

1. Introduction

1.A Procedures for Accessing HOME Funds

In an effort to streamline the multi-family application process, developers applying for Rental Housing Tax Credits (RHTCs) may simultaneously request funds from the HOME Investment Partnerships Program (HOME). If you are applying for RHTC for any development and want to also access HOME funds, you must complete the HOME Section of the “Multi-Family Housing Finance Application” and submit all necessary HOME attachments. HOME attachments (e.g. Historic Review, Environmental Review, Davis Bacon, Match, or URA) must be submitted on or before the application deadline along with the rest of the application package. HOME funds cannot be committed to a development until all necessary financing has been secured. IHCD will not execute a HOME contract until IHCD has issued the Release of Funds and the HOME award recipient has submitted the HOME Commitment Form to the HOME & HTF Manager.

In the event that an application is competitive for RHTCs but either (1) the application fails the HOME threshold review; or (2) HOME funds are not available to award, IHCD will allow the applicant to submit additional information to identify other ways to fill the development's financing gap. Upon timely receipt of requested information, these applications will continue to be allowed to compete for an allocation of RHTC.

Applicants who apply for HOME funds should be aware that additional Federal regulations and IHCD requirements accompany this program, as set forth in 24 CFR Part 92 and IHCD's compliance manuals, as amended from time to time. HOME compliance requirements may be more stringent or different than those for the RHTC program. Applicants should carefully review these regulations when requesting HOME funding. IHCD strongly encourages applicants to consult with legal and accounting advisors due to the complexity of these programs.

Applicants must register for System for Award Management (SAM) and have a valid DUNS in order to apply for HOME funds. Applicants must submit proof of SAM registration with their HOME application to be eligible for funding.

1.B HOME Award Manual and Ongoing Compliance Manual

Applicants will be required to comply with the terms and conditions set forth in the *HOME Award Manual*, as amended from time to time. The *HOME Award Manual* outlines the requirements for administering an IHCD HOME award.

Any applicant who receives HOME funds from IHCD will also be required to comply with the terms and conditions set forth in IHCD's *Federal Programs Ongoing Rental Compliance Manual*, as amended and/or superseded from time to time. Such requirements apply for the duration of the HOME affordability period.

Compliance manuals are located on [IHCD's compliance manual webpage](#).



2. Eligible Applicants

2.A HOME Program Eligibility

Eligibility will be determined based on:

- Whether the development demonstrates a need for HOME funds in order to make a greater number of units affordable to lower income households.
- Whether the development meets State and Federal requirements of all programs that the applicant is applying.
- If the development ranking is sufficient for it to be awarded RHTC pursuant to the QAP.
- The availability of HOME funds.

2.B Eligible Applicants

Eligible applicants must be competing in the Qualified Not-for-Profit set-aside, or in the case of an application for 4% credits and tax-exempt bonds must meet the requirements of the Qualified Not-for-Profit set-aside. In addition, the applicant must also meet one of the following tests:

- Must be an IHCD certified Community Housing Development Organization (CHDO); or
- Must be competing in the Housing First Set-Aside

HOME funds will be provided in the form of a loan to the ownership entity (LP or LLC).

The non-profit applicant must submit a borrowing resolution passed by its Board of Directors authorizing submission of the loan request. The applicant must use IHCD's template borrowing resolution form.

2.C Religious and Faith-Based Organizations

- *Equal treatment of program participants and program beneficiaries.* (1) *Program participants.* Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in HOME program. Neither the Federal Government nor a State or local government receiving funds under the HOME program shall discriminate against an organization on the basis of the organization's religious character or affiliation. Recipients and subrecipients of program funds shall not, in providing program assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.
- *Beneficiaries.* In providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, program participants shall not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.
- *Separation of explicitly religious activities.* Recipients and subrecipients of HOME program funds that engage in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, must perform such activities and offer such services outside of programs that are supported with federal financial assistance separately, in time or location, from the programs or services funded under this part, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries of the HUD-funded programs or services.



- *Religious identity.* A faith-based organization that is a recipient or subrecipient of HOME program funds is eligible to use such funds as provided under the regulations of this part without impairing its independence, autonomy, expression of religious beliefs, or religious character. Such organization will retain its independence from federal, State, and local government, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct program funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or any manner prohibited by law. Among other things, faith-based organizations may use space in their facilities to provide program-funded services, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a HOME program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- *Alternative provider.* If a program participant or prospective program participant of the HOME program supported by HUD objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonably prompt time after the objection, undertake reasonable efforts to identify and refer the program participant to an alternative provider to which the prospective program participant has no objection. Except for services provided by telephone, the Internet, or similar means, the referral must be to an alternate provider in reasonable geographic proximity to the organization making the referral. In making the referral, the organization shall comply with applicable privacy laws and regulations. Recipients and subrecipients shall document any objections from program participants and prospective program participants and any efforts to refer such participants to alternative providers in accordance with the requirements of §92.508(a)(2)(xiii). Recipients shall ensure that all subrecipient agreements make organizations receiving program funds aware of these requirements.
- *Structures.* Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for explicitly religious activities. Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. When a structure is used for both eligible and explicitly religious activities, program funds may not exceed the cost of those portions of the acquisition, new construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to the HOME program. Sanctuaries, chapels, or other rooms that a HOME program-funded religious congregation uses as its principal place of worship, however, are ineligible for HOME program-funded improvements. Disposition of real property after the term of the grant, or any change in the use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).
- *Supplemental funds.* If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

2.D Development Location



Applications for developments located within the following participating jurisdictions are not eligible to receive HOME funds from IHCD.

- Anderson
- Bloomington
- East Chicago
- Evansville
- Fort Wayne
- Gary
- Hammond
- Indianapolis*
- Lafayette Consortium**
- Lake County
- Muncie
- St. Joseph County Consortium***
- Terre Haute

*The cities of Beech Grove, Lawrence, Speedway, Southport, and the Town of Cumberland when the housing activity is located in Hancock County will be eligible to receive assistance.

**Lafayette Consortium is made up of the cities of Lafayette and West Lafayette and the unincorporated areas of Tippecanoe County. These areas would not be eligible to receive funding from IHCD. Other incorporated areas are eligible to receive assistance.

***St. Joseph County Consortium is made up of the cities of South Bend and Mishawaka and the unincorporated areas of the county. These areas would not be eligible to receive funding from IHCD. Other incorporated areas are eligible to receive assistance.

Exception: For permanent supportive housing developments for persons experiencing homelessness, IHCD may invest HOME funds in the otherwise excluded participating jurisdictions.

Additionally, HOME may not be used to assist developments located in the 100-year floodplains.



3. Eligible Activities and Costs

3.A Uses of HOME Funds

HOME funds may be used for acquisition, construction hard costs, or rehabilitation hard costs of HOME-assisted units. HOME funds may also be used to pay off a CHDO Predevelopment loan (either Site Control or Seed Money Loan). HOME funds may not be used toward the refinancing of existing permanent debt.

HOME funds may assist rental or permanent supportive housing. These units can be in the form of traditional apartments or single-room-occupancy units (SROs). SRO housing consists of single room dwelling units that are the primary residence of the occupant(s). If the development consists of conversion of non-residential space or reconstruction, SRO units must contain either kitchen or bathroom facilities (they may contain both). For developments involving acquisition or rehabilitation of an existing residential structure, neither kitchen nor bathroom facilities are required to be in the unit. However, if individual units do not contain bathroom facilities, the building must contain bathroom facilities that are shared by tenants.

HOME funds are available for units identified as part of an approved RHTC lease-purchase program. The purchase must occur after the expiration of the HOME affordability period. In such case, the assisted units will be considered rental for purposes of the HOME award. Prior to the HOME affordability period expiration, IHCDCA will consider requests to permit tenants to purchase HOME-assisted rental units.

3. B. HOME Award Limitation

Applicants that are certified as a CHDO **before** the application due date may request up to \$500,000.

- In order to qualify, applicants must submit a CHDO application and all required CHDO documentation via OneDrive **no less than thirty days before the tax credit application due date**. The CHDO application can be found as a separate document on the IHCDCA website [here](#).
- IHCDCA staff will review the applicant's CHDO application. Within one week of receiving the applicant's certification documentation, IHCDCA will notify the applicant of its determination. If further clarification is needed, IHCDCA will reach out to the applicant for additional information.
- Upon making a final determination, IHCDCA will inform each CHDO applicant as to the status of its certification. If the applicant is certified as a CHDO it may request up to \$500,000. If the applicant is not certified as a CHDO, it will be ineligible to request HOME funds with the application UNLESS the application is competing in the Housing First set-aside.
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3.C Maximum HOME Subsidy Limits



IHCDA has established the following per unit subsidy limitation for HOME-assisted units:

For units designated 50% AMI income and rent limits or higher:

Bedroom Size	Per Unit Subsidy Limit
0	\$104,000
1	\$121,000
2	\$139,000
3	\$170,000
4+	\$185,000

For units designated 40% AMI income and rent limits or lower:

Bedroom Size	Per Unit Subsidy Limit
0	\$130,000
1	\$152,000
2	\$174,000
3	\$210,000
4+	\$232,000

Should the subsidy limits be revised in the IHCDA HOME policy, the new limits will supersede the above limits.

3.D Loan Terms

The applicant may propose a loan term of up to two years as a construction and up to 15 years as permanent financing. The applicant may propose the interest rate and up to a 30 year amortization period. The applicant must demonstrate in its application that the interest rate proposed is necessary in order to make the HOME-assisted units affordable. The HOME loan must be fully secured.

3.E Subordination

IHCDA will agree to subordinate the HOME loan in priority on- a case-by-case basis. Contact the Director of Real Estate Lending for assistance.

3.F Threshold Criteria

On or before the application deadline, the applicant must provide all documentation as instructed in the HOME/Development Fund/Rental Housing Finance Application. If the Authority requests additional information from the applicant, all documents are due on or before the date provided by IHCDA staff.

The Development must meet all the requirements of this Schedule and 24 CFR Part 92 and provide all documentation. If the Authority requests additional information from the applicant, all documents are due on or before the date provided by IHCDA staff.



If the applicant has previously been involved with funds under any IHCD program, the applicant and any related party must not be out of compliance and/or on any IHCD suspension list as of the application due date. In addition, the applicant or any related party will not be recommended for funding if placed on the suspension list or becomes out of compliance at any point during the review period prior to IHCD's Board award date.

IHCD reserves the right to disqualify from funding any application where the applicant or a related party has a history of disregarding the policies, procedures, or staff directives associated with administering any IHCD program or programs of other State, Federal, or affordable housing entities, such as, but not limited to the Indiana Office of Rural Affairs, U.S. Department of Housing and Urban Development (HUD), U.S. Department of Agriculture - Rural Development, or Federal Home Loan Bank.

3.G Award Term

The HOME award must be fully expended within a 24-month period.

4 . A d d i t i o n a l P r o g r a m R e q u i r e m e n t s

4.A Allocating Costs in Mixed-Income Developments

HOME funds may only pay actual costs related to HOME-assisted units. Cost allocation is required in any HOME rental or homebuyer project where fewer than 100% of units are HOME assisted; and/or in which less than 100% of the space is residential. If the units in a development are comparable (in terms of size, features and number of bedrooms), then the actual costs can be determined by pro-rating total development costs. HOME funds could pay the pro-rated share of the HOME-assisted units.

When units are not comparable, the applicant must allocate the HOME costs on a unit-by-unit basis, charging only actual costs to the HOME program, so that the amount of the total development costs charged to HOME does not exceed the cost of HOME –assisted units in the project. Because units in rental developments with-the "floating" HOME designation must be comparable, an applicant should always pro-rate costs in these developments. When units are generally comparable but vary slightly in size or amenities, a combination of the two approaches may be used.

Applicants must submit detailed architectural drawings so staff can determine the square footage of each unit, the gross residential square footage of the project (exclusive of common spaces such as halls, stairs, community room) and the gross square footage of the projects as a whole (inclusive of common space).

Applicants must also provide line-item development costs in sufficient detail to distinguish between HOME-eligible and ineligible costs, costs associated with non-standard unit finishes and amenities in unassisted units, and relocation costs.

- **Unit Size** - Comparability in size is defined by the bedroom count and square footage of individual units. Not all units with the same number of bedrooms are comparable in size. If there is a substantial difference in the square footage of two units with the same number of bedrooms, the units are not considered comparable. Applicants must identify which comparable units will be HOME assisted so IHCD staff can apply the HUD standard method.
- **Amenities** - Comparability in amenities means similar fixtures, appliances and other features. In many mixed-income developments, to receive varying rents, the quality and types of amenities may vary among units. For instance, a development might charge a higher rent for a unit with wall-to-wall carpeting, garbage disposal, dishwasher, and finer fixtures than for a unit without these amenities. This type of development does not typically have comparability of units, unless there is an equal distribution of assisted and non-assisted units that have these amenities.
- **Common Costs** - Common costs are costs incurred for acquisition of improved or unimproved real property that benefits all residents of units in a development, rehabilitation or construction of shared systems (heating, plumbing, roofing) or shared facilities (community rooms, laundry facilities located in residential buildings); and on-site improvements. Costs associated with a development's on-site management office or the apartment of a resident manager may be

counted as common costs. The manner in which the costs for common elements of a development may be charged is dictated by the method chosen for allocating costs.

For further guidance regarding allocating costs in mixed income developments, refer to HUD CPD Notice 16-15.

4.B HOME Match Requirements

The HOME program requires a 25% match. Match is a requirement established by Federal regulation rather than State policy. Applicants are strongly encouraged to read 24 CFR 92.220 and HUD CPD Notice 97-03 for detailed regulatory information regarding HOME-eligible match before applying for HOME funds.

Applicants must submit the Match spreadsheet with their application for HOME funds.

Eligibility of Contributions to HOME-Assisted and HOME Match-Eligible Housing		
Form of Match	HOME-Assisted Housing	HOME Match-Eligible Housing
Cash	X	X
Foregone Taxes, Fees and Other Charges	X	
Donated Land or Other Real Property	X	X
On-site and Off-site Infrastructure	X	
Proceeds from Affordable Housing Bonds	X	X
Donated Site Preparation and Construction Equipment	X	X
Donated or Voluntary Labor and Professional Services	X	X
Sweat Equity	X	X
Supportive Services	X	
Homebuyer Counseling Services	X	
Donated Use of Site Preparation and Construction Equipment	X	X



1. HOME-Eligible Match

The types of match for HOME-assisted units include, but are not limited to:

- Cash contributions permanently dedicated to the HOME program from non-federal funds and not donated by the applicant, developer or the designated property owner.
- Program incomes from a federal grant earned after the end of the award period if no federal requirements govern its disposition; i.e., program income generated from the Rental Rehab Program.
- Grant equivalent of the present discounted value of the yield foregone in a below-interest rate loan. (Please note: Match from Federal Home Loan Bank (FHLB) Affordable Housing Program (AHP) funds that are loaned to the RHTC or Bond development will be calculated as the grant equivalent of the present discounted value of the yield foregone in a below-interest rate loan.)
- The present discounted, cash value, based on customary and reasonable means for establishing value, of foregone State or local taxes, fees, or other charges that are normally and customarily imposed or charged.
- The appraised value of donated land or buildings, except those already owned by the applicant or a principal in the development, less any debt that remains as a lien against the property. Property may also be eligible as a partial donation if it is offered to the applicant at below market value and if the offeror submits a written declaration that the difference between market value and the sale price is intended as a contribution to affordable housing.
- The cost, not paid with federal resources, of on-site or off-site infrastructure improvements that are directly required for the HOME-assisted development. The infrastructure must have been completed no earlier than 12 months before HOME funds are committed to the development.
- Donated site-preparation or construction materials, not acquired with federal funds, or the reasonable rental value of the donated use of site preparation or construction equipment.
- Volunteer skilled or unskilled labor and donated professional services. Unskilled labor is currently calculated at the rate of \$10 per hour.
- The direct cost of supportive services provided to families residing in HOME-assisted units during the affordability period. The supportive services must be necessary to facilitate independent living or be required as part of a self-sufficiency program.
- Contributions to non-HOME-assisted but HOME-eligible developments, if certain federal requirements are met (income eligibility of occupants, property standards, rent limits, project occupancy requirements, affordability period, and tenant protections).
- Banked Match
- Shared Match

2. Ineligible Forms of Match

The types of ineligible match for HOME-assisted units include, but are not limited to:



- Contributions made from federal resources, including Community Development Block Grant and Community Services Block Grant funds.
- The interest rate subsidy attributable to federal tax-exemption on financing or the value attributable to RHTCs or Bonds.
- Owner equity or investment in a development.
- Cash or other forms of contributions from applicants or recipients of HOME assistance or contracts, or investors who own, are working on, or propose to apply for assistance for a HOME-assisted development.
- Funds used for award administration or environmental review expenses.
- Labor, property, funds, or other sources of match contribution donated by the applicant to itself, or by a principal or investor in the development, are not eligible for match as defined in §92.220(b)(4).

3. Contributions to HOME Match-Eligible Housing

Contributions to housing that is not assisted with HOME funds, but which would otherwise qualify as affordable under the HOME Program, may be counted as match. The table below summarizes the HOME match-eligible housing requirements.

4. HOME Program Requirements Applicable to Affordable Housing Counted as Match

Income determinations	24 CFR 92.203
Property standards	24 CFR 92.251
HOME rents	24 CFR 92.252
Development occupancy requirements	24 CFR 92.252
Periods of affordability	24 CFR 92.252(e)
Tenant protections	24 CFR 92.253(a) & (b)

Contributions to non-affordable units or to commercial space in HOME-match eligible developments are not eligible match. 24 CFR 92.219(b) lists the HOME requirements that the housing or rental assistance must meet if contributions are to be eligible match.

IHCDA will execute a written agreement with the owner of the housing that enumerates and imposes the applicable requirements. IHCDA has established procedures to monitor these HOME match-eligible developments to ensure continued compliance with the requirements throughout the period of affordability.

5. Examples of Match Contributions in Partially HOME-Assisted and Mixed-Use Developments

- A building consists of 100 units. Sixty of the units will be HOME-assisted. Because more than 50% of the units in the development will be HOME-assisted, the applicant can count its



contribution to the 40 non-assisted units as match. The contribution to these 40 non-assisted units can be counted as match regardless of whether the units qualify as affordable.

- A building consists of 100 units. Forty of the units will be HOME-assisted. Because less than 50% of the units in the development are HOME-assisted, the applicant cannot count contributions to the non-assisted units as match.
- A building consists of 100 units. Forty of the units will be HOME-assisted. Twenty-five of the non-HOME units will be assisted under a non-Federal housing program and will qualify as affordable housing for purposes of the HOME Program (HOME match-eligible). The remaining 15 units will not qualify as affordable housing. Although less than 50% of the units in the development are HOME-assisted, the applicant can count HOME eligible contributions to the 25 non-HOME units that will qualify as affordable as match.
- The floor space of a mixed-use building is 60% residential and 40% commercial. The residential portion of the building consists of 10 units that will all be assisted with HOME funds. Because at least 51% of the floor space is residential, HOME eligible contributions to the commercial portion of the building can be counted as match.
- The floor space of a mixed-use building is 60% residential and 40% commercial. The residential portion of the building consists of 10 units. Six of the units will be assisted with HOME funds. The remaining 4 units will not meet the HOME affordability requirements. Because at least 51% of the floor space is residential, the applicant's contribution to the commercial portion of the building can be counted as match. In addition, because more than 50% of the residential units will be HOME-assisted, HOME eligible contributions to the non-affordable units can be counted as match.
- The floor space of a mixed-use building is 60% residential and 40% commercial. The residential portion of the building consists of 10 units. Three of the units will be assisted with HOME funds. The remaining 7 units will not meet the HOME affordability requirements. Although more than 51% of the floor space is residential, contributions to the commercial portion of the building cannot be counted as match because less than 50% of the residential units will be HOME-assisted.

6. Banked Match

Applicants may use banked match to meet the HOME Match requirements. Excess match for HOME projects may only be banked for completed projects; match collected for projects under construction will not count. The match generated must already be met and documented with IHCD to be eligible. If utilizing banked match, the applicant must have sufficient unencumbered banked match available at time of application. Only HOME-eligible match generated on IHCD awards made in 1999 or later is eligible to be banked.

Applicants will not be eligible for HOME if they cannot meet the 25% match requirement upon time of application.



7. Shared Banked Match

If match is from another recipient, the applicant must provide an executed agreement verifying that the recipient is willing to share the match. Only banked match from closed awards made in 1999 or later is eligible for sharing with another applicant. The award must be closed by IHCD before the agreement to share match is executed. Match cannot be sold or purchased and is provided purely at the discretion of the recipient that generated it. Only banked match generated on a HOME award can be used on a future HOME award.

4.C Underwriting Criteria

IHCDA is required to complete a subsidy layering review any time a development receives HOME funds along with other governmental subsidies to assure that the development is not being overly subsidized. In reviewing requests for HOME funds in conjunction with RHTC, IHCDA will utilize the underwriting analysis completed in accordance with criteria of the QAP.

4.D Environmental Review and Section 106

A complete environmental review must be performed prior to application submission in order to meet the requirements of the National Environmental Policy Act (NEPA). This review is not the same as a Phase I Environmental Assessment Review.

The applicant is required to complete the environmental review process and submit the ERR workbook with the funding application. The Environmental Review Handbook and forms may be downloaded from [IHCDA's environmental review webpage](#).

As part of the Section 106 Historic Review process, IHCDA is required to submit all new construction projects to the Indiana Department of Natural Resources' State Historic Preservation Office (SHPO) for archaeology review. SHPO is statutorily required to complete this review within 30 days.

The completion of the ERR process is mandatory before taking a physical action on a site, or making a commitment or expenditure of HUD or non-HUD funds. IHCDA will not issue a contract until the Environmental Review and Section 106 review is complete and the Release of Funds is authorized by HUD.

Applicants may not purchase any property to be assisted with HOME funds, sign contracts, or begin rehab/new construction until the ERR/ROF process has been completed and approved.

4.E Site and Neighborhood Standards

IHCDA administers the HOME program in a manner that promotes housing opportunities and provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, E.O. 11063, and HUD regulations issued pursuant thereto. For new construction of HOME-assisted rental units, the applicant must demonstrate that the proposed development meets the site and neighborhood standards as given at 24 CFR 983.6(b) by completing the appropriate form in the HOME Section.



4.F IHCD HOME Assurances and Certifications

Applicants that receive HOME funding are required to submit original, fully executed HOME Assurances and Certifications form. Applicants that receive HOME funding are bound by the content of the form. Applicants should seek the guidance of their legal counsel. The Assurances and Certifications form must be signed by the applicant's chief executive officer and must be attested.

4.G Broadband Infrastructure

As described in the HUD Final Rule 81 FR 92626, any new construction or substantial rehabilitation of more than four rental units must provide for installation of broadband infrastructure, as defined in 24 CFR 5.100, except when IHCD determines and documents that one or more of the exceptions listed in HUD Final Rule 81 FR 92626 apply.

4.H Tenant Selection Plan

All HOME-funded properties must create a written tenant selection plan that meets all requirements outlined in Part 4.2E of IHCD's Federal Programs Ongoing Rental Compliance Manual, as amended from time to time. This includes compliance with the nondiscrimination requirements of the Fair Housing Act, Violence Against Women Reauthorization Act, Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Rule, and the 2016 HUD Office of General Counsel Guidance on Criminal Records.

5 . H O M E P r o g r a m R e q u i r e m e n t s

5.A Uniform Relocation and Real Property Acquisition Act of 1970 (URA) and Section 104(d)

According to Title I of the Housing and Community Development Act of 1974, as amended, and Title II of the National Affordable Housing Act of 1990, as amended, "Each award recipient shall provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of assistance received under this title..." as required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), as amended, and Federal implementing regulations at 49 CFR Part 24 and the requirements of Section 104(d) of Title I of the Housing and Community Development Act of 1974, as amended.

IHCDA's goal is to minimize displacement of existing residents when federal and state funds are used for rehabilitation or acquisition. URA provisions apply to any person (including corporations, partnerships, proprietorships, and nonprofit organizations) who is involuntarily displaced because of a federally assisted development. Eligibility for URA coverage begins at the time that an offer to acquire is made for property in anticipation of a development planning to use federal funds. Tenants and owners at the time the offer to acquire is made are eligible to receive reimbursement for moving expenses as such, notices are required to be sent and verification included with the application. Residential tenants may also receive a housing cost allowance for up to 60 months.

If the development will result in a reduction of the supply of low or moderate-income units, the applicant will have to provide a plan of how the units will be replaced along with its application.

Commitment of funds to developments for any acquisition, rehabilitation, demolition, purchase assistance, and/or relocation activities is conditioned upon IHCDA's verification of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 49 CFR Part 24.

For further detailed information, including sample letters, please review the URA and Section 104(d) Section of the IHCDA CDBG, HOME and HTF Award Manual. Additionally, applicants who anticipate that URA or Section 104(d) requirements may apply to their development are strongly encouraged to contact their Production Analyst for assistance.

5.B Property Standards

- The completed development must meet the more stringent of the local rehabilitation standards or the Indiana State Building Code.
- The development must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973.
- Covered multi-family units, as defined at 24 CFR 100.201, must meet the design and construction requirements at 24 CFR 100.205, which implements the Federal Fair Housing Act Amendments of 1988.



- Newly constructed units must meet additional energy efficiency standards for new construction as described in 24 CFR 92.251. Newly constructed housing must meet the edition of the Indiana Energy Conservation Code published by the International Code Council that was in place at the time of application.

5.C Construction Contract Requirements

1. Federal Bonding Requirements

To meet the federal bonding requirements adopted by IHCD for any construction contract exceeding \$100,000, IHCD recipients must do one of the following:

- **Bonding Requirements**
 - A bid guarantee from each bidder equivalent to 5% of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
 - A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. Where bonds are required, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR parts 223, "Surety Companies Doing Business with the United States."
- **Lien Waivers**
 - For any construction contract or subcontract exceeding \$100,000 the recipient must ensure that each contractor executes a lien waiver for all services, construction work performed, materials furnished, and equipment and fixtures furnished. IHCD must receive copies of any and all affidavits, indemnity agreements, lien waivers, certificates, and other documents as requested.

2. Davis Bacon

The Labor Standards Act (Davis Bacon) requires that workers on certain federally assisted developments receive no less than the prevailing wages being paid for similar work. Prevailing wages are computed by the U.S. Department of Labor and are issued in the form of a federal wage decision for each classification of work. The Davis-Bacon Act will apply to awards for the following types of projects: (1) rehabilitation or new construction of a residential property containing 12 or more HOME-assisted units; and (2) affordable housing containing 12 or more units assisted with HOME Funds regardless of whether HOME Funds are



used for construction or non-construction activities. Such property may be one building or multiple buildings owned and operated as a single development.

If the redevelopment meets any of the criteria described in the paragraph above, the recipient certifies that it will comply with the Davis Bacon Act and include the Davis Bacon Provisions contained in HUD Form 4010 and referenced in Exhibit D of this Agreement into all contracts with any contractor working on the redevelopment currently or hereafter. Accordingly, recipient and or any contractor working on the redevelopment shall pay approved Davis Bacon wages weekly to employees and/or subcontractors, monitor the compliance of contractors and subcontractors working on the redevelopment, ensure that WH347 forms and/or certified payrolls are submitted to any designee of IHCD for labor standards monitoring, ensure that contract and bid specifications contain the applicable wage decision, verify that contractors are not listed on federal System for Award Management (formerly known as the Excluded Parties List System) for debarred or suspended contractors, and comply with the posting and notification requirements set forth in 29 CFR 5.5(a) and 29 CFR 5.6.

The recipient is responsible for contacting its IHCD Compliance Auditor to confirm whether or not Davis-Bacon wages are required. You can find a Compliance Auditor map on the IHCD website.

3. Section 3

Any recipient receiving an aggregate amount of \$200,000 or more from one or more of the HUD CPD programs (e.g. CDBG, HOME, NSP, HOPWA, ESG, etc.) in a program year must comply with the Section 3 requirements. Section 3 provides preference to low- and very-low-income residents of the local community (regardless of race or gender) and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects.

5.D Lead Based Paint Requirements

The applicant must ensure that all housing constructed, redeveloped, rehabilitated, or acquired with HOME funds must comply with applicable provisions of Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at 24 CFR part 35, subparts A, B, J, K, M and R upon completion of the development. The chart below summarizes the requirement based on the amount of HOME funds subsidizing each HOME-assisted unit. For additional instructions, contact your IHCD Production Analyst.

HOME Amount Per Unit:	Rehabilitation			Acquisition without Rehab
	≤\$5,000	\$5,000-\$25,000	>\$25,000	
Approach # to Lead Hazard Evaluation & Reduction (see detail in following chart)	Approach #1 Do no harm	Approach #3 Identify & control lead hazards	Approach #4 Identify & abate lead hazards	Approach #2 Identify & stabilize deteriorated paint
Notification of Tenants	Yes	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing of surface to be disturbed by rehabilitation	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Visual Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation. Safe work practices & clearance of work site	Interim controls Safe work practices & clearance of unit	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation) Safe work practices & clearance of unit	Paint Stabilization Safe work practices & clearance of unit
Ongoing Maintenance	For HOME rental only	For HOME rental only	For HOME rental only	Yes (if ongoing relationship)
EIBLL Requirements	No	No	No	No
Options	Presume lead-based paint & use safe work practices on all surfaces	Presume lead-based paint &/or hazards & use standard treatments	Presume lead-based paint &/or hazards & abate all applicable surfaces	Test deteriorated paint. Use safe work practices only on lead-based paint surfaces.

Four Approaches To Implementing Lead Hazard Evaluation & Reduction		
Approach 1. Do No Harm		
<u>Lead Hazard Evaluation</u> Paint testing performed on surfaces to be disturbed	<u>Lead Hazard Reduction</u> Repair surfaces disturbed during work. Safe work practices used when working on areas identified as lead-based paint. Clearance performed on work site.	<u>Options</u> Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.
Approach 2. Identify and Stabilize Deteriorated Paint		
<u>Lead Hazard Evaluation</u> Visual assessment performed to identify deteriorated paint.	<u>Lead Hazard Reduction</u> Paint stabilization of identified deteriorated paint. Safe work practices used. Clearance performed unit-wide.	<u>Options</u> Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.
Approach 3. Identify and Control Lead Hazards		
<u>Lead Hazard Evaluation</u> Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.	<u>Lead Hazard Reduction</u> Interim controls performed on identified hazards. Safe work practices used. Clearance performed unit-wide.	<u>Options</u> Presume lead based paint &/or lead based paint hazards are present & perform standard treatments .
Approach 4. Identify and Abate Lead Hazards		
<u>Lead Hazard Evaluation</u> Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.	<u>Lead Hazard Reduction</u> Abatement performed on identified hazards. Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. Safe work practices used. Clearance performed unit wide.	<u>Options</u> Presume lead-based paint &/or lead-based paint hazards are present & perform abatement on all applicable surfaces- deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.

5.E Accessibility

The Federal Fair Housing Act Amendments of 1988 establishes the following seven design standards for all newly constructed multi-family housing of four or more units ready for first occupancy on or after March 13, 1991 (See 24 CFR 100.205). The housing is not covered if the last building permit was issued prior to June 15, 1990, or if the site is determined to be impractical.



- At least one building entrance must be on an accessible route.
- All public and common areas must be readily accessible to and usable by people with disabilities.
- All doors providing passage into and within all premises must be sufficiently wide for use by persons in wheelchairs.

Additionally, all ground floor units and all units on floors served by elevators must have:

- An accessible route into and through the dwelling.
- Accessible light switches, electrical outlets, thermostats, and other environmental controls.
- Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, and shower, when needed.
- Kitchens and bathrooms configured so that a person using a wheelchair can maneuver about the space.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities in the operation of programs receiving Federal financial assistance. HUD regulations implementing Section 504 contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities. (See 24 CFR Part 8). Multifamily housing developments are defined at 24 CFR 8.3 as developments “containing five or more dwelling units.”

- **New Construction** - HUD regulations implementing Section 504 at 24 CFR 8.22(a) require that new construction of multifamily developments be designed and constructed to be readily accessible to and usable by persons with disabilities. Both the individual units and the common areas in the building must be accessible. For new construction of multifamily rental developments, a minimum of five percent (5%) of the dwelling units in the development (but not less than one unit) must be accessible to individuals with mobility impairments. An additional two percent (2%) of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e. hearing or vision impairments), unless HUD prescribes a higher number pursuant to 24 CFR 8.22(c).
- **Rehabilitation** - Substantial Alterations - Section 504 requires that if alterations are undertaken to a housing development that has 15 or more units, and the rehabilitation costs will be 75 percent or more of the replacement cost of the completed facility, then such developments are considered to have undergone "substantial alterations" (24 CFR 8.23 (a)). For substantial alterations of multifamily rental housing, the accessibility requirements contained in 24 CFR 8.22 must be followed -- a minimum of five percent (5%) of the dwelling units in the development (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional two percent (2%), at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.



- **Rehabilitation - Other Alterations** - When other alterations that do not meet the regulatory definition of substantial alterations are undertaken in multifamily rental housing developments of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of five percent (5%) of the dwelling units (but not less than one unit) are accessible to people with mobility impairments, unless HUD prescribes a higher number pursuant to 24 CFR 8.23(b)(2). If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible. For this category of rehabilitation the additional two percent (2%) of the dwelling units requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible. An applicant is not required to make a dwelling unit, common area, facility or element accessible, if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing development. (24 CFR 8.23(b)) Therefore, applicants are required to provide access in covered alterations up to the point of being infeasible or an undue financial and administrative burden.
- **Accessibility Standards** - Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) will be deemed to comply with the Section 504 regulation. For copies of UFAS, contact the HUD Distribution Center at 1-800-767-7468; hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339. Accessible units must be, to the maximum extent feasible, distributed throughout the development and sites, and must be available in a sufficient range of sizes and amenities so as not to limit choice.

For further guidance regarding accessibility requirements, refer to HUD CPD Notice 00-09.

5.F One for One Replacement

The recipient may not use the HOME funds to reduce the number of low/moderate dwelling units to be served under the award. If any unit is lost as a result of this development, the recipient must replace the unit if all of the following conditions apply:

- It meets the definition of a low/moderate dwelling unit; and
- It is an occupied or vacant occupiable dwelling unit; and
- It is to be demolished or converted to a unit with market rents above the Fair Market Rent or its use is determined as other than permanent housing.

5.G Minimum Periods of Affordability

The HOME-assisted units must meet affordability requirements for not less than the applicable period specified in the following table, beginning at development completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. The affordability requirements must be imposed by deed restrictions or covenants running with the land. Please note that the HOME affordability period may differ from that of the RHTC or Bond program.



Rental Housing Activity	Minimum Period of Affordability
Rehabilitation or acquisition of existing housing - Less than or equal to \$40,000 HOME funds per HOME-assisted unit	10 years
Rehabilitation or acquisition of existing housing - Greater than \$40,000 HOME funds per HOME-assisted unit	15 years
New construction or acquisition of newly constructed housing	20 years

IHCDA may use purchase options, rights of first refusal, or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. Affordability requirements will be met if the new owner agrees to enter a written agreement subjecting the development to the HOME affordability requirements for the remainder of the affordability period.

The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the development or property.

1. Enforcement of Affordability Period

With respect to HOME-assisted rental units, the recipient must execute a lien and restrictive covenant agreement, and a loan agreement, promissory note, mortgage, security agreement and UCC's, as directed by IHCDA, in order to preserve affordability and secure IHCDA's investment in the assisted property. Recipient must use documents that are prepared by IHCDA.

2. Commencement of Affordability Period

The affordability period will not begin until after project completion. Project completion is defined as the date that all necessary title transfer requirements and construction work have been performed; the rehabilitation completed complies with the requirements of 24 CFR 92 or 24 CFR 570 and stricter of the local rehabilitation standards or the Indiana State Building Code; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD. IHCDA considers the date final completion information is entered into IDIS as the start date for the project affordability period.

3. Repayment of HOME Funds

Housing assisted with HOME funds must meet the affordability requirements in accordance with 24 CFR 92.252 for rental housing. The recipient agrees to repay IHCDA for any HOME funds utilized for any



housing constructed, redeveloped, rehabilitated, or acquired that does not remain affordable in accordance with 24 CFR 92.252 for rental housing for the entire affordability period.

5.H Occupancy Restrictions/HOME Rent Limitation

One hundred percent (100%) of the HOME-assisted units must be occupied by households whose incomes are at or below 60% of the area median income, adjusted for household size, with rental rates (including tenant-paid utilities) that do not exceed the 60% AMI Rent Limit as published annually by IHCD's Real Estate Department. Additionally, Federal regulations require developments with 5 or more HOME-assisted units to have at least 20% of the units set-aside for households with incomes at or below 50% AMI. Lower income targeting must be followed if agreed upon in the Application and recorded Lien and Restrictive Covenant. When Developments are combined with HOME & Tax Credits, the owner must compare the two sets of limits and apply the most restrictive to any unit that is both a tax credit and HOME-assisted unit.

If an SRO unit does not have kitchen or bathroom facilities, or has either of these but not both, the maximum SRO rent will be the lesser of 75% of the Fair Market Rent or 100% of the applicable rent limit for an efficiency. For an SRO unit with both kitchen and bathroom facilities, the maximum SRO rent will be 100% of the applicable rent limit for an efficiency.

Rent limits include the cost of any tenant-paid utilities. You must subtract from the published rent limit an approved utility allowance for all utilities for which the tenant will be responsible, as well as any other non-optional fees

If the applicant proposes to receive all or a portion of the rent payment via a tenant based rental subsidy, gross rent (tenant paid + tenant-based rental assistance + utility allowance + non-optional charges) cannot exceed the published rent limits for the applicable income level. For example, a tenant residing in a unit set-aside for households at or below 60% of the area median income has a voucher that pays \$100 of his/her rent, and the published utility allowance for tenant paid utilities for the unit is \$50. If the published 60% Rent Limit is \$300, the tenant paid portion of rent cannot exceed \$150 (\$300 Rent Limit - \$100 Section 8 Voucher - \$50 Utility Allowance = \$150 Maximum Tenant Paid Portion).

If a development receives federal or state project-based rental subsidy and tenants at or below 50% AMI pay no more than 30 percent of his/her adjusted income for rent, the maximum rent may be the rent allowable under the project-based subsidy program. 24CFR Part 92.252 (b)(2).

All tenants who occupy HOME-assisted units must be income recertified on an annual basis. IHCD has chosen to utilize the Part 5 definition for determining annual income. The annual income definition is found at 24 CFR Part 5.609. This definition was previously referred to as the Section 8 definition. The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.



5.I Tenant and Participant Protections

All leases between a tenant and an owner of HOME-assisted units must be for not less than one year, unless by mutual agreement between the tenant and the owner. In addition, 24 CFR 92.253 sets forth certain provisions that must be included in any rental agreement and other provisions that are prohibited. The owner may not evict for other than good-cause.

5.J Equal Opportunity and Fair Housing

The recipient must comply with all Federal fair housing laws and regulations, including affirmative marketing and anti-discrimination policies. In addition, the recipient must make a documented effort to solicit minority contractors and subcontractors for any work that will be contracted.

5.K Meaningful Access for Limited English Proficient Persons

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“limited English proficient persons” or “LEP”) may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter. In accordance with Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, the recipient agrees to take reasonable steps to ensure meaningful access, to activities funded with HOME Funds, by LEP persons. Any of the following actions could constitute “reasonable steps”, depending on the circumstances: acquiring translators to translate vital documents, advertisements, or notices, acquiring interpreters for face to face interviews with LEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the project, hiring bilingual employees or volunteers for outreach and intake activities, contracting with a telephone line interpreter service, etc.

5.L Conflict of Interest

No owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, developer or sponsor) whether private, for-profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

5.M Affirmative Marketing**1. Marketing Plan**

In accordance with 24 CFR 200.620 and 24 CFR 92.351(a), recipients must adopt an Affirmative Fair Housing Marketing Plan for rental projects containing five or more HOME-assisted housing units. The Affirmative Fair Housing Marketing Plan must consist of actions that the recipient will take to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, religion, national origin, sex, disability, or familial status, and describe the



procedures that will be used by owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies). The recipient must use form HUD-935.2A to create its Affirmative Fair Housing Marketing Plan. See the *Rental Housing Tax Credit Compliance Manual* for additional information.

2. Procedures

The recipient must also comply with the following:

- Maintain a nondiscriminatory hiring policy in recruiting from both minority and majority groups, including both sexes and the handicapped, for staff engaged in the sale or rental of properties.
- Instruct all employees and agents in writing and orally in the policy of nondiscrimination and fair housing.
- Specifically solicit eligible buyers or tenants reported to the recipient.
- Prominently display in all offices in which sale or rental activity pertaining to the project or subdivision takes place the HUD-approved Fair Housing Poster and include in any printed material used in connection with sales or rentals, HUD-approved Equal Housing Opportunity logo or slogan or statement.
- Post in a conspicuous position on all project sites a sign displaying prominently either the HUD-approved Equal Housing Opportunity logo or slogan or statement.

5.N Homeless Management Information System

Applicants proposing to develop permanent supportive housing for persons experiencing homelessness will be required to enter data into the Homeless Management Information System (“HMIS”).

5.O CHDO Requirements

Community Housing Development Organization (CHDO) applicants must certify that they continue to meet the requirements of 24 CFR 92.2. Organizations seeking CHDO certification must submit the CHDO certification workbook and meet all the CHDO criteria to qualify.

To qualify as a CHDO, the organization must meet the sponsor definition – affiliate requirements as defined under the HOME regulations. Rental housing is developed by a CHDO affiliate, defined as a CHDO’s wholly owned subsidiary (non-profit or for-profit); a limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or a limited liability company of which the CHDO or its wholly-owned subsidiary must be the sole managing member. If the limited partnership or limited liability company agreement permits the CHDO to be removed as general partners or sole management member, the agreement must provide that the removal must be for cause and that the CHDO must be replaced with another CHDO.

CHDOs may be eligible for CHDO Operating Supplement. Please contact the HOME & HTF Manager prior to application submission to determine eligibility.



Accordingly, it must demonstrate capacity for carrying out housing projects assisted with HOME funds. This requirement is satisfied by having paid employees with housing development experience who will work on projects assisted with HOME funds.

Applications received from CHDOs must include its plan for involving low income program beneficiaries in decisions regarding the design, siting, development, and management of the affordable housing.

Additionally, CHDOs that receive a HOME award must adhere to a fair lease and grievance policy approved by IHCDA. The applicant must complete the CHDO Status and CHDO Requirements Certification located in the HOME Section and submit an original signature to IHCDA.