- Families selected from the Public Housing Authority's Section 8 Waiting List
- Eligible, in place residents of a rental project being rehabilitated under the HOME program
- Other special needs clients or preference groups identified by an agency working on behalf of the City.

In addition, the City or an agency administering a TBRA program may require tenant participation in a self-sufficiency program as a condition of rental assistance unless specifically prohibited under 24 CFR Part 92.209.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income commonly referred to as the "Section 8 Low-Income Limit." To be eligible for funding, program participants must have annual (gross) incomes at or below 60% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Eligible Units

Eligible applicants may rent any housing unit that meets the following criteria:

- Located in the San Antonio city limits
- Reasonable rents are charged as determined by HUD's Fair market rents, established annually
- Meets Housing Quality Standards for housing assisted under the Housing Choice Voucher Program
    - The housing unit must be inspected initially and re-inspected annually, as applicable.
- Meets occupancy standards (maximum/minimum unit size depending on household size)
- Complies with Lead-Based Paint regulations (Part 35 Subpart M)
- Units may not receive a duplicative form of rental subsidy
- Units may have been developed or rehabilitated with HOME assistance
- Are not public housing projects, or receiving project based federal assistance

Assistance Parameters

- Housing unit must meet Housing Quality Standards. Lease Requirements: The term of the lease between tenant and owner must be at least one year. The lease may not include any prohibited language as outlined in the HOME Final Rule 24 CFR Part 92.
- Payment Standard: The TBRA payment standard will be based on the Fair Market Rent, which is established and published annually by the U.S. Department of Housing and Urban Development.
- Subsidy Amounts and Tenant Contribution: The maximum assistance that can be provided is the difference between 30% of the household's adjusted monthly income and the payment standard. The minimum tenant contribution is 30% of their monthly adjusted income, or $25.00 per month, whichever is greater.
- Income Re-Certification: The income of tenants receiving TBRA must be re-certified on an annual basis, at a minimum. City staff may require re-certification of tenant income at any time, at the

City's discretion, if it appears that a tenant's income has changed substantially during the contract term. If the tenant's income exceeds 80% of Area Median Income, TBRA must be terminated.

- Length of Assistance: Assistance may be provided for a period of up to two years
- Termination of Assistance: TBRA may be terminated if the following occurs:
    - Household's income exceeds 80% of Area Median Income
    - Household is evicted from the approved unit by owner for cause as outlined in the lease agreement between tenant and owner
    - After receipt of two official notices requesting cooperation in the re-certification process, the household is unresponsive and uncooperative.
    - In all cases above, thirty days' notice of the termination must be provided in writing to the tenant and landlord.

<u>Sub-recipient Funding Application, Evaluation and Selection Process</u>
For agencies seeking to administer this program on behalf of the City, the City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

<u>Environmental Review Requirements</u>
Before committing funds to an activity, the City must evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

<u>Other Federal Requirements</u>
HOME is subject to a number of cross-cutting Federal regulations known as "Other Federal Requirements." Appendix A includes a listing of "Other Federal Requirements" with applicability by activity type.

Community Development Block Grant Funding in Support of Affordable Housing Development

Community Development Block Grant (CDBG) funds can be used in support of affordable housing development. The following are eligible activities that fall into this category:

- Acquisition of sites on which buildings will be constructed for use or resale as housing.
- Clearance of toxic contaminants of property to be used for the new construction of housing.
- Site improvements to publicly-owned land to enable the property to be used for the new construction of housing, provided the improvements are undertaken while the property is still in public ownership.
- The cost of disposing real property, acquired with CDBG funds, which will be used for new construction of housing.
- Construction or reconstruction of utilities to provide water, sewer, and utility lines on public property in support of affordable housing. Lines and connections on private property that are usually the responsibility of the owner is ineligible, except when utilized as part of a rehabilitation project.
- Acquisition for rehabilitation, to acquire property for the purpose of being rehabilitated. The property may then be rehabilitated and used or sold for residential purposes.
- Acquisition of housing units, as long as the units are not new construction, and they are leased or sold for residential purposes.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the "Section 8 Low-Income Limit". To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Environmental Review Requirements

Before committing funds to an activity, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Additional Requirements

For provisions not included in the CDBG section, defer to the HOME requirements listed in the preceding sections by activity type.Neighborhood Stabilization Program

Program Overview

Congress established the Neighborhood Stabilization Program (NSP) for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed homes, and to assist households whose annual incomes are up to 120% of the area median income (AMI). NSP1 was established by Section 2301(b) of the Housing and Economic Recovery Act of 2008 (Pub. L.110–289, approved July 30, 2008), also known as HERA.

Eligible Uses

NSP funding must be utilized for the following eligible uses:

- Financing Mechanisms - §2301(c)(3)(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate- income homebuyers;
- Purchase and Rehabilitation - §2301(c)(3)(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;
- Land Banks - §2301(c)(3)(C) assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property;
- Demolition - §2301(c)(3)(D) demolish blighted structures; may combine with Use “B” and “E”.
- Redevelopment - §2301(c)(3)(E) redevelop demolished or vacant properties.

Programmatic Requirements

NSP funding has the following programmatic requirements:

- NSP funds should only be utilized for properties located in the approved NSP Target Areas (currently undergoing target area amendment process).
- NSP funds should be used for households whose incomes do not exceed 120% of area median income.
- Not less than 25% of these funds are to be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of area median income. Meeting the 50% of area median income requirement:
    - Compliance based on dollars, not number of units
    - Principal way to comply will be through rental housing:

- New construction or conversion
  - Acquisition
  - Rehabilitation
- NSP requires the purchase of a foreclosed-upon residential property be at a discount from the current market-appraised value of the property. Such discount shall be no less than 1% of the appraised value. All acquisitions of property under NSP require an appraisal for purposes of determining the statutory purchase discount.
- Rents for NSP subsidized units shall not exceed 30% of 120% AMI nor shall they exceed comparable unassisted rents in the area.
- The costs of purchase, rehabilitation, conversion and sale of property to be operated as rental housing are eligible NSP activities, but the expenses of actually operating the rental housing (such as maintenance, insurance, deficits in monthly operating income) and tenant-based rental subsidies are not eligible NSP activities.
- The maximum sales price for a property sold to an individual as a primary residence is limited to the lesser of total development costs (which includes the acquisition cost plus rehabilitation or redevelopment costs necessary to resell the property) and the after rehab appraised value. The aggregation of acquisition and rehabilitation or redevelopment costs generally may include, among other items, costs related to the sale of the property such as staff time spent identifying homebuyers, obtaining appraisals, etc., as well as sales and closing costs. Reasonable costs directly attributable to project implementation are allowed as activity delivery costs.

Affordability Period

All properties assisted with these funds shall meet the HOME program affordability requirements established in 24 CFR 92.252(e), and 92.254(a)(4). The affordability requirements listed below may be extended at the Director's sole discretion. However, per HUD regulations, the affordability periods may not be reduced.

Amount of Funds	Required Affordability
Less than $15,000	5 Years
$15,000 to $40,000	10 Years
Over $40,000 or rehabilitation involving refinancing	15 Years
New Construction or Acquisition of Newly Constructed Housing	20 Years

Long-Term Affordability

To meet Long-Term Affordability requirements for the HOME Program, the City established the Resale/Recapture Requirements found in Appendix D for Homebuyer Activities. Resale or recapture requirements shall be included in all written agreements.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Environmental Review Requirements
Before committing funds to an activity, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Additional Requirements
For provisions not included in the NSP section, defer to the HOME requirements listed in the preceding sections by activity type.

Loan Servicing Policy

Program Overview

The City of San Antonio provides financial assistance to homeowners, homebuyers, nonprofit and for profit housing developers for affordable housing and community development activities. These programs are established on an activity-by- activity basis and will vary depending funding source requirements, city policies and strategies in place at the time of loan origination. In order for loan servicing to be effective it must include clear and consistent loan terms and processes to mitigate issues such as late payments, breach of loan terms and default. A key tenet in the disbursement of federal funds through loans is that revenue generated which becomes program income that can be used to provide additional assistance. In order to maximize City's investment in affordable housing and other programs that benefit the low to moderate income community, a return on investment should be a priority.

Loan Administration and Monitoring

All loans issued to individuals (single residence loans) shall be sent an annual certification form to verify continued residency. This certification will include the requirement to submit a copy of a utility bill as proof of continued residency and a copy of the most recent paid property insurance coverage policy. This will ensure that potential issues involving unauthorized transfers/sales of properties are addressed in a timely manner. In addition, on an annual basis the City researches Bexar County Tax Records for each property and all residential property tax accounts are verified to ensure taxes are current.

Multi-family rental borrowers must submit the City's Computation of Surplus Cash form with its audited financial statements during the term of loan. If the project financial results demonstrate that the project has not generated sufficient cash flows to make a payment, the borrower must provide a letter/statement attesting to such. If cash flows are sufficient then payment is required per the terms of the loan. In the event of a dispute regarding the sufficiency of surplus cash for making a loan payment, the Grants Manager or designee will decide, in their sole discretion, if the property has generated sufficient income to make a full, partial, or no payment.

Community Investment Committee

City staff oversees the day-to-day administration and monitoring of the loan portfolio; however, the City the created the Community Investment Committee (CIC) to evaluate loan portfolio issues on an on-going basis. The CIC serves as an advisory and decision making body comprised of the following five City staff members:

A. Director Neighborhood and Housing Services Department or designee,
B. Director of Finance or designee,
C. City Attorney or designee,
D. NHSD Assistant Director or designee, and the
E. NHSD Grants Administrator or designee.

The CIC meets on an as needed basis and consider requests such as subordinations, loan modifications or options for properties where borrowers become deceased. The CIC shall have the authority to take the actions appropriate to ensure that the City's loan portfolio is managed effectively.

The authorities of staff and the CIC are outlined below:

Action	Residential Loans	Multi Family Loans
Subordinations	• An assessment will be performed by City staff • The City lien position must remain unchanged • Borrower cannot receive cash as a result of the action • If no adverse impact, City Staff will approve subordination request • If adverse impact is determined, subordination request will be forwarded to CIC for consideration	• The City's underwriter perform an assessment of the project to ensure financial viability of the project during the loan and covenant periods • If no adverse impact, CIC will approve subordination request • If adverse impact is determined, subordination request will be forwarded to City Council for consideration
Modifications	• An assessment will be performed by City staff • The City lien position must remain unchanged • Borrower cannot receive cash as a result of the action • If no adverse impact, City Staff will approve modification request • If adverse impact is determined, modification request will be forwarded to CIC for consideration	• The City's underwriter perform an assessment of the project to ensure financial viability of the project during the loan and covenant periods • If no adverse impact, CIC will approve modification request • If adverse impact is determined, modification request will be forwarded to City Council for consideration
Deceased Borrower	• City Staff will assess possibility of assumption by heir(s) • If heir qualifies, City Staff will have the authority to execute legal agreements with heir • If heir does not qualify, CIC will have the authority to call the note for non-compliance	Not Applicable
Property Tax Lawsuits	• City Staff will conduct a property assessment • If property is identified as a good prospect for redevelopment, City Staff present will to CIC for consideration to call the note for non-compliance and will have the authority to approve a foreclosure • If property is not a good prospect for redevelopment, City staff will continue to monitor property tax lawsuit	• City Staff will conduct a property assessment • If property is identified as a good prospect for redevelopment, City Staff will present to CIC for consideration to call the note for non-compliance and will have the authority to approve a foreclosure • If property is not a good prospect for redevelopment, City staff will continue to monitor property tax lawsuit

Default	• Loan servicing will work with borrower to determine reason for default • Mandatory Counseling will be required of borrower(financial/budgeting) • City staff will make recommendation to cure default and will present to CIC for consideration/decision	• A technical default includes, but is not limited to, when borrower does not submit financial statements, failed inspections or unit mix is non-compliant, and Computation of cash surplus is not provided • Assessment will be made by CIC to determine course of action • City Council consideration is required for any foreclosure proceedings
Forbearance	• An assessment will be performed by City staff when borrower falls behind on payments to determine if loan can be made current • City staff will have the authority to approve Forbearance not to exceed 6 months and will require borrowers to participate in financial counseling • A forbearance of more than 6 months will require consideration and approval from the CIC	Not Applicable
Loan Write off	• These are typically loans foreclosed on by a first lienholder • City staff will assess and present to CIC for consideration all loans requiring a write off	• These are typically loans foreclosed on by a first lienholder • City staff will assess and present to CIC for consideration all loans requiring a write off

Appendix A: Other Federal Requirements

I. REGULATORY CITATION AND REFERENCES

Programs which receive federal funding may be required to comply with other related statutes, regulations and executive orders. These are categorized below.

NON DISCRIMINATION AND EQUAL ACCESS	
REQUIREMENT	**REGULATORY CITATION AND REFERENCES**
Fair Housing and Equal Opportunity	**Fair Housing Act** (42 U.S.C. §§ 3601-19) Implementation: 24 CFR part 100 *et seq.* Applicability: 24 CFR §570.601(a)(2); §92.251(a)(2)(i); §5.105(a) **Title VI of the Civil Rights Act of 1964** (42 U.S.C. § 2000d-1) Implementation: 24 CFR Part 1 Applicability: 24 CFR §570.601(a)(1); §92.202; §5.105(a) **Age Discrimination Act of 1975** (42 U.S.C. 6101-6107) Implementation: 24 CFR Part 146 Applicability: 24 CFR §5.105(a) **Executive Order 11063** – *Equal opportunity in housing* Implementation: 24 CFR Part 107 Applicability: 24 CFR §570.601(b); §92.202; §5.105(a) **24 CFR §5.106 –** *Equal access in accordance with the individual's gender identity in community planning and development programs.*
Affirmative Marketing	**24 CFR §92.351** – *Affirmative marketing; minority outreach programs*
Accessibility for Disabled Persons	**Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. §794) Implementation: 24 CFR Part 8 Applicability: 24 CFR §570.602; §92.251(a)(2)(i); §5.105(a) **Title II of the Americans with Disabilities Act of 1990** (42 U.S.C. §§12131-12165) Implementation: 28 CFR Parts 35 Applicability: 24 CFR §570.614(b); §92.251(a)(2)(i); §5.105(a) **Title III of the Americans with Disabilities Act of 1990** (42 U.S.C. §§12181-12189) Implementation: 24 CFR Part 36 Applicability: 24 CFR §570.614(b); §92.251(a)(2)(i) **Architectural Barriers Act of 1968** (42 U.S.C. § 4151-4157) Implementation: 24 CFR Parts 40 and 41 Applicability: 24 CFR §570.614(a)

EMPLOYMENT AND CONTRACTING	
REQUIREMENT	**REGULATORY CITATION AND REFERENCES**
Equal Opportunity Employment	**Executive Order 11246** – *Equal employment opportunity* Implementation: 41 CFR Chapter 60 Applicability: 24 CFR §570.607, §5.105(a); 2 CFR Appendix II to Part 200 (C)
Section 3: Economic Opportunity	**Section 3 of the Housing and Urban Development Act of 1968** (12 U.S.C. 1701u) Implementation: 24 CFR Part 135 Applicability: 24 CFR §570.607; §92.504(a)(7)(i)(B); §5.105(a)
Minority / Women Business Enterprise	**Executive Order 11625** – *Prescribing additional arrangements for developing and coordinating a national program for minority business enterprise* Applicability: 24 CFR §570.904(d); §5.105(a) **Executive Order 12432** – *Minority business enterprise development* Applicability: 24 CFR §570.904(d); 24 CFR §5.105(a) **Executive Order 12138** – *Creating a National Women's Business Enterprise Policy and prescribing arrangements for developing, coordinating and implementing a national program for women's business enterprise.* Applicability: 24 CFR §570.904(d); §5.105(a) **2 CFR 200.321** – *Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.*
Labor Related	**Davis-Bacon Act of 1931** (40 U.S.C. 3141) Implementation: 29 CFR Parts 1, 3, 5, 6 and 7 Applicability: 24 CFR §570.200(c)(3)(i), §92.354; 2 CFR Appendix II to Part 200 (D) **Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701) Implementation: 24 CFR Part 4, 5, 6, and 8 Applicability: 24 CFR §570.603; §92.354(a); 2 CFR Appendix II to Part 200 (E) **24 CFR Part 70** – *Use of Volunteers on Projects Subject to Davis-Bacon and HUD-Determined Wage Rates* Applicability: 24 CFR §570.603; §92.354(b) **Copeland "Anti-Kickback" Act** (40 U.S.C. 3145; 18 U.S.C. 874) Implementation: 29 CFR Part 3 Applicability: 2 CFR Appendix II to Part 200 (D)
Conflict of Interests	Applicability: 24 CFR §570.611, §92.356 2 CFR §200.112, §200.318(c)(1);

Excluded Parties (e.g. debarred contractors)	Applicability: 24 CFR §570.609, §92.350(a), §5.105(c) 2 CFR §200.205(d), §200.213, §200.318(h), Appendix II to Part 200 (H)
ENVIRONMENTAL REQUIREMENTS	
REQUIREMENT	**REGULATORY CITATION AND REFERENCES**
Environmental Review	**HUD CPD Notice 01-11** – *Environmental Review and the HOME Investment Partnerships Program* **National Environmental Policy Act of 1969 (NEPA)** (42 U.S.C. 4321) Implementation: 24 CFR Part 58 – *Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities* 24 CFR Part 50 – *Protection and Enhancement of Environmental Quality* Applicability: 24 CFR §570.200(a)(4); §92.352; §92.504(c)(2)(iv)
Flood Insurance	**Section 202(a) of the Flood Disaster Protection Act of 1973** (42 U.S.C. 4106) Applicability: 24 CFR §570.605 The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 *et seq)* Applicability: 24 CFR §58.6(a)(1), §50.4(a)(b)
Site and Neighborhood Standards	**24 CFR §92.202** – *Site and neighborhood standards* **24 §983.57(e)(2) and (3)** – *Site selection standards, New Construction site and neighborhood standards.*
Relocation	**Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)** (42 U.S.C. 4201-4655) Implementation: 49 CFR Part 24 Applicability: 24 CFR §570.606(b), §92.353; 24 CFR Part 42
Lead	**Lead-Based Paint Poisoning Prevention Act** (42 U.S.C. 4821-4846) Implementation: 24 CFR Part 35 Applicability: 24 CFR §570.608, §92.355 **Residential Lead-Based Paint Hazard Reduction Act of 1992** (42 U.S.C. 4851-4856) Implementation: 24 CFR Part 35 Applicability: 24 CFR §570.608, §92.355
ADMINISTRATIVE AND OTHER	
REQUIREMENT	**REGULATORY CITATION AND REFERENCES**
Administrative Requirements	**2 CFR Part 200** – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* Implementation: 2 CFR Part 200

	Applicability: 24 CFR §570.610, §92.505
Domestic Violence	**Violence Against Women Act (VAWA)** (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*) Implementation: 24 CFR Part 5, Subpart L Applicability: 24 CFR §92.359; §5.2001
Faith-Based Organizations	**24 CFR §5.109 –** *Equal participation of faith-based organizations in HUD programs and activities.*

II. APPLICABILITY BY PROGRAM

The programs discussed in this policy and the applicable related statutes, regulations and executive orders are listed in the tables below. The applicability of the related statutes, regulations and executive orders to the CHDO Project Funding, CHDO Operating Expense Funding and the Neighborhood Stabilization Program are determined based on the type and scope of project funded under those three programs

NON DISCRIMINATION AND EQUAL ACCESS				
Program	**OORRP / Minor Repair**	**Homebuyer Activities**	**Rental Housing Activities**	**Tenant Based Rental Assistance**
Fair Housing and Equal Opportunity	Yes	Yes	Yes	Yes
Affirmative Marketing	Yes	Yes[1]	Yes[1]	Yes
Accessibility for Disabled Persons	Yes	Yes	Yes	Yes
EMPLOYMENT AND CONTRACTING				
Program	**OORRP / Minor Repair**	**Homebuyer Activities**	**Rental Housing Activities**	**Tenant Based Rental Assistance**
Equal Opportunity Employment	Yes	Yes	Yes	Yes
Section 3: Economic Opportunity	Yes[2]	Yes[2]	Yes[2]	No
Minority / Women Business Enterprise	Yes	Yes	Yes	Yes
Labor Related	No	Yes[3]	Yes[3]	No
Conflict of Interests	Yes	Yes	Yes	Yes
Excluded Parties (e.g. debarred contractors)	Yes	Yes	Yes	Yes

[1] For project containing 5 or more HOME-assisted units.
[2] If amount of assistance exceeds $200,000 or the contract/subcontract exceeds $100,000
[3] If construction contract includes 12 or more HOME-assisted units

ENVIRONMENTAL REQUIREMENTS				
Program	**OORRP / Minor Repair**	**Homebuyer Activities**	**Rental Housing Activities**	**Tenant Based Rental Assistance**
Environmental Review	Yes	Yes	Yes	Yes
Flood Insurance	Yes	Yes	Yes	Yes
Site and Neighborhood Standards	No	No	Yes	No
Relocation	Yes	Yes	Yes	Yes
Lead	Yes[4]	Yes[4]	Yes[4]	No

ADMINISTRATIVE AND OTHER				
Program	**OORRP / Minor Repair**	**Homebuyer Activities**	**Rental Housing Activities**	**Tenant Based Rental Assistance**
Administrative Requirements	Yes[5]	Yes[5]	Yes[5]	Yes[5]
Domestic Violence	No	No	Yes[6]	Yes
Faith-Based Organizations	Yes	Yes	Yes	Yes

[4] For units built before 1978
[5] If acting as a subrecipient
[6] The City elects to adopt compliance with the Violence Against Women's Act for all housing rental activities offered.

Appendix B: Income Limits and Part 5 Requirements

III. Applicability

Programs which are the recipient of Federal funds may be required to comply with income targeting requirements.

To be eligible for programs funded by HOME[7] and CDBG[8] funds, households must have an annual (gross) income calculated at or below 80% of the area median income. To be eligible for programs funded by NSP[9] funds, households must have an annual (gross) income calculated at or below 120% of the area median income. Income limits are determined and published annually by the U.S. Department of Housing and Urban Development (HUD).[10]

IV. City's policy

In accordance with 24 CFR Part 92.203(b), the City is required to use one of two definitions of "annual income." The City has elected to use the first definition, *annual income as defined at 24 CFR 5.609*[11], otherwise known as Part 5 Income.

All calculations of household annual incomes are adjusted by household size and subject to applicable income exclusions[12].

V. Calculation

The City calculates annual income utilizing the *CPD Income Eligibility Calculator* provided by HUD and available online at

CPD Income Eligibility Calculator and Income Limits - HUD Exchange

All staff calculating annual income for clients of HOME, CDBG or NSP programs are required to utilize the HUD *CPD Income Eligibility Calculator* and include documentation evidencing that calculation in the client's file.

The City is required to calculate the annual income of the household by projecting the prevailing rate of income of the household at the time the City demonstrates that the household is income eligible.[13] Annual income shall include income from all household members. Income of asset enhancement derived from the HOME-assisted project shall not be considered in calculating annual income.

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[7] 24 CFR §92.1, *Overview*
[8] 24 CFR §570.208(a), *Criteria for national objectives.*
[9] https://www.hudexchange.info/programs/nsp/nsp-eligibility-requirements/
[10] https://www.huduser.gov/portal/datasets/il.html
[11] 24 CFR 92.203(b)(1)
[12] 24 CFR 5.611
[13] 24 CFR §92.203(d)(1)

All households that receive federal assistance must be income-eligible at the time assistance is provided. Income verification must be dated no earlier than six months prior to receipt of assistance.[14]

VI. Guidance

The *Technical Guide for Determining Income and Allowances for the HOME Program* should be utilized as resource and the standard for the following:

- Determining whose income to count
- Anticipating income
- Verifying income
- Assessing Information
- Comparing annual income to published income limits
- Timing of income certifications (subsequent income determinations)

For the initial income determination, source documents are required and must be included in the client's file.[15] The City requires the applicant to provide at least three consecutive months of source documents evidencing income for the household. Applicants may be required to provide additional documentation as requested.

For subsequent income determinations during the period of affordability, the City may use any one of the following three methods:

- Examine the source documents evidencing annual income for the household[16]
- Obtain from the household a written statement of the amount of the household's annual income and household size, along with a certification that the information is complete and accurate. Certification must indicate that source documents will be provided upon request[17]
- Obtain a written statement from the administrator of a government program under which the household receives benefits and that examines the household income annually. The statement must indicate the household size or provide the current income limit for the program along with a statement that the household's income does not exceed that limit.[18]

VII. Links

CDBG Income Limits	**https://www.hudexchange.info/resource/5334/cdbg-income-limits/**
CPD Income Eligibility Calculator	https://www.hudexchange.info/incomecalculator/

[14] *Technical Guide for Determining Income and Allowances for the HOME Program, 3rd Edition, January 2005,* page 8
[15] 24 CFR §92.203(a)(1)(i), *Income determinations*
[16] Ibid. page 8
[17] Ibid. page 9
[18] Ibid. page 9

HOME Income Limits	https://www.hudexchange.info/programs/home/home-income-limits/
NSP Income Limits	https://www.hudexchange.info/resource/3680/nsp-income-limits/
Technical Guide for Determining Income and Allowances for the HOME Program	https://www.hudexchange.info/resource/786/technical-guide-for-determining-income-and-allowances-for-the-home-program/

Appendix C: HOME Match Requirements

The HOME Program requires the City to provide a minimum match of 25% of the total HOME funds drawn for project costs, which is called a match liability. This must be satisfied by the end of each Federal fiscal year. The matching contribution adds to the resources available for HOME-assisted projects, and must come in the form of a permanent contribution to affordable housing. Contributions are credited on a fiscal year basis at the time the contribution is made. The project must meet a 25% HOME matching requirement of contributions made from non-federal resources and may only be in the form of one or more of the following:

- Cash contributions from nonfederal sources
- Forbearance of State/Local taxes, charges, and fees
- Donated real property
- Cost, not paid with federal resources, of on-site infrastructure that the participating jurisdiction documents are directly required for HOME-assisted projects
- Proceeds from single family affordable housing project bond financing validly issued by a State or local government, or an agency or instrumentality of a State or local government or a political subdivision of a State and repayable with revenues from the affordable housing project
- Reasonable value of donated site-preparation and construction materials, not acquired with federal resources
- Reasonable rental value of the donated use of site preparation or construction equipment
- Value of donated or voluntary labor or professional services in connection with the provision of affordable housing
- The value of sweat equity provided to a homeownership project, under an established component of a participating jurisdiction's program, up until the time of project completion
- The direct cost of supportive services provided to families residing in HOME-assisted units during the period of affordability. Examples include: case management, mental health services, assistance with the tasks of daily living, substance abuse treatment and counseling, day care, job training, and counseling
- The direct cost of homebuyer counseling services provided to families that acquire properties with HOME funds, including ongoing counseling services provided during the period of affordability

All affordable rental and homeownership housing developments funded by the HOME program are required to document the 25% match for the purposes of the HOME Program.

See Notice CPD- 97-03 for more information on HOME Program Match Guidance at:
https://www.hudexchange.info/resources/documents/Notice-CPD-97-03-HOME-Program-Match-Guidance.pdf

OVERVIEW

The primary purpose of the HOME Investment Partnerships Program (HOME) is to "expand the supply of decent, safe, sanitary, and affordable housing." When HOME funds are used for homebuyer activities, an affordability period is imposed. This requirement ensures that HOME funds are invested in activities that yield affordable housing over a long term period. The sale or transfer of ownership of the property may trigger the use of recapture or resale options available under the Code of Federal Regulations (CFR).

DEFINITIONS

Affordability Period:

This is the period of time that a property must be occupied by qualified income eligible individuals or households as a condition upon accepting HOME program funds for homebuyer activities. During this period, the property must serve as principal residence of the qualified homebuyer. The homebuyer activities may include the acquisition of the single-family property and/or the rehabilitation of an owner-occupied single-family property. The period of affordability is based on the total amount of HOME funds invested.

The affordability periods are defined in the 24 CFR 92.254 as shown in TABLE A:

TABLE A: HOMEOWNERSHIP AFFORDABILITY PERIODS	
Total HOME Program Funds Provided for Assistance per Unit	**Minimum Period of Affordability in Years**
Under $15,000	5
$15,000 to $40,000	10
Over $40,000	15

Affordability periods on HOME assisted units begin when the project meets the definition of project completion at 24 CFR 92.2, including that the activity status has been changed to "Completed" in IDIS.[1]

Direct Homebuyer Subsidy (DHS):

A direct subsidy consists of any financial assistance that reduces the purchase price from fair market value to an affordable price, or otherwise directly subsidized the purchase (e.g. down payment or closing cost assistance, subordinate financing, etc.)

Development Subsidy:

A development subsidy is the difference between the cost to develop the housing and the market price.

Example: The City might provide a $50,000 construction loan to a developer. The appraised value after construction will be $45,000 because of the neighborhood and market conditions. The $5,000 difference, between the $45,000 sale price and $50,000 construction loan is not repaid to the City and represents a development subsidy provided to the developer. While the subsidy does not go directly to the homebuyer, it helps make the development of an affordable home feasible.

Recapture Option:
This is a mechanism allowed by HUD for the City to recapture all or a portion of the HOME funds provided to the homeowner in the form of a direct homebuyer subsidy. The homeowner is allowed to sell the property to any buyer at whatever market price.

Resale Option:
This is an option allowed by HUD for the City to ensure the affordability of a home by requiring the homeowner to sell or transfer ownership to another qualified low-income individual.

Net Proceeds:
The sales prices minus the loan repayment (other than HOME funds) and closing costs.

OPTIONS ADOPTED BY THE CITY OF SAN ANTONIO

The City, as the participating jurisdiction, has the authority to adopt various options for the HOME program to continue to fulfill its purpose of affordable housing successfully. The City employs both the **recapture** and **resale** options depending on the type of subsidy assistance provided. These options ensure that the City is able to recover all or a portion of the HOME investment amount provided to the homebuyer should the property cease to serve as the principal residence for the duration of the required affordability period.

RECAPTURE OPTION

The City's recapture option is applicable to all homebuyer activities that use HUD HOME funds. The HOME funds may be used as either a direct homebuyer subsidy (DHS) or combined with a development subsidy. Recapture provisions cannot be used when a project receives only a development subsidy and is sold at fair market value, because there is no direct HOME subsidy to recapture from the homebuyer. Instead, resale provisions must be used.[2] The entire HOME investment amount shall be reduced by the City as determined on a pro-rata basis for the amount of time the homeowner owned and occupied the property measured against the entire affordability period. This is known as a forgivable period. A portion of the HOME subsidy will be forgiven annually upon the anniversary of the closing date. For example, 1/5 (20%) of the HOME subsidy will be forgiven each year during a five year affordability period on the anniversary of the closing date. The loan period will always match the affordability period.

The City shall determine the amount of HOME investment funds to be recaptured using a **shared net proceeds basis.** The maximum recapture amount by the City will be equal to the HOME subsidy, multiplied by one minus the pro-rata basis percentage.

HOME Subsidy Ex. DHS and/or Development	X	(1 – Pro-Rata Basis %)	=	**Maximum Recapture Amount**

Example: The following is one example of how the recapture amount is calculated.

- HOME Investment Funds Provided via Subsidy equals $30,000
- Sale of the property conducted at the end of year six (6) in a ten (10) year affordability period.
- The owner down payment was $10,000.
- Superior private debt was $150,000.
- The City forgives 10% for each year of the ten (10) year affordability period.
- The owner has closing costs of $5,000.

1. Net Proceeds Calculation	
$175,000	Proceeds from the sale
- $150,000	Superior private debt
- $5,000	Owner's Closing Costs
$ 20,000	Net proceeds to homeowner

2. Recapture Amount Calculation (Based on Subsidy)	
$30,000 x 10% = $3,000	Yearly forgivable amount
6 years x $3,000 = $18,000	Total forgivable amount at time of sale
$30,000 - $18,000 =	
$12,000	Recapture amount owed to The City

3. Amount to Recapture	
$20,000	Net proceeds to homeowner
-	
$12,000	Recapture amount due to City
$ 8,000	Owner retains from sale*

*In the event the net proceeds are insufficient to cover the remaining HOME subsidy, the City shall recapture the lesser of either:

- The actual balance owed on the subsidy, OR
- The remaining balance according to the affordability period

The City shall recapture any and all of the net proceeds. However, the City is never permitted to recapture more than what is available from the net proceeds of the sale.

Under this option, the amount subject to the affordability period includes:

- The amount provided directly to, or on behalf of, the homebuyer (including down payment, closing costs, and/or direct loan) PLUS
- Any HOME assistance that lowers the cost of the home below market price (i.e. the difference between the market value of the home and the actual sales price.)

RESALE OPTION

The City shall require the use of a resale option only in the event that a development subsidy is used to make the property affordable. For properties where both a development and direct homebuyer subsidy are provided, the recapture option will apply. The resale option requires the homeowner to sell the property to another low-income homebuyer. This option requires the resale price provide the original HOME-assisted owner a fair return on investment and ensure the property will remain affordable to a reasonable range of low-income homebuyers as defined below. Please note that both definitions relate only to the resale option.

- **Fair return on investment**

A fair return on investment includes the homebuyer's investment and any capital improvements. The value of capital improvements is defined as the actual, documented costs of permanent structural improvements or restoration of the property that enhances or increases the useful life of the property such as a kitchen renovation or bathroom upgrades, . The actual costs of the capital improvements must be documented with receipts, cancelled checks, or other documents acceptable to the City. The City shall consider a fair return on investment achieved when the original homebuyers receives from the sale a percentage return on investment based on the change in the Median Sales Price for the San Antonio- New Braunfels Metropolitan Statistical Area, as published periodically by HUD with the HOME Homeownership Value Limits.

$$\left(\begin{array}{l}\text{Initial Investment}\\ + \text{ Value of Improvements}\end{array}\right) \times \left(\frac{\text{Current Median Sales Price}}{\text{Median Sales Price at Original Home Purchase}}\right) = \textbf{Fair Return}$$

The City has defined a fair return on investment according to TABLE B.

TABLE B: FAIR RETURN ON INVESTMENT		
AFFORDABILITY PERIOD		
Years 1 to 5	**Max Limit**	Current (as of the sale date) Affordable Home Price as set forth by HUD in the annual publication of the HOME Homeownership Value Limits.
Years 6 to 15		
	Max Limit	Current (as of the sale date) Affordable Home Price as set forth by HUD in the annual publication of the HOME Homeownership Value Limits.

For example, in 2012 an eligible homebuyer purchases a property that has received a HOME development subsidy and is subject to Resale Provisions. The homebuyer provides $2,000 for a down payment and in 2014 spends $5,000 to remodel the kitchen. In 2016, the homeowner sells the property. The 2012 median sales price for the area was $152,000 and in 2016 the median sales price for the area is $164,000. In this example, the fair return on investment is $7,553.

Fair Return on Investment	*Investment + Capital Improvements*		*Median Sales Price - C* / *Median Sales Price - O*
	($2,000 + $5,000)	*X*	$164,000 / $152,000
$7,553	$7,000	*X*	107.89%

Median Sales Price – C *Current Median Sales Price*
Median Sales Price – O *Median Sales Price at Time of Original Purchase*

Affordability to a reasonable range of low-income homebuyers

This affordability is determined by two conditions:

1. That which is affordable to a family earning between 60% and 80% of the Area Median Income (AMI) and below, and
2. Who do not pay more than 30% of their gross income for Principal, Interest, Tax and Insurance (PITI).

Resale requirements shall be imposed with the use of deed restrictions, covenants running with the land, and other similar mechanisms.

The period of affordability specified in the mortgage will be the minimum period for the project as specified in TABLE B.

In addition to the homebuyer receiving a fair return on investment, the housing must be continue to affordable to LMI potential homebuyers. If the resale price of the home is not affordable to subsequent homebuyers, the City of San Antonio may be required to provide additional assistance to that homebuyer.[2]

Period of Affordability Under Resale Provisions

Under resale, §92.254(a)(5(i) of the HOME rule states that the period of affordability is based on the *total* amount of HOME funds invested in the housing. In other words, the total HOME funds expended for the unit determines the applicable affordability period. Any HOME program income used to assist the project is included when determining the period of affordability under a resale provision.[2]

Period of Affordability Under Recapture Provisions

For HOME-assisted homebuyer units under the recapture option, the period of affordability is based upon the *direct HOME subsidy* provided to the homebuyer that enabled the homebuyer to purchase the unit. Any HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.[2]

I. APPLICABILITY

A single-family property that is purchased with HOME program funds is subject to recapture or resale options if the property is sold or ownership is transferred within the affordability period. TABLE C is a summary of the available subsidies provided by the City and the applicable affordability options:

TABLE C: APPLICABILITY	
Subsidy Type	**Affordability Options**
Direct Homebuyer Subsidy (DHS)	Recapture option shall apply
DHS + Development Subsidy	Recapture option shall apply
Development Subsidy	Resale option shall apply

Options must be detailed and outlined, in accordance with 24 CFR 92.254, in marketing brochures, written agreements, and all legal documents with the homebuyer. The resale or recapture option must be described, including the distribution of net proceeds and treatment of appreciation, in the written agreement between the City and the homebuyer at the time of the initial assistance. Recapture **OR** resale options may be used but the options cannot be combined ("hybrids") within a single project.

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[1] – Building HOME, Chapter 9, September 2014

[2] – Notice: CPD 12-003

Appendix E: Optional Relocation Assistance Policy

The City of San Antonio (the City) may provide optional relocation assistance to households who are voluntarily displaced or temporarily relocated by an activity that is not required by either the Uniform Relocation Act or section 104(d) relocation assistance. Households involuntarily displaced will be compensated in accordance with the Uniform Relocation Act or section 104(d).

Relocation payments and assistance will be carried out under the City's CDBG and HOME programs as an eligible expense from project funds. Assistance shall be subject to the availability of grant funds and U.S. Department of Housing and Urban Development (HUD) implementing regulations. This Policy will be modified to meet any change in rules and regulations of HUD which may occur over time.

Regulatory information regarding optional relocation can be found at 24 CFR 92.353(d) and 24 CFR 570.606(d) respectively.

Eligibility Criteria

1. An eligible person is the owner and occupant of a single family detached dwelling who has applied for rehabilitation or reconstruction assistance of the dwelling occupied by the applicant owner, has been determined eligible under the City's Owner Occupied Rehabilitation and Reconstruction program requirements, and has been accepted for the program; and
2. Based on the determination of the City, the homeowner is required to vacate the dwelling and remove all personal property from the dwelling during the rehabilitation or reconstruction (and/or lead based paint abatement).

Income Requirements

Eligible residential applicants may be approved to receive assistance under this policy if the gross household income is at or below 80% of the median area income.

Terms of Assistance

Reimbursement of a portion of moving expenses will be available to eligible applicants to assist with the cost of temporary housing. Assistance will be based on the number of rooms of furniture that must be moved, excluding bathrooms, closets, and hallways, The City will follow the move payment schedule adopted by the Texas Department of Transportation. If determined reasonable and necessary by the City, storage of personal property is allowed for a period not to exceed twelve months and shall not exceed $2,000.

Recordkeeping

Complete records, files, documents and justification for any payment made pursuant to this Policy shall be maintained in accordance with 24 CFR 570.506 and 24 CFR 92.508.

Appendix F: Lead Based Paint Requirements CPD Monitoring Handbook 6509.2, Attachment 24-2, 02/2017

SUMMARY OF CPD's LEAD REQUIREMENTS FOR TARGET (MOST PRE-1978) HOUSING UNDER 24 CFR PART 35				
	Subpart of Rule/ Type Program	**Owner/Landlord Requirements[1, 2, 3]**	**Participant Monitoring Requirements**	**HUD Program Monitoring Requirements[6]**
A	Lead Disclosure Rule	· Federal lead information pamphlet · Lead Warning Statement · Disclose knowledge, records and reports about LBP and its hazards to potential buyers or lessees. · Opportunity for buyer to conduct evaluation.	If participant is the buyer or lessor, provide evidence of compliance with Lead Disclosure Rule.	OHHLHC and EPA are both responsible for ensuring compliance with Lead Disclosure Rule. OLHCHH has primary role for HUD-assisted/-owned housing.
B	General Requirements and Definitions	· Definitions. · Exemptions.[4] · Notice to occupants of evaluation and hazard reduction activities, if performed. · Pamphlet, if not previously provided.		
J	Rehabilitation Assistance:			
	For all Properties	· Provision of EPA-HUD renovation pamphlet. · Paint testing of surfaces to be disturbed, or presume LBP. · Notice to occupants of evaluation for paint testing or presumption. · Lead safe work practices during rehabilitation and lead hazard reduction. · Notice to occupants of lead hazard reduction including clearance · For HOME, ongoing LBP maintenance, and response to child under age 6 with EIBLL.	Evidence of compliance with the Lead Safe Housing Rule, and if participant is a buyer or seller, provide evidence of compliance with the Lead Disclosure Rule.	Program must ensure that Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).

SUMMARY OF CPD's LEAD REQUIREMENTS FOR TARGET (MOST PRE-1978) HOUSING UNDER 24 CFR PART 35				
Subpart of Rule/ Type Program		**Owner/Landlord Requirements[1, 2, 3]**	**Participant Monitoring Requirements**	**HUD Program Monitoring Requirements[6]**
	1. Property receiving less than or equal to $5,000 per unit federal rehabilitation assistance	· Paint testing · Repair disturbed paint. · Clearance of the worksite		
	2. Property receiving more than $5,000 and up to $25,000 per unit	· Risk assessment. · Interim controls. · Clearance of the unit (and common area, if worked on)		
	3. Property receiving more than $25,000 per unit	· Risk assessment. · Abatement of LBP hazards. · Clearance of the unit (and common area, worked on)		
K	Acquisition, Leasing, Support Services, or Operation	· Provision of pamphlet if not previously provided. · Visual assessment. · Option of paint testing and notice to occupants of evaluation. · Paint stabilization. · Notice to occupants of lead hazard reduction including clearance. · Ongoing LBP maintenance.	Provide evidence that Owner /Landlord complies with Lead Safe Housing Rule and if participant is a buyer or seller, Lead Disclosure Rule.	Program must ensure Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).

SUMMARY OF CPD's LEAD REQUIREMENTS FOR TARGET (MOST PRE-1978) HOUSING UNDER 24 CFR PART 35				
Subpart of Rule/ Type Program		Owner/Landlord Requirements[1, 2, 3]	Participant Monitoring Requirements	HUD Program Monitoring Requirements[6]
M	Tenant-Based Rental Assistance for units to be occupied by children under 6 years of age	· Provision of pamphlet if not previously provided. · Visual assessment. · Paint stabilization. · Notice to occupants of lead hazard reduction including clearance. · Ongoing LBP maintenance. · Response to child under age 6 with EIBLL.[5]	Provide evidence that Owner/Landlord complies with Lead Safe Housing Rule and if participant is lessor, the Lead Disclosure Rule (see above).	Program must ensure Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above). Program must provide evidence of capacity to respond to report of child poisoning.

NOTES:

1 Clearance, safe work practices and occupant protection are always required after abatement, interim controls, paint stabilization, or standard treatments, except when the amount of deteriorated paint is below the de minimis levels specified in Subpart R of the rule (24 CFR 35.1350(d)).

2 Notice to occupants must include results of evaluations (paint testing, inspection, and risk assessment) and clearance, where applicable.

3 Training requirements (see www.hud.gov/lead for information; see www.epa.gov/lead about certification):
  Evaluation includes inspection, paint testing and risk assessment
    Visual assessment: Web-based or instructor-led HUD visual assessment course or risk assessment certification.
    Inspection: Lead-based paint (LBP) inspection certification.
    Risk assessment, or re-evaluation: Risk assessment certification.
    Clearance: LBP inspection or risk assessment certification, or sampling technician course.
  Hazard control (other than small ("de minimis") amounts of paint disturbance – see 24 CFR 35.1350(d) about this exception):
    Repair of paint, paint stabilization, or interim control: Lead-safe work practices course.
    Abatement: Abatement worker, supervisor and firm certification. (Applies to all amounts of abatement, even de minimis)

4 See 24 CFR 35.115 for exemptions.

[5] Environmental Intervention Blood Lead Level: At least 20 micrograms of lead per deciliter of blood (µg/dL) for a single confirmed (venous blood) test of a child under age 6, or 15-19.9 µg/dL in two confirmed tests taken at least 3 months apart of such a child.

[6] Field Office monitoring areas of interest: Covered program responsibility, partnerships, information management (monitoring, data processing, tracking), reporting and responding, and resources.

Appendix G: Environmental Review Requirements

<u>Overview</u>

The National Environmental Policy Act of 1969 (NEPA) requires all federal agencies to adopt a systematic interdisciplinary approach to decision-making to ensure environmental values are considered. The U.S. Department of Housing and Urban Development (HUD) is one of the federal agencies that must comply with NEPA as applicable by 24 CFR Part 58. This compliance is extended downward to all recipients of HUD funding which includes the City of San Antonio also known as the Responsible Entity (RE). In this capacity, the RE is responsible for ensuring that the environmental review process is satisfied before federal funds are committed to a specific project site. The City receives HUD funding via multiple programs including the Community Development Block Grant (CDBG), HOME Investment Program (HOME), and Neighborhood Stabilization Program (NSP). Any project that the City funds with federal funds must comply with NEPA. This compliance requirement is satisfied with the completion of an environmental review.

<u>Purpose</u>

The primary objective of the environmental review is to identify specific environmental factors that may be encountered at a potential project site and to develop procedures that address the environmental consequences and actions that can protect, restore, and enhance the human environment (i.e. the natural, physical, social, and economic environment). All HUD funded projects and activities are required to have an Environmental Review Record (ERR) completed prior to the commitment of funds. The ERR must use the appropriate review format issued by HUD.

The environmental review was designed around the following factors:

- Make decisions based on understanding of environmental consequences before the final decision to move forward on a project is made.
- Ensure environmental information is made available to public officials and citizens before decisions are made and actions taken.
- Consider reasonable alternatives and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.
- Required by 24 CFR Part 58
- Secures the value of the public investment

<u>Levels of Review</u>

- **Exempt Activities, 24 CFR §58.34(a)**

  These reviews do not require compliance with any other federal laws or authorities cited in §58.5 but must comply with the applicable requirements of §58.6. Examples of qualified activities include, but are not limited to: environmental and other studies; information and financial services; administrative and management activities; engineering or design costs; and technical assistance or training.

- **Categorical Exclusions Subject to §58.5, 24 CFR §58.35(a)**

  These reviews are categorically excluded under NEPA, but may be subject to review under authorities cited in §58.5. Examples of qualified activities include, but are not limited to: acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings); special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons; and rehabilitation of buildings and improvements.

- **Categorical Exclusions Not Subject to §58.5, 24 CFR §58.35(b)**
  These reviews are categorically excluded under NEPA and have been determined by HUD to not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in §58.5. Examples include, but are not limited to: tenant-based rental assistance; supportive services; operating costs; and economic development activities.
- **Environmental Assessment (EA), 24 CFR §58.36**
  If the activity is not determined to fit under the first three types of environmental reviews, then it will require the preparation of an Environmental Assessment. Examples include, but are not limited to: new construction of housing, infrastructure, or facilities; and acquisition of land for the development of a housing subdivision.
- **Environmental Impact Statement (EIS), 24 CFR §58.37**
  An environmental impact statement (EIS) is required when the activity is determined to have a potentially significant impact on the human environment. Examples include, but are not limited to: construction of hospitals or nursing homes containing 2,500 beds or more; demolition, conversion, or substantial rehabilitation of 2,500 housing units or more; and additional water and sewer capacity.

<u>Procedure</u>

The environmental review procedure can be summarized in seven steps:

1. Define the project by considering the entire scope and budget. If HUD funds are only a portion of the budget, the environmental review process is still mandated.
2. Determine the level of review required by the project's scope of work.
3. Prepare the Environmental Review Record (ERR) internally by City staff or externally via a consultant using the HUD appropriate review format issued by HUD.
4. Provide supporting evidence and all relevant documents as required by HUD such as special studies, maps, plans, photographs, testimony, interviews, other agency reviews, and written observations from site visits.
5. Upload the ERR into HUD Environmental Review Online System (HEROS), HUD's comprehensive, online environmental review tool.
6. Publish any required notices to advise the public of the proposed activity and allow public comments. This may include a Notice of Intent to Request a Release of Funds or a Finding of No Significant Impact (FONSI).
7. Preparation and submission of the Request for Release of Funds (RROF) to HUD through HEROS.
8. Approval of the Environmental Review Record.
9. Compliance with record-keeping requirements of the Environmental Review Record.

All Environmental Reviews must be prepared by a City-approved environmental consultant. Consultants must have HEROS access and must have completed HUD HEROS training.

Additional Resources

- Link to the City's Environmental Review Policy, Procedures, and Standards https://www.sanantonio.gov/Portals/0/Files/GMA/policies/Environmental%20Review%20Procedures%20San%20Antonio.pdf

Appendix H: Universal Design Guidelines

Any person or entity receiving financial assistance from the City, State, or other Federal funds administered by the City for the construction of new single family homes, duplexes, or triplexes, construction of the units shall be in accordance with *Chapter 6, Buildings, of the City Code of San Antonio*, which includes *Article XII. Universal design and construction requirements*. This information is available online at:

- *Chapter 6, Buildings, of the City Code of San Antonio*
  https://library.municode.com/tx/san_antonio/codes/code_of_ordinances?nodeId=PTIICO_CH6BU
- *Article XII. Universal design and construction requirements*
  https://library.municode.com/tx/san_antonio/codes/code_of_ordinances?nodeId=PTIICO_CH6BU_ARTXIIUNDECORENESIFAHODUTRBUFUADSAAN

Design Guidelines

All builders and developers of infill housing are strongly encouraged to incorporate the defining features of a neighborhood into newly constructed infill houses. Those defining features of older inner city neighborhoods may include: roof pitches, porches, materials, and window types. Developers must comply with any standards established by an existing neighborhood conservation district and/or approved neighborhood plan.

For infill projects supported with federal funds, developers will be required to demonstrate that the neighborhood association near the land to be developed has been consulted regarding design issues. Developers should obtain input and feedback from the neighborhood residents and work with them to ensure that designs are compatible with existing housing and development patterns.

Infill is defined as the use of land within a built-up area for further construction. The definition includes, but is not limited to:

- The reuse and repositioning of obsolete or underutilized buildings and sites.
- Development that occurs on previously developed land. Infill buildings are constructed on vacant or underutilized property or between existing buildings
- The insertion of additional housing units into an already approved subdivision or neighborhood. These can be provided as additional units built on the same lot, by dividing existing homes into multiple units, or by creating new residential lots by further subdivision or lot line adjustments. Units may also be built on vacant lots.

In cases where an agreement cannot be reached between the developer and local neighborhood groups federal funding may be pulled from the project.

Specific design guidelines may be developed for certain City sponsored projects. Historic and neighborhood conservation district requirements must also be met for all projects.

For rehabilitation projects, builders and developers are strongly encouraged to retain the defining features of older structures. This applies to multi-family and single-family projects.

Appendix I: Underwriting and Subsidy Layering Policy for Affordable Housing Development Activities

The underwriting and subsidy layering requirements listed in this policy are applicable to Affordable Housing Development Activities.

Underwriting involves the analysis of project assumptions and risks to determine if the public investment is reasonable and the project can be expected to meet all applicable program requirements during the period of affordability. Subsidy layering is a component of project underwriting, which involves assessing whether the proposed level of HOME and/or CDBG assistance is appropriate given the level of project investment by other financing sources. This assessment may be completed by a third party contractor who will ensure compliance with HUD requirements, along with the City's policies.

I. MARKET ASSESSMENT

Before committing funds to a project, an assessment of the current market demand in the neighborhood in which the project will be located must be submitted. The assessment must address the demand for the type and number of all housing units being developed, not just those designated as HOME or CDBG assisted.

A market assessment should include:

- Evaluate general demographic, economic, and housing conditions in the community.
- Delineate the market area by identifying the geographic area from which the majority of a project's tenants or buyers are likely to come. This may or may not coincide with census tract or neighborhood boundaries.
- Quantify the pool of eligible tenants or buyers in terms of household size, age, income, tenure (homeowner or renter), and other relevant factors. Not all residents of the market area are potential or likely tenants or buyers of any given project.
- Analyze the market competition by evaluating other housing opportunities with an emphasis on other affordable rental developments or sales opportunities in the market area, including those financed through either the HOME/CDBG program or other federal programs.
- Assess the market for the planned units and determine if there is sufficient demand to sell the HOME-assisted housing within nine months of construction completion (§92.254(a)(3)) or to rent the HOME-assisted housing within 18 months of project completion (§92.252). CDBG does not have statutory requirements for sell or rent deadlines.
- Evaluate the effective demand and the capture rate, usually expressed as a percentage (the project's units divided by the applicant pool). The capture rate is the percentage of likely eligible and interested households living nearby who will need to rent units in the proposed project in order to fully occupy it. The lower this rate, the more likely a project is to succeed.
- Estimate the absorption period. Plan how many units can be successfully leased or sold each month and how long it will take to achieve initial occupancy/sale of the HOME or CDBG units and stabilized occupancy for the project as a whole.

The City may accept the independent market study prepared for another funder if the study meets the requirements as outlined above. However, the City will review any market studies or assessments and make its own conclusions about the likelihood of project success.

II. DEVELOPER CAPACITY ASSESSMENT

Developer capacity includes (1) the experience and the capacity of the developer (including the entity staff and project team) to implement the project and (2) the fiscal soundness of the developer to meet its financial obligations and risks of the project.

Experience: The assessment must show the experience of the developer by determining whether the developer has the technical and managerial experience, knowledge, and skills to successfully complete the development. Both prior experience and the current capacity of the organization will be included in the assessment. The City will take into account:

- The corporate or organizational experience of the development entity;
- The experience of the staff assigned to the project and overall quality of the development team; and
- The prior experience of the individuals compared to their roles in the proposed project.

For rental projects, a developer/owner needs specific skills and capacity including property management, asset management, service provision (as applicable), and special financing skills.

For homebuyer projects, the development team must demonstrate its capacity to market and sell the units. This may involve the addition of a realty professional to the team, or evidence that in-house staff have the capability to oversee the advertising, unit showing, intake, and processing of potential buyers. For CHDO activities, the City must certify that the CHDO has paid staff with experience relevant to the proposed project and role of the CHDO.

Financial Capacity: The City will examine whether the developer has the financial capacity necessary to complete the proposed project. This includes:

- Adequate financial management systems and practices; and
- Sufficient financial resources to carry the project to completion or through initial lease-up, as the case may be.

When determining whether the developer has the financial capacity to undertake the project, the City will examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.

III. PROJECT REVIEW

The City must evaluate a proposed project to ensure that funds are invested such that the project is likely to succeed over time. To verify this the City will assess all of the assistance that has been, or is expected to be, made available to that project, and take into account all the factors relevant to project feasibility, which may include, but are not limited to: total development costs and available funds; impacts of HOME restrictions such as eligible costs, maximum subsidy limits, cost allocation, and rent/utility allowance limitations; rates of return to owners, developers, sponsors, or investors; resale or recapture limitations for homebuyer projects; and the long-term needs of rental projects and tenants. In order to assess and underwrite the project, the City will review a sources and uses statement; and an operating pro-forma. For homebuyer development projects, the pro-forma will take the form of a sales and revenue plan.

A. SOURCES AND USES OF FUNDS

Sources
All financing sources must be in place before any commitment of federal funds to a project. The City may request the following for all project sources:

- Firm commitment letters with all terms and conditions for all mortgages, grants, bridge (interim) loans and investment tax credits (historical, low-income, if applicable);
- If the applicant is a partnership or limited liability corporation, a copy of the partnership agreement or operating agreement, which will indicate the cash contributions by the partner(s) or member(s); and
- If equity is committed by the developer or owner(s), evidence of available equity funds.

As part of the project sources review, a subsidy layering analysis will be completed to determine that the total amount of federal funding is reasonable and necessary.

In the case of projects with Low Income Housing Tax Credit (LIHTC), the project must have received a reservation from the Housing Credit Allocator (e.g., State Housing Finance Agency) and be able to provide a good faith offer of equity investment from an investor prior to the issuance of a HOME commitment.

Uses
Uses are the project costs that are budgeted to be paid during the development phase. The City will review all costs of the project because the determination of the amount of federal assistance needed is based on the gap between uses and other sources. Even costs not being paid with federal funds must be necessary and reasonable, as the inclusion of excessive costs inflates the apparent need for public subsidy in a project. The City will request and review documentation showing:

- Detailed breakdown of costs, including all hard and soft costs of the project, and review documentation or explanations of the basis of the calculation;
- Project budgets which include sufficient itemized detail to evaluate not only the sufficiency of the budget but also to evaluate whether project costs are reasonable both on a line item basis and in the aggregate; and
    - Additional documentation, a second opinion and/or reference from the appropriate source (i.e., another construction cost estimator, another architect or lawyer).
    - Note that for projects with tax credits to be sold, the proceeds from the sale of these credits must be identified as a source of funding.

In addition, the City will request and review documentation for all line item costs in the budget, including:

- Acquisition documentation, such as purchase agreement, option or closing statement and appraisal or other documentation of value;
    - Acquisition Costs: Please refer to related third party appraisal section in this Policy.
    - Acquisition-Related Costs: There will be a maximum 24-month look-back from the date that the City funds were committed to the Project. The City commitment expressly permits inclusion of specific acquisition-related costs. The following costs can be requested and considered by the City for inclusion in the project budget:

    - Relocation
    - Lender financing fees
    - Credit reports
    - Title binders and insurance
    - Surety fees
    - Recordation fees, transaction taxes
    - Legal and accounting fees
    - Appraisals
    - Architectural/engineering fees for plans and specifications
    - Environmental reviews
    - Affirmative marketing
- Purchase Price: The City will underwrite the acquisition cost based on the lesser of the option/purchase agreement purchase price or the appraised value of the property.
  - For a related-or affiliated-party transaction that occurs within three years of a previous arms-length third-party transaction, the City's underwritten acquisition cost will be based upon the lesser of the previous third-party transaction's purchase price, with no adjustment for appreciation or depreciation, or the appraised value of the property following selection for funding.
- Construction cost estimate, construction contract or preliminary bid(s);
  - A construction contingency is required whenever the City is funding its loan before the completion of construction:
    - For new construction developments, a minimum of 3% construction contingency, subject to the City review, is required. A construction contingency of up to 7%, subject to City review, may be allowed provided the need for additional contingency is documented and supported.
    - For rehabilitation developments, a minimum of 7% construction contingency, subject to City review, is required. A construction contingency of up to 15%, subject to City review, may be allowed provided the need for additional contingency is documented and supported.
    - Federal funds may not be budgeted as contingency funding.
- Contracts, quotes or other agreements substantiating key professional costs and the basis for estimating other soft costs and working capital items, including capitalized reserves;
- Agreements governing the various reserves which are capitalized at closing (to verify that the reserves cannot be withdrawn later as fees or distributions);
- A third-party appraisal (to substantiate the value of the land and the value of the property after rehabilitation or the structure being built);
- Projects Receiving City First Mortgage Acquisition Financing: Prior to a funding commitment, the borrower must provide a completed Appraisal Request Form for City-Ordered Appraisals by the date specified in the City's notice of funding award, unless the development is exempt from the appraisal requirement as described below. The establishment of the submission date will take into account the applicable funding source commitment deadline and the Borrower's project timeline.
- Developments exempt from the prior to commitment appraisal requirement:
  - Acquisition price under $100,000
  - Land only where there is no identity of interest. Identity of interest is used broadly to include non-arm's length transactions, related-party transactions, etc.

- Single family homes (1-4 family structures) that are aggregated under one loan
- The Borrower has provided a Market Study
- The Project is HUD 202 or HUD 811 with a funding reservation
- Note: Whenever, a project is exempt under one of the above provisions, the City will use assessed value unless the borrower requests an appraisal for determining acquisition cost as defined in these Underwriting Standards.
- Appraisals ordered by the Borrower will not be accepted. All appraisals must be ordered by the City, HUD or a designated HUD MAP lender, Fannie Mae or a designated Fannie Mae Delegated Underwriter Services (DUS) lender or a regulated financial institution.
- The cost of appraisals must be borne by the Borrower. All costs incurred for the appraisal, and any revisions, will be the responsibility of the applicant. The City will collect the appraisal costs from its loan proceeds at closing.
- An Agency ordered appraisal will be used to support the acquisition costs identified at the time of application. The appraised value will be used by the City and its funding partners in underwriting the acquisition cost.
- An As-Is Appraisal:
    - Land Only for New Construction: Fee simple value of the land. The market value appraisal will consider the real property's zoning as of the effective date of the appraiser's opinion of value. If the real property consists of more than one parcel, the parcels will be combined in one appraisal with one value conclusion.
    - Acquisition/Rehab:
        - Fee simple "as-is" value of the existing multi-family property assuming market rate rents
        - Fee simple, in "as-is" condition, with existing restricted rate rents
        - Adaptive Re-Use: Fee simple market value of the property to be adapted for an alternate use. The valuation will assume the highest and best use permitted by law and economically feasible in the current market.
    - If Low Income Housing Tax Credit (LIHTC) are utilized, documentation on the syndication costs (legal, accounting, tax opinion, etc.) from the organization/individual who will syndicate and sell the offering. This is to ensure that the project can support the fees necessary to syndicate/fund the project.
    - Note that for homebuyer projects, some of the costs – such as realty fees, closing costs and some of the developer fees – will not be incurred until the closing and might be paid out of closing proceeds. Also, since the development phase loans such as construction loans are repaid at time of sale from sales proceeds, the estimation of the period to sell and close on the units is an essential part of the analysis.

B. OPERATING PRO FORMA

The applicant must furnish an operating pro forma (project income and expense statement) projected for the HOME or CDBG period of affordability at a minimum, whichever is longer.

The City will evaluate the reasonableness of the financial assumptions of the project to establish:

- Minimum total per unit operating costs
- The sufficiency of both specific line item and total operating costs
- The long-term operating projections over the period of affordability are based on reasonable assumptions and

- The project can cover expenses and debt service throughout the affordability period. Note cash flow projections should be neither unduly conservative nor overly optimistic.

Long-term operating projections should be based on reasonable assumptions about how revenues and operating costs are expected to change over time, and demonstrate the project is expected to operate within normal operating parameters throughout the affordability period.

1) Projected Income

Operating revenues must be based on achievable rent levels, reasonable vacancy and collection loss, and conservative estimates of non-residential sources of incomes.

- In most projects, non-residential revenue from fees/late charges, commercial income, interest, laundry/vending, or other similar sources likely will be modest, therefore should be projected conservatively.
    - Other Income: The amount of other income (fees, laundry, and parking) should be reasonable and comparable to other developments within San Antonio.
    - Commercial Space: Income from commercial space will be underwritten on an exception basis only. Five years of operating history will be required, and the City and its underwriter will, at the City's sole discretion, determine an appropriate vacancy rate.
- Even in strong rental markets, HUD recommends setting initial rents somewhat below program limits or projected market rents because HOME rents may not increase as rapidly as market rents.
    - Year-one rents shown in the Project pro forma will be the rents that will be in effect when the development is placed in service. Existing operating developments will be underwritten at current rents unless there is sufficient evidence that a rent increase for the development is feasible in the local market.
- For developments with project-based Section 8 rental assistance, the City will underwrite and size debt based upon the lower of HUD-approved rents under Housing Assistance Payment Contract or market rents. In the case of developments pursuing renewal options that allow for staged-in HUD- approved "after rehab" rents, the City may allow the higher rent levels to be incorporated into the underwriting, but will underwrite a transition reserve into the development budget.
- Vacancy projections should reflect local market conditions and account for both physical vacancy and collections loss.
- Vacancy Factor: Properties will be underwritten at a 7.5% vacancy rate. A lower vacancy rate of 5% will be used if the property has (one or more of the following attributes):
        - Rents at least 20% below HOME rent limits for restricted units and 20% below comparable market rents for market rate units; or
        - Existing properties are supported by historic performance indicating a lower vacancy loss experience; or
        - Section 8 assisted properties if justified by historic operations.
        - The above percentages are minimums, and if warranted by historic performance or market conditions, a higher vacancy rate will be used. The City will, at its sole discretion, determine the appropriate vacancy rate.
- The rate of projected growth for rental income and other revenues should be appropriate to the local market and regulatory limits.

- In projects with deeply targeted rents, lower than average rates of revenue increase should be used, as utility allowances will surpass rent increases.Net Operating Income (gross revenue minus operating expenses) should be sufficient to cover debt service obligations and mandatory replacement reserve funding and generate reasonable but not excessive Cash Flow throughout the period of affordability.

2) Projected Expenses

All operating costs must be in sufficient detail to compare line items against properties that are similar in physical type and size. The operating budget must include general management expenses, maintenance and operating costs, any project paid utilities, taxes, insurance premiums, and adequate deposits to replacement reserves. Evaluation of total operating costs should be summarized in “per unit per year” amounts rather than as a percentage of projected revenue.

Most operating costs (e.g. water/sewer rates or lawn mowing) do not vary based on how much tenants are paying in rent. Whenever possible, the PJ should compare against other projects in the property manager’s portfolio or the neighborhood.

- Management and other fees to the owner should be reasonable in the local market.
  - The Borrower will submit the management and operating (M&O) budget based on anticipated stabilized operating expenses incurred after the development is placed in service or upon full occupancy. For operating properties, the historic M&O expenses will be used, with appropriate adjustments for projected economies attributable to the proposed rehabilitation and for changes associated with new program requirements.
  - M&O expenses (net of real estate taxes and reserves) will be evaluated and analyzed in relationship to comparable properties in City’s portfolio, expense comparable in the appraisal, and other information deemed relevant and appropriate.
  - M&O expenses are calculated on a per room basis. The rental rooms per unit are calculated as follows:

Unit Type	Rental Rooms Per Unit
Bed/Shelter	2
EFF/SRO	2.5
1 BR	3.5
2 BR	4.5
3 BR	6
4 BR	7
5 BR	8.5

- The proposed M&O expenses should be based on the Borrower’s current San Antonio, or southwest Texas if new to the San Antonio market, portfolio and supported by:
  - Actual operating data provided by the Borrower/management company for similar developments
  - Circumstances and/or significant changes to the economics of the development’s current marketplace, such as increased utility costs and property insurance
  - Operating trends of the Borrower or management company

The owner supporting the proposed M&O expenses should include:

- o For new construction:
  - Copies of the year-end operating information from three comparable developments that have been in operation preferably at least three years
- o For existing properties:
  - Copies of audited financial operating expense statements for the subject property for at least three stabilized years

  In sizing its funding awards, the City reserves the right to adjust the proposed M&O expense numbers based upon the information supplied, specified development type, circumstances and/or significant changes to the economics of the development's current marketplace. The City or its Underwriter will also use its M&O expense database to compare projected M&O expenses with audit data from comparable property types.

- Taxes: This section includes real property and personal property taxes, but does not apply to payroll taxes. An assessed value will be calculated based on the capitalization rate published by the county taxing authority. If the county taxing authority does not publish a capitalization rate, a capitalization rate of 10 percent or a comparable assessed value may be used.

  Property tax exemptions or a Proposed Payment In Lieu Of Tax (PILOT) agreement must be documented as being reasonably achievable. At the discretion of the City, a property tax exemption that meets known federal, state and local laws may be applied based on the tax-exempt status of the Development Owner and its Affiliates.
  - o The identity of interest (also referred to as related party) relationships with contracted property management, repair/rehabilitation contractors, or other project vendors must be disclosed.
  - o Minimum replacement reserve: Reserves for replacement shall be budgeted at no less than $250 per unit per year for new construction projects and $300 per unit per year for all other housing. If the Physical Needs Assessment/Capital Needs Assessment indicates a higher amount necessary to address future capital needs, then the higher amount will be required.
    - Initial Deposit to Replacement Reserve: The City may require an initial deposit to the replacement reserve, depending upon the 20-year capital needs assessment and the level of on-going contributions to replacement reserves.
- Any debt service or other funding/reserve requirements related to 'secondary' financing in mixed financed deals, if applicable.
  - o Operating Deficit Reserve: The City requires a minimum operating deficit reserve in an amount equivalent to three months of operating expenses and debt service. The City will consider a larger reserve, subject to a staff review and approval on a case-by-case basis. However, the operating deficit reserve can never exceed an amount equivalent to 18 months of operating expenses and debt service.
- Cash flow should be evaluated both as a "debt coverage ratio" and as a percentage of operating costs and debt service.
  - o Cash flow:

- The pro forma cash flow will assume revenue increases of no more than 2% per year and operating expenses increases of no less than 3% per year. Developments with expense-based rents can use income and expense inflation factors that are equivalent. Developments with project-based Section 8 will assume revenue increases no greater than historic average or 1.5% per year. A partially assisted project would have a pro rata inflation factor. The City reserves the right to change the appropriate inflation factors based on changes in the economic outlook.
- The development must have a break-even cash flow after all expenses and reserves for 15 years on a pro forma basis. The cash flow must include mandatory expenditures such as bond fees.

o Debt Coverage Ratio

- The level of risk presented by a development, including overall quality, current market conditions, and other factors, will be considered when making the determination of what level of debt service coverage a particular mortgage will require. The development must maintain a break-even cash flow for a minimum of 15 years on a pro forma basis.
- For the purposes of underwriting, the City's minimum and maximum debt coverage ratios are as follows:

	9% HTC New Construction	**4% HTC New Construction**
Minimum	1.15 DCR	1.20 DCR
Maximum	1.30 DCR	1.35 DCR
	Mixed Income	**At least 90% of Units are Section 8**
Minimum	1.20 DCR	1.15 DCR
Maximum	1.35 DCR	1.30 DCR
	Substantial Rehab	
Minimum	1.20 DCR	
Maximum	1.35 DCR	

Note: These DCRs are for City underwriting purposes in determining the size of the financing gap as it relates to the City's maximum loan calculation. It is not the intent of the City to set the DCR range for other project lenders, investors or other funders.

C. SALES PLAN – HOMEBUYER PROJECTS

The developer must submit a sales plan (which may also be evaluated as a component of the market assessment). This sales plan should indicate the developer's anticipated cash flow and timing of when and how units will be sold.

The City will evaluate the sales plan for:

- Timelines: The speed that the developer anticipates selling homes.
- Cash flow: The developer's intended plans for use of the sales revenues.

D. PROFIT AND RETURNS TO DEVELOPER

The City requires that any profit or return on the owner's or developer's investment will not exceed the City's established standards. This analysis includes profit that is projected to flow to the developer as operating cash flow from rental projects, sales proceeds from homebuyer units (if not considered as program income or CHDO proceeds) and any other professional fees being paid to the developer or related entities.

Developers and owners may financially benefit from federally-assisted projects in several ways:

- Developer Fees: These are fees charged by the developer as a part of the project cost to compensate for the risk, time and effort to build and sell or lease the property.
    - The developer fee is provided to the developer of rental housing for the time and energy expended on and risks associated with putting a development together. Developer fees include developer overhead, developer processing fee, if applicable, developer profit, and any other amounts received by the developer as approved by the City. The developer fee must be attributed only to the development.

      In some instances, the developer may delegate some of his or her responsibilities to a third party, such as a processing agent or consultant. In such cases, the delegated responsibilities must be thoroughly understood by all parties involved, and the fee paid to the third party shall be included in the calculation of the permitted maximum developer fee.

      A developer fee can be included in the total development cost of the project. For rental development projects, the maximum allowable developer fee is based on a percentage of the total development cost less the developer fee.

Development Type	Size	Maximum Developer Fee
New Construction or Rehabilitation	First 150 Units	15%
Rehabilitation	Units 151 and over	15%
New Construction	Units 151 and over	12%

      If the City is disbursing its funds, in part or full, prior to construction completion and stabilized occupancy, the maximum amount of developer fee paid at closing is 25%. Of the remaining developer fee, up to an additional 60% of developer fee shall be paid no sooner than the final construction draw. The final 15% shall be paid no sooner than the developer's submission of all required tenant beneficiary information for City assisted / rent restricted units. This excludes deferred developer fee to be paid from future project cash flow.

      For homeownership housing development, a developer fee ranging from 10% to 15% of the Fair Market Value of the residential property will be negotiated during the underwriting process.

- General Contracting Fees:
    - Contractor's Profit: The maximum contractor profit is 6% of net construction costs. Net construction costs are defined as construction costs and on-site work not including contractor profit, general requirements, and overhead.
    - General Requirements/General Conditions: The maximum general requirements allowed are 6% of the net construction costs.
    - Contractor's Overhead: The maximum allowance for overhead is 2% of net construction costs.
        - Note: The contractor fee limits may deviate from the above-noted maximum allowances so long as they do not exceed 14% of net construction costs in the aggregate.
- Developer or Owner as Contractor: When there is an identity of interest between the developer or owner and the contractor, in addition to the fee limits stated above, the combined balance of developer fee, contractor profit, contractor overhead, and general requirements may not exceed 20% of the total development costs less the developer fee. The City considers there to be an identity of interest ("IOI") concern when the owner or developer is an affiliate of, or a related party to, to the contractor.
- Sales revenues: Developers of for-sale properties may keep some or all of the sales proceeds, as deemed reasonable by the City.
- Cash-Flow: Assuming that the rental property is properly structured and financed, successfully attracts residents, and is effectively managed; the project likely will have positive net cash-flow after the payment of debt service. Cash-flow is distributed to the owner and/or investors as a return on their original investment.
- Tax Benefits: Rental owners and/or investors can also benefit from tax savings—a reduction in the income taxes they owe due to tax losses or tax credits.
- Equity Appreciation: Over time, the value of the rental project sponsor/owner's ownership share in the project will increase as debt financing is paid down (due to the portion of debt service that is applied to the loan principal), and depending on market conditions, the property appreciates in value.
- Identity of Interest (IOI) Roles: Some developers may also own construction companies and if this company is used for the HOME project, the construction firm may earn reasonable profit and overhead as a component of the development budget. If the rental property owner also operates a property management company contracted to service the property, the developer may earn fees from those activities. These and other IOI contracts require additional scrutiny by the PJ to make sure that they are clearly disclosed, priced at arms-length rates, and subject to cancellation if the IOI contractor does not provide acceptable service. For purposes of this paragraph, when there is an IOI between the developer and contractor, reasonable profit is determined to be the lessor of the actual profit or the amount determined by application of the appropriate cap rate set forth above.

IV. ESTABLISHING THE LEVEL OF SUBSIDY (SUBSIDY LAYERING)

The analysis to determine the amount of investment needed to make a project feasible is sometimes referred to as "gap analysis", as it is used to determine the gap between approved costs (Uses) and available financing and other subsidies (Sources). The gap is influenced by many factors, some of which can be modified prior to commitment, including:

- Level of physical improvements;
- Rent levels and affordability;
- Income levels being served (e.g., a target population of 60 percent of median income could require less assistance than if the target population is below 30 percent of area median income); and
- Payment terms of all funding, including HOME, CDBG and other public funding.
- The City's funding will be the "last gap in" such that the City's funding will be the first funding source reduced when there are net cost savings or increases in other sources.

In addition to conducting the subsidy layering review described above, before committing HOME funds to a project to help fill the financing gap, the City will review:

- Evaluate Debt Capacity. Make sure that the lender's financing terms are reasonable and comparable to those available from other lenders.
    - Are other lenders willing to finance at a higher loan to value ratio (LTV)?
    - Are other lenders willing to finance at a lower debt coverage ratio (DCR)?
    - Is the interest rate competitive with what other lenders are willing to offer?
- Evaluate Equity Contributions. Evaluate the full spectrum of returns that are accruing to owners and investors. Also, evaluate the calculations of tax credit basis and market price to determine if the projected amount of tax credit equity is reasonable.

V. UNDERWRITING TO PROMOTE SELF-SUSTAINING PROJECTS

To promote long-term financial viability and self-sustaining operations for assisted projects during their HOME and CDBG affordability periods, the City will approach the underwriting process in a way that helps to assure:

- Gross potential rents that are actually achievable, taking into account location, design, and intended resident population.
- An allowance for rent loss (vacancy, bad debt, and concessions) that reflects the likely long-term average the property can be expected to achieve.
- Underwritten operating expenses that are likely to be adequate to allow a competent management agent to operate the property successfully, in a typical year.
- Trending factors for income and expenses that are reasonable and prudent.
- Sufficient debt service coverage to allow the property to survive income and expense shocks.

Reserve funding that, when combined with reasonably foreseeable future cash flow and reasonably foreseeable future refinancing potential, will be adequate to meet the property's capital needs over the affordability period.

VI. REFERENCES

Notice CPD-15-11: Requirements for the Development and Implementation of HOME Underwriting and Subsidy Policy
https://www.hudexchange.info/resources/documents/Notice-CPD-15-11-Requirements-for-the-Development-and-Implementation-of-HOME-Underwriting-and-Subsidy-Layering-Guidelines.pdf

Appendix J: Residential Construction Management Policy (RCMP)

In order to comply with 24 CFR 92.251, all HOME-funded properties must meet certain minimum property standards at project completion. There is a significant distinction between HOME and CDBG when it comes to property standards. Under CDBG, there are no established rules regarding property quality[1]. The City has decided to apply the property standards contained herein to all HUD funded acquisition, construction, or rehabilitation projects. Table 1 lists the minimum property standards that apply to each type of HUD activity. These property standards apply to project commitments on or after October 31, 2019.

Pursuant to 24 CFR 92.251(b)(1)(vii), whenever HOME funds are used for rehabilitation, the work must be performed according to the City's written rehabilitation standard and *all* systems in the unit must be brought up to meet the City Residential Building Code. Rehabilitation projects that do not include any HOME assistance are exempt from this regulation. However, any work funded by other HUD programs must be in compliance with all applicable codes and requirements in effect at the time of construction.

City Residential Building Codes:
Includes all City adopted building codes, land use regulations, ordinances, requirements, design standards, and construction standards;

Uniform Physical Condition Standards (UPCS):
UPCS are uniform standards established by HUD pursuant to 24 CFR 5.703 to ensure that housing is decent, safe, sanitary, and in good repair;

Housing Quality Standards (HQS):
This standard applies only to tenant-based rental assistance (TBRA) inspections and is covered in 24 CFR 982.401;

Lead Safe Housing Rule Standards:
The Lead Safe Housing Rule (24 CFR Part 35) requires certain actions in pre-1978 properties to identify and address lead hazards for all HOME-assisted activities;

Accessibility for persons with disabilities:
Requirements related to accessibility for persons with disabilities apply pursuant to the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and Title II and Title III of the Americans with Disabilities Act;

Site and neighborhood standards:
The site and neighborhood standards of 24 CFR 983.57(e)(2) and (e)(3) apply to new construction of rental housing;

Manufactured home safety and construction standards:
All new manufactured housing must meet the construction and safety standards of 24 CFR 3280.

Table 1

Minimum Property Standards by Activity	Applicable Section of Manual	Minimum Property Standard All HUD assisted projects
Tenant-Based Rental Assistance (TBRA) 92.209(i)	**Section 4**	• Housing Quality Standards • Lead Safe Housing Rule
Single Family Homebuyer Property Standards 92.251(c)(3) - Acquisition of newly constructed or existing housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)(down payment assistance)	**Section 5**	• City Residential Building Code • Uniform Physical Condition Standards • Lead Safe Housing Rule • Manufactured Home Construction and Safety Standards (if applicable)
Single Family Homeowner Property Standards 92.251(b) - Rehabilitation of housing	**Section 5**	• City Residential Building Code • Texas Department of Housing and Community Affairs' Texas Minimum Construction Standards • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Manufactured Home Construction and Safety Standards (if applicable)
Single Family Homebuyer Property Standards 92.251(a) - New construction of housing	**Section 5**	• City Residential Building Code • Accessibility Requirements • Manufactured Home Construction and Safety Standards (if applicable)

Rental Housing Property Standards 92.521(c)(1) - Acquisition of newly constructed housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)	**Section 6**	• City Residential Building Code • Accessibility Requirements • Broadband Infrastructure; buildings with 4 or more rental units • Manufactured Home Construction and Safety Standards (if applicable)
Rental Housing Property Standards 92.251(c)(1) - Acquisition of newly renovated housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)	**Section 6**	• City Residential Building Code • Texas Department of Housing and Community Affairs' Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable. • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Broadband Infrastructure; buildings with 4 or more rental units • Manufactured Home Construction and Safety Standards (if applicable)
Rental Housing Property Standards 92.251(c)(2) - Acquisition of existing housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)	**Section 6**	• City Residential Building Code • Texas Department of Housing and Community Affairs' Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable. • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Broadband Infrastructure; buildings with 4 or more rental units • Manufactured Home Construction and Safety Standards (if applicable)
Rental Housing Property Standards 92.251(b) -	**Section 6**	• City Residential Building Code • Texas Department of Housing and Community Affairs' Property Standards for HOME Multifamily or

Rehabilitation of housing		Texas Minimum Construction Standards, as applicable. • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Broadband Infrastructure; buildings with more than 4 rental units • Manufactured Home Construction and Safety Standards (if applicable)
<u>Rental Housing Property Standards</u> 92.251(a) - New construction of housing	<u>**Section 6**</u>	• City Residential Building Code • Accessibility Requirements • Site and Neighborhood Standards • Broadband Infrastructure; buildings with more than 4 rental units • Manufactured Home Construction and Safety Standards (if applicable)

Section 1: General Information

The U.S. Department of Housing and Urban Development provides programmatic funds to rehabilitate and construct affordable housing. Developers shall ensure that projects are in compliance with City Residential Building Code current at the time of permit issuance.

The City has adopted additional standards related to the rehabilitation of affordable housing units and are described beginning in Section 2. The following general information items are applicable to all residential construction projects.

Permits:
The Contractor shall obtain and display at the job site all permits and permit cards as required by the City.

Site Use:
The Contractor shall use the site and its facilities only for the specified construction. The electrical, sanitary waste, water, and gas system shall be used only for construction purposes during the construction phase.

Sanitary Facilities:
Contractor shall be responsible to determine the need for adequate sanitary facilities and to provide those accommodations on site.

Equipment:
Contractor shall be responsible for the safe operation of equipment at all times.

Trades persons:
All work shall be done with skilled and licensed craftsman and accomplished with care.

Construction Materials:

All materials used shall be new (unless otherwise specified in the specifications manual) and of a good quality.

Qualifications of Bidders:

City, the Owner or the City acting on behalf of the Owner, may make such investigations as the Owner or the City deems necessary to determine the ability of the offeror to perform the work, and the offeror shall furnish to the Owner and/or the City all such information and data for this purpose as the Owner and/or the City may request. City, The Owner, or City acting on the Owner's behalf, reserves the right to reject any proposal if the evidence submitted by, or investigation of, such offeror fails to satisfy the Owner or the City that the offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

Duplicate Codes:

This document is not intended to take the place of or duplicate the codes adopted by the City. It is intended to clearly define the various methods of construction and the specific materials to be used in the construction work outlined in the description of the work to be performed.

Contract Documents:

Prime contractor, general contractor, and sub-contractor agreements shall utilize the appropriate AIA Contract Document for all construction agreements. All construction invoicing shall utilize the AIA G702 Application and Certificate for Payment form.

Section 2: Construction Standards

The minimum property standards:

contained in this policy do not preempt State or City standards, nor do they alter or affect a builder's obligation to comply with any State or City requirements. However, a property shall be eligible for benefits only if it complies with all applicable minimum property standards, including referenced standards.

Conflicting Standards:

In any case where construction standards may conflict with state law and/or City ordinances, the more restrictive requirement shall prevail.

Final Authority:

In the event interested parties cannot agree to a resolution in regard to conflicting standards, the City of San Antonio, Grants Administrator or designee reserves the final authority to determine, in the Grants Administrator or designee's sole discretion, which standard shall be implemented.

Section 3: Definitions

Texas Department of Housing and Community Affairs (TDHCA) Texas Minimum Construction Standards (TMCS):

In accordance with 24 CFR 92.251(b)(1), the purpose of the TMCS document is to identify requirements for Rehabilitation while promoting healthy, safe and decent housing for low- to moderate- income households. TMCS outlines the minimal level of work, methods and materials required, for rehabilitation work. The TCMS will be utilized in order to evaluate and determine that rehabilitation work is in compliance.

Texas Department of Housing and Community Affairs (TDHCA) Property Standards for HOME Multifamily:

In accordance with 24 CFR 92.251(b)(1),The Property Standards for HOME Multifamily document is intended to provide the minimum property standards for new construction, reconstruction, rehabilitation, and maintenance of multifamily housing facilities that receive any federal assistance.

City Residential Building Codes:

This document is not a substitute for City Residential Building Code (CRBC), which will typically apply to any substantial new work that is being done on existing structures. In some cases, CRBC will apply to existing conditions whether addressed in the course of rehabilitation, or not. In all cases, grantees are responsible for determining the applicability of local building codes. 24 CFR 92.251(a)

Note **–** The City's Residential Building Code does not include a disaster mitigation plan.

Lead Safe Housing Rule:

Pre-1978 housing assisted with HUD funds is subject to implementing regulations at 24 CFR Part 35, subparts A, B, J, K, M and R of this title. All units in a project assisted with HUD funds shall comply with the regulation implementation Title X of the 1992 Housing and Community Development Act. 24 CFR § 92.355

Uniform Physical Condition Standards (UPCS):

A set of standards established by HUD pursuant to 24 CFR 5.703 for housing that is decent, safe, sanitary, and in good repair. The inspection checklist will assess the physical condition of housing units which are assisted under various programs of HUD. Inspection areas include, but are not limited to, site, building exterior, building systems, dwelling units, and common areas. 24 CFR 92.251(b)(1)(viii) & 24 CFR 92.251(c)(3)

Major Systems:

In accordance with 24 CFR 92.251(b)(1)(i), **u**pon project completion, each of the major systems shall have a remaining useful life of at least five years; otherwise, the major systems shall be rehabilitated or replaced as part of the rehabilitation work. For homeownership and rental housing, include structural support, roofing, cladding, and weatherproofing (e.g., windows, doors, siding, gutters), plumbing, electrical and heating, ventilation, and air conditioning.;

For projects with 26 or more units, this determination shall be done with a capital needs assessment. If the remaining useful life of a system is less than the affordability period, it must be replaced or rehabilitated. Estimates and capital needs assessments shall be certified by an architect or engineer experienced and competent in this type of work.

Accessibility for Persons with Disabilities:

The housing must meet the accessibility requirements of 24 CFR Part 8, which implements the Fair Housing, and Section 504 of the Rehabilitation Act of 1973, and Titles II and III of the Americans with Disabilities Act implemented at 28 CFR Part 35 and 28 CFR Part 36, as applicable. 24 CFR 92.251(a)(2)(i) & 24 CFR 92.251(b)(1)(iv)

Site and Neighborhood Standards:

For new construction of rental housing, the City is responsible for making the determination that proposed sites for new construction meet the requirements in 24 CFR 983.57(e)(2) and (3). A site and neighborhood standards certification form shall be included in the project application. City will review and verify accuracy of this certification prior to commitment of HUD funds. 24 CFR 92.202

Broadband Infrastructure:

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. 24 CFR 92.251(a)(2)(iv) & 24 CFR 92.251(b)(1)(x)

Housing Quality Standards (HQS):

In accordance with 24 CFR 92.209(i), the City is required to use HQS or the successor requirements established by HUD, for HOME tenant-based rental assistance only. The HQS Inspection Form shall be used to ensure that a property meets HUD's Housing Quality Standards.

Covered multifamily dwellings:

means buildings consisting of 4 or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of 4 or more dwelling units. 24 CFR 100.201

Manufactured Home and Construction Standards:

New manufactured housing shall meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280, which preempt state and local codes covering the same aspects of performance for such housing. Installation of manufactured housing units shall comply with applicable State of Texas and City Residential Building Code. In the absence of such laws or codes, the installer shall comply with the manufacturer's written instructions for installation of the manufactured housing units.

New manufactured housing shall:

1) be installed according to state or local codes (or, if none, the manufacturer's written instructions),
2) be on a permanent foundation [that meets the requirements of 24 CFR 203.43f (c)(i)],
3) have permanent utility hook-ups, and
4) 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.

If manufactured housing is rehabilitated with HUD funds, the foundation and anchoring must meet all applicable state and local codes, ordinances, and requirements; or, if none, the Model Manufactured Home Installation Standards at 24 CFR 3285; and, meet the other property standards for units rehabilitated with HUD funds. 24 CFR 92.251(e)

Section 4: Tenant-Based Rental Assistance (TBRA)

TBRA provides assistance to individual households, rather than subsidizing particular rental projects. TBRA helps tenants afford the housing costs of market-rate rental units. In addition, the TBRA assistance moves with the tenant -

4.1 Tenant-Based Rental Assistance only:

- *Housing Quality Standards (HQS)* or the successor requirements established by HUD. The use of HQS is required for HOME tenant-based rental assistance only. City shall use the HQS Inspection Checklist to ensure compliance during initial and annual inspections.

- *Lead Safe Housing Rule:* All units in a project assisted with HUD funds shall comply with the regulation implementation Title X of the 1992 Housing and Community Development Act (24 CFR Part 35).

Section 5: Single Family Property Standards

Properties that are acquired, rehabilitated, or newly constructed with HUD funds must meet specific standards required by the HOME Rule at 24 CFR 92.251.

Pursuant to 24 CFR 92.251(b)(1)(vii), whenever HOME funds are used for rehabilitation, the work must be performed according to the City's written rehabilitation standard and *all* systems in the unit must be brought up to meet the City Residential Building Code. Rehabilitation projects that do not include any HOME assistance are exempt from this regulation. However, any work funded by other HUD programs must be in compliance with all applicable codes and requirements in effect at the time of construction.

5.1 Acquisition only (new construction):

This section applicable to down payment assistance. Properties receiving assistance for acquisition only that are newly constructed shall meet the following property standards and requirements:

City Residential Building Code
Uniform Physical Condition Standards
Manufactured Home Construction and Safety Standards (if applicable)

Acquisition only (newly rehabilitated):

This section applicable to down payment assistance. Properties receiving assistance for acquisition only) that have been rehabilitated within 12 months of project commitment shall meet the following property standards and requirements:

- *City Residential Building Code*
- *Uniform Physical Condition Standards*
- *Lead Safe Housing Rule*

Rehabilitation:

Properties receiving assistance for rehabilitation shall meet the following property standards and requirements:

- *City Residential Building Code*
- *TDHCA's* Texas Minimum Construction Standards
- *Uniform Physical Condition Standards*
- *Major Systems Useful Life*
- *Lead Safe Housing Rule*
- *Accessibility Requirements*

New Construction:

Properties receiving assistance for new construction shall meet the following property standards and requirements:

- *City Residential Building Code*
- *Accessibility Requirements*

- *Manufactured Home Construction and Safety Standards if applicable*

Manufactured Home and Construction Standards:

New manufactured housing shall meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280, which preempt state and local codes covering the same aspects of performance for such housing. Installation of manufactured housing units shall comply with applicable State of Texas and City Residential Building Code. In the absence of such laws or codes, the installer shall comply with the manufacturer's written instructions for installation of manufactured housing units. 24 CFR 92.251(e)

New manufactured housing shall:

- be installed according to state or local codes (or, if none, the manufacturer's written instructions),
- be on a permanent foundation [that meets the requirements of 24 CFR 203.43f (c)(i)],
- have 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.

Inspections:

City shall inspect the property prior to occupancy or at project completion to ensure compliance with applicable standards and codes. The property shall be free from any defects that pose a danger to the health and safety of occupants before occupancy. The property shall meet all standards, City codes, and ordinances at project completion.

Section 6: Rental Property Standards

Properties that are acquired, rehabilitated, or newly constructed with HUD funds must meet specific standards required by the HOME Rule.

Pursuant to 24 CFR 92.251(b)(1)(vii), whenever HOME funds are used for rehabilitation, the work must be performed according to the City's written rehabilitation standard and *all* systems in the unit must be brought up to meet the City Residential Building Code. Rehabilitation projects that do not include any HOME assistance are exempt from this regulation. However, any work funded by other HUD programs must be in compliance with all applicable codes and requirements in effect at the time of construction.

Acquisition only (new construction):

Properties receiving assistance for acquisition only that are newly constructed units must meet the HOME property standards for new construction.

- *City Residential Building Code*
- *Accessibility Requirements*
- *Broadband Infrastructure (more than 4 rental units)*
- *Manufactured Home Construction and Safety Standards (if applicable)*

Acquisition only (newly rehabilitated):

Properties receiving assistance for acquisition only that have been rehabilitated within 12 months of project commitment must meet the HOME property standards for rehabilitation.

- *City Residential Building Code*

- *TDHCA's Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable Uniform Physical Condition Standards*
- *Major Systems Useful Life*
- *Lead Safe Housing Rule*
- *Accessibility Requirements*
- *Broadband Infrastructure (more than 4 rental units)*

Rehabilitation:

If the rental project involves rehabilitation, the following property standards and requirements apply.

- *City Residential Building Code*
- *Major Systems Useful Life*
- *Uniform Physical Condition Standards*
- *TDHCA's Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable*
- *Accessibility Requirements*
    - *Covered Multi-family dwellings as defined at 24 CFR 100.201 must meet Design and construction requirements at 24 CFR 100.205*
- *Lead Safe Housing Rule*
- *Broadband Infrastructure (more than 4 rental units)*

New Construction:

If the rental project involves new construction, the following standards and requirements apply:

- *City Residential Building Code*
- *Accessibility Requirements*
    - *Covered Multi-family dwellings as defined at 24 CFR 100.201 must meet Design and construction requirements at 24 CFR 100.205*
- *Site and Neighborhood Standards*
- *Broadband Infrastructure (more than 4 rental units)*
- *Manufactured Home Construction and Safety Standards (if applicable)*

Inspections:

City shall inspect the property prior to occupancy or at project completion to ensure compliance with applicable standards and codes. The property shall be free from any defects that pose a danger to the health and safety of occupants before occupancy. The property shall meet all standards, City codes, and ordinances at project completion.

Section 7: Affordability Period for Rental Housing

Ongoing standards during affordability period:

in accordance with 24 CFR 92.251(f), during the affordability period, the property owner shall ensure that properties comply with:

- *Uniform Physical Condition Standards*
- *City Residential Building Code*
- *Lead Safe Housing Rule*

Periodic property inspections:

The City shall perform on-site inspections of HUD-assisted rental housing in accordance with

92.504(d) to determine compliance with property standards and to verify the information submitted by the owners in accordance with these requirements:

- The on-site inspections shall occur within 12 months after project completion and at least once every 3 years thereafter during the period of affordability;
- If there are observed deficiencies for any of the inspectable items in the property standards established by the City, a follow-up on-site inspection to verify that deficiencies are corrected shall occur within 12 months. The City may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re-inspection. Health and safety deficiencies must be corrected immediately. The City shall adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies;
- The property owner must annually certify to the City that each building and all HUD- assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the City; and
- Inspections shall be based on a statistically valid sample of units appropriate for the size of the HUD-assisted project, as set forth by HUD through HOMEfires-Vol3-No2. For projects with one-to-four HUD-assisted units, City shall inspect 100 percent of the HUD-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HUD-assisted units.
- Rental property inspections shall be the responsibility of the City GMA compliance unit. Inspection procedures in accordance with 24 CFR 92.251(f)(5) shall be maintained in the Compliance unit policy manual.

[1] – HOME and CDBG Guidebook. p. 38 https://files.hudexchange.info/resources/documents/HOME-CDBGGuidebook.pdf

Appendix K: Glossary

Annual Income
The gross amount of income that household members are expected to receive during the coming 12 month period.

Area Median Income (AMI)
The household income for the median household in a region. Each year, the Department of Housing and Urban Development (HUD) calculates the median income for every metropolitan region in the country.

Community Development Block Grant (CDBG)
The CDBG program is a flexible federal funding program administered by the US Department of Housing and Urban Development (HUD) that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. CDBG is an important tool for helping local governments tackle serious challenges facing their communities.

Community Housing Development Organization (CHDO)
A private, nonprofit, community-based organization with qualified staff that is receiving HOME funds as the owner, developer, or sponsor of affordable housing for the community it serves.
A CHDO is a specific type of private nonprofit entity. To qualify as a CHDO, an organization must meet certain requirements.

Development Subsidy HOME/NSP
Assistance provided to developers by the City in an amount that can be above the fair market value up to the total development cost. This amount is NOT used in a recapture provision.

Direct HOME/NSP Subsidy
The amount of assistance, including any program income that enables the homebuyer to buy the unit. This includes: down payment assistance, closing cost assistance, interest subsidies and any direct subsidy that reduces the purchase price from fair market value to an affordable price. This means that if HOME funds are used for the cost of developing a property and the unit is sold below fair market value, the difference between the fair market value and the purchase price is considered to be directly attributable to the HOME subsidy, and is assistance to the buyer.

Eligible Mortgagor
Shall be a single asset mortgagor entity acceptable to the Federal Housing Commissioner, as limited by the applicable section of the Act (i.e. Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d), and shall possess the powers necessary and incidental to operating the project, except that the Federal Housing Commissioner may approve a non-single asset mortgagor (i.e. original borrower under a mortgage and its successors and assigns) entity under such circumstances, terms and conditions determined and specified as acceptable to the Federal Housing Commissioner; and shall not be a natural person or tenant in common (per 24 CFR 200.5).

Extremely Low-income CDBG/HOME
Annual gross incomes do not exceed 30 percent of the median income for the area (adjusted for family size).

Fair Market Rent (FMR)
Primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME rental assistance program.

Fair Market Value
The amount of money that would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy.

General Requirements/General Conditions
Costs to be considered include:

- Field Office Expenses (e.g. field office, mobilization and demobilization, furniture and furnishings, janitorial, reproduction services, copy machines, fax machines, printers, scanners, paper shredders, computers, software, networking/infrastructure, tech maintenance, office telephones, telephone services, jobsite radios/cellular phones, postage, courier, expressage, scheduling expenses, job meeting expenses, temporary parking and laydown areas, storage facilities, office supplies, labor and travel associated with partnering sessions, construction redline drawings, and project specific signage);
- Temporary Amenities (e.g. temporary toilets, temporary fire protection, fencing and protecting walkways, temporary water distribution and meters, temporary electrical distribution and meters, site erosion control, temporary field offices, drinking water and accessories, cleanup and dumpsters, and temporary heat and ventilation);
- Site Cleanliness and Housekeeping (i.e. daily site cleanup, building cleanup, and final facilities cleaning);
    - Equipment Rental;
    - Permits;
    - Health and Safety Program;
    - Security Program;
    - Material Inspections and Tests;
    - Project Information and Documentation;
    - Construction Management Labor;
    - Tools and Equipment;
    - General Contractor’s Insurance (except Builder’s Risk)
    - Work Requirements (e.g. surveying equipment and tools, miscellaneous support labor and coordination, surveying and layouts, project site lighting, emergency lighting, temporary barricades, temporary fencing, temporary partitions, and temporary separation/isolation on project site during construction period).

Hard Costs
Often referred to as “brick-and-mortar costs”, involve the actual physical construction of a development. These could include labor, grading, excavation of a site, the materials used, landscaping, and carpentry.

HOME Investment Partnerships Program (HOME)

HOME, administered by the US Department of Housing and Urban Development (HUD), is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. The HOME program provides formula grants that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities. Eligible HOME projects include building, buying, and/or rehabilitating affordable housing for rent or homeownership, as well as providing direct rental assistance to low-income people.

Household

All the people who occupy a housing unit. A household includes related family members *and* any unrelated people residing in the unit Household members include, but are not limited to, lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Housing Quality Standards (HQS)

These standards help HUD and local Public Housing Authorities (PHAs) define "standard housing" by establishing the minimum quality criteria necessary for the health and safety of program participants.
In accordance with [24 CFR 92.209(i)], the City is required to use HQS or the successor requirements established by HUD, for HOME tenant-based rental assistance only. The [HQS Inspection Form] shall be used to ensure that a property meets HUD's Housing Quality Standards.

Identity of Interest (IOI)

An identity of interest relationship exists if any officer, director, board member, or authorized agent of any project team member (consultant, general contractor, supplier, vendor, vendee, attorney, management agent, seller of the land, etc.):
(i) is also an officer, director, board member or authorized agent of any other project team member;
(ii) has any control over or any financial interest in any other project team member's firm or corporation;
(iii) is a business partner of an officer, director, board member, or authorized agent of any other project team member;
(iv) has a family relationship through blood, marriage or adoption with an officer.

Low- and Moderate- Income (LMI)

LMI is one of three national objectives for the CDBG program. The LMI national objective is often referred to as the "primary" national objective because the statute requires that recipients expend 70 percent of their CDBG funds to benefit LMI persons. The four categories that can be used to meet the LMI national objective:

- Area Benefit activities;
- Limited Clientele activities;
- Housing activities; or
- Job Creation or Retention activities

Low-Income CDBG/NSP

Income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

Low-income HOME
Annual gross incomes do not exceed 80 percent of the median income for the area (adjusted for family size).

Median
The median is the value separating the higher half from the lower half of a data sample (a population or a probability distribution). For a data set, it may be thought of as the "middle" value. For example, in the data set {1, 3, 3, 6, 7, 8, 9}, the median is 6, the fourth largest, and also the fourth smallest, number in the sample. For a continuous probability distribution, the median is the value such that a number is equally likely to fall above or below it.

Middle-income NSP
Annual gross incomes do not exceed 120 percent of the median income for the area (adjusted for family size)

Moderate-Income CDBG
Income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income limit (50% of area median income) established by HUD.

Net Proceeds
This is the seller's financial gain after seller has (a) satisfied all mortgages (including the PHA's, if it provided one), (b) paid closing costs, and (c) recovered seller's investment (down payment and other paid-in equity, and the depreciated value of seller's improvements to the home).

Participating Jurisdiction (PJ)
Any State or local government that has been designated by HUD to administer a HOME program grant. The City is the participating jurisdiction with the City of San Antonio limits and extra-territorial jurisdiction.

Public Facility Corporation (PFC)
A corporation created by and existing within the State of Texas, with the broadest possible powers to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing costs.
A PFC is created to be a public corporation, constituted authority, and instrumentality authorized to issue bonds on behalf of its sponsor for the purposes of Section 103, Internal Revenue Code of 1986. *(Texas Local Government Code, Title 9, Subtitle C, Chapter 303)*
"San Antonio Housing Trust Public Facility Corporation". The PFC enables housing resources to be better coordinated and directed to accomplish the City's revitalization goals.

Rehabilitation
The labor, materials, tools, soft costs, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

Request for Applications (RFA)
A type of solicitation notice in which the City announces that grant funding is available, and allows applicants to present proposals on how the funding could be used.

Residential Construction Management Policy (RCMP)
All HUD-funded properties must meet certain minimum property standards at project completion. The RCMP lists the minimum property standards that apply to each type of HUD funded activity.

Soft Costs
Soft costs are any costs that are not considered direct construction costs. Soft costs include everything from architectural and engineering fees, to legal fees, pre- and post-construction expenses, permits and taxes, insurance, etc. Soft costs also include movable furniture and equipment (as opposed to fixed equipment included in hard costs) such as computer data equipment, telephone systems, etc.

Tenant-Based Rental Assistance (TBRA)
The HOME program can assist low- and very low-income families in obtaining decent, safe, and sanitary housing in private accommodations by making up the difference between what they can afford and the approved rent for an adequate housing unit.

Universal Design
A design concept that encourages the construction or rehabilitation of housing and elements of the living environment in a manner that makes them usable by all people, regardless of ability, without the need for adaptation or specialized design. Codified through City Ordinance 95641.

Very low-income HOME
Annual gross incomes do not exceed 50 percent of the median income for the area (adjusted for family size).