# Program Policies for HUD-Funded Affordable Housing Activities

DRAFT

CITY OF SAN ANTONIO
NEIGHBORHOOD & HOUSING SERVICES DEPARTMENT

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## *Executive Summary*

The City of San Antonio (the City) allocates or supports affordable housing development facilitated by federal and state agencies. The City receives federal entitlement funding from the U.S. Department of Housing and Urban Development (HUD) to assist low to moderate income households. This document contains the policies to allocate federal entitlement grants from HUD for the funding listed below:

**Community Development Block Grant (CDBG)**
The Community Development Block Grant has been in existence since 1974. The primary objective of the CDBG program is to improve communities by providing decent housing, providing a suitable living environment, and expanding economic opportunities. CDBG funds must principally benefit low- and moderate-income persons, aid in the prevention or elimination of slums or blight, or meet an urgent need.

**HOME Investment Partnerships Program (HOME)**
The HOME Investment Partnership Program has been in existence since 1990. The goals of the HOME program are to provide decent affordable housing to lower-income households, expand the capacity of nonprofit housing providers, strengthen the ability of state and local governments to provide housing, and leverage private sector participation. HOME funds may be utilized for rental activities, homebuyer activities, and homeowner rehabilitation activities. All HOME funds must benefit persons of low and moderate income.

**Neighborhood Stabilization Program (NSP)**
The Neighborhood Stabilization Program was authorized under Division B, Title III of the Housing and Economic Recovery Act of 2008 (HERA) to help communities recover from the effects of foreclosures, abandoned properties, and declining property values. The City received an NSP allocation of $8,635,899 to be utilized in six NSP target areas. Currently, the city is overseeing activities funded with program income generated from activities funded with the original award.

***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, guidelines, 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 (i.e., 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 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 & Minor Repair Programs*

**Program Overview**

HOME funds will be utilized 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 utilized 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 | Minor Repair |
|---|---|---|
| Applicant's annual gross income must be at or below 80% of the Area Median Income. | 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 |
| 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 |
| 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 assistance under this program. | Yes | Yes |
| Applicant must not have an existing HUD-funded rehabilitation loan, excluding the City of San Antonio's Green and Healthy Homes (SAGHH) program. | Yes | No |
| Real estate taxes must be current or paid in full. Applicants with an approved payment plan with Bexar County Tax Assessor's Office must not be delinquent. | 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. | Yes | No |
| Applicant must be current with the mortgage loan; the loan is no more than 30 days delinquent. | Yes | No |
| Applicant must be a U.S. Citizen or Legal Resident. | Yes | Yes |
| The existing mortgage for property cannot be included in a Chapter 7 or Chapter 13 bankruptcy. | 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 |

**Maximum Assistance Limits**

| | | |
|---|---|---|
| OO Rehab | $80,000 | This amount excludes lead, environmental, and administrative soft costs necessary to engage the client and property. |
| OO Reconstruction | $100,000 | |
| 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 | 10 years | Deferred Forgivable Loan |
| $50,000 and Over | 15 years | |
| Reconstruction Only | 20 years | |

This loan amount will not include environmental, lead 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.

*Minor Repair Program*

Assistance will be in the form of a grant not to exceed $25,000. This amount will not include environmental, lead and administrative soft costs necessary to engage the Applicant and property. A restrictive covenant will be recorded on the property for a period of five years.

**Heirs**

A deferred forgivable loan may be transferred to the heir(s) of the borrower if the heir(s) are income qualified and utilize the assisted property as their primary residence whether the loan is still within the loan term. If the heir(s) do not meet the income requirements of the program, the remaining balance of the loan is due immediately and payable in full. If the heir(s) are not income qualified or do not utilize the property as their primary residence, the City may make payment arrangements with the heir(s) at an interest rate between 0% and 3%.

**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 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 the priority needs of the property, including but not limited to health and safety items such as plumbing, electrical, non-working utilities, broken windows, damaged doors or other items in need of repair.

## Optional Relocation Assistance Policy

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

## Lead-Based Paint Requirements

For HUD-funded rehabilitation activities, lead hazard evaluation and reduction activities must be carried out for all properties constructed before 1978. The Lead-Based Paint Requirements are found in Appendix F.

## 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.

## *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 costs 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. In addition, funding can be provided to other qualified non-profit organizations at one percent (1%) simple interest, which will be forgiven upon sale of the property to an eligible homebuyer.

*For Acquisition Only (Homebuyer Incentive Program)*

Up to $12,000 for down payment and closing costs assistance will be provided to eligible homebuyers. The terms include a 25% deferred loan and a 75% forgivable loan. This loan is 0% interest and no payments are required. The 25% deferred loan must be repaid if the home changes ownership and 75% forgivable loan will be forgiven over a 10 year period with 1/10th being forgiven each year.

**Subsidy Limits**

For homebuyer programs, the minimum HOME investment is $1,000 multiplied by the number of HOME assisted units in the project. The maximum subsidy per unit will be 50% the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects. HUD's Office of Multifamily Housing updates the Section 234 Basic Mortgage Limits annually and publishes them in the Federal Register.

**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. For new construction housing developments funded by the City, the maximum sales price per unit will be a maximum of seventy-five percent (75%) of the HOME Homeownership Value Limits for new homes. The HOME homeownership value limits for newly constructed HOME units is ninety-five percent (95%) of the median purchase price for the area based on Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing. HUD updates the HOME homeownership value limits annually.

**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.

**Eligible HOME Costs**

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

**Maximum Property Value**

The HOME homeownership value limits for newly constructed single-family HOME 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 acquisition/rehabilitation, the HOME homeownership value limit is 95% of the median purchase price of the area for the area based on the FHA single family mortgage program data for existing housing. HUD updates the HOME homeownership value limits annually.

**Property Standards**

New construction and acquisition/rehabilitation, activities 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) found in Appendix J.

**Homebuyer Selection Requirements**

Eligible homebuyers/properties must meet the following criteria:

- Projected annual income must not exceed 80% AMI, adjusted by household size, at the time of application

- Must have acceptable credit
- Applicants must be U.S. Citizens or legal residents
- Property to be purchased must be primary residence
- Property must be located in the city limits of San Antonio
    - (Note: ETJ areas are not eligible for HOME funding)
- Must make a minimum initial cash investment of $500 toward purchase of home
- Home must have been constructed legally and meet City Code requirements
- 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).
- The credit standards for homebuyer programs are:
    - Chapter 7 Bankruptcy no less than 5 years prior date of application
    - Chapter 13 Bankruptcy no less than 2 years prior to date of application
    - Qualifying debt to income ratios are 30% on the front end and 41% on the back end. With compensating factors, the City will allow 33% on the front end and 42% on the back end
- Maximum loan is up to and is subject to the first lien holder's approval of Complete 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.
- Homebuyers must complete a pre-purchase homebuyer education course prior to the loan closing date. The course must be a recognized homebuyer education curriculum taught by an individual that has been certified to conduct HUD approved homebuyer counseling.

**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.

**CHDO Proceeds**

CHDO proceeds are income to the CHDO resulting from the CHDO's investment of its 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 loan to a buyer of 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

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 loan to a buyer of 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.

**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 | 5 Years |
| $15,000 to $40,000 | 10 Years |
| Over $40,000 | 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**

The City must ensure that affordable housing development projects are sold to eligible homebuyers within nine months of the date of completion of construction or rehabilitation.

**Application, Evaluation and Selection Process**

The City will conduct a comprehensive, fair and impartial evaluation of all 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.

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 completed 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.

**Lead-Based Paint Requirements**
For HUD-funded rehabilitation activities, lead hazard evaluation and reduction activities must be carried out for all projects constructed before 1978. The Lead-Based Paint Requirements are found in Appendix F.

**Loan Closing**
The property owner will be required to provide the following items for 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
- List of all real property assets and their value
- 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 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 guidelines 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, 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<br>• Site preparations or improvement, including demolition<br>• Securing of buildings<br>• Construction materials and labor | • Financing fees<br>• Credit reports<br>• Title binders and insurance<br>• Surety fees<br>• Recordation fees, transaction taxes<br>• Legal and accounting fees, including cost certification<br>• Appraisals<br>• Architectural/engineering fees, including specifications and job progress inspections<br>• Environmental reviews<br>• Builders' or developers' fees<br>• Affirmative marketing, initial leasing and marketing costs<br>• Staff and overhead costs incurred by the CITY that are directly related to a specific project<br>• Operating deficit reserves (up to 18 months) |
| *Relocation Costs* | *Loan Guarantee Accounts* |
| • Payment for replacement housing, moving costs and out-of-pocket expenses<br>• Advisory services<br>• Staff and overhead related to relocation assistance and services | • Amount based upon 20 % of the total outstanding principal balance of guaranteed loans<br>• 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 that vary according to the size of the unit, the type of structure, and the location of the project. 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 at the City of San Antonio website www.sanantonio.gov/GMA/Resources. 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.

**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 |
|---|---|---|
| Rehabilitation or Acquisition of Existing Housing | Less than $15,000 | 5 Years |
| | $15,000 to $40,000 | 10 Years |
| | Over $40,000 | 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. The balance of the rental units must assist tenants with incomes that do not exceed 80% 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.

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.

**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 structured with note provisions requiring that at least 50% of Eligible Cash in excess of $50,000 be paid annually to subordinate lenders (including funding partners and related parties) on a prorated basis.

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 guidelines 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 maximum maturity for a multi-family rental loan shall be no more than 300 months from the completion of construction. Repayment of multi-family rental housing loan principal and interest should be in equal yearly installments.

**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.
- For debt with scheduled payments, at least one individual or corporation with adequate financial capacity must guarantee:
  - Construction completion
  - Operating cost shortfalls for the term of the loan
  - Debt service payments until the development has achieved the minimum debt ratio stated within these underwriting standards (assuming stabilized expenses) for 3 successive months. In the case of CHDOs and other nonprofits, the guaranty can come from the parent nonprofit entity
- 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 guidelines 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.

**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.

**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.
- 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 15% or greater ownership interest.
- 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.

**Application, Evaluation and Selection Process**

The City will conduct a comprehensive, fair and impartial evaluation of all 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.

Any award is conditioned upon the City's approval, which may be withheld at 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.

**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.

**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**

For new construction and acquisition/rehabilitation, activities 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) found in Appendix J.

**Lead-Based Paint Requirements**

HUD-funded rehabilitation activities and lead hazard evaluation/reduction activities must be carried out for all properties constructed before 1978. The Lead-Based Paint Requirements are found in Appendix F.

**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 15% 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 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 loan to a buyer of 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.

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.

**Application, Evaluation and Selection Process**

The City will conduct a comprehensive, fair and impartial evaluation of all 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 receive an award. Final approval of a selected applicant is subject to the action of the City Council.

Any CHDO operating 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.

**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)*

**Program Overview**

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 standard.

**Types of Assistance**

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.

**Ineligible Program Activities**

- 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 may not be used to prevent the displacement of tenants from projects assisted with Rental Rehabilitation Program funds
- 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
- 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.

**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 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.

**Eligible Units**

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

- Located in the San Antonio City Limits
- Meets Section 8 Housing Quality Standards and RCMP
- Reasonable rents are charged, Fair market rents established annually by HUD
- Are not public housing projects, or receiving project based federal assistance

**Property Standards**

- For new construction and acquisition/rehabilitation, activities 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) found in Appendix J.

**Assistance Parameters**

- 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 to the tenant and landlord.

**Application, Evaluation and Selection Process**

The City will conduct a comprehensive, fair and impartial evaluation of all 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.

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.

**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 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.

**Occupancy Requirement**

Occupancy of the assisted housing by low to moderate income households is determined using the following general rules:

- All assisted single unit structure must be occupied by a household at or below 80% of Area Median Income (AMI).
- An assisted two-unit structure (duplex) must have at least one unit occupied by a household at or below 80% AMI.
- An assisted structure containing more than two units must have at least 51% of the units occupied by households at or below 80% AMI.

**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.

**Application, Evaluation and Selection Process**

The City will conduct a comprehensive, fair and impartial evaluation of all 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.

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 completed 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.

# *Appendix A: Other Federal Requirements*

| Appendix A: Other Federal Requirements | | | | | |
|---|---|---|---|---|---|
| **Requirement** | **Regulatory Citations and References** | **OORRP / Minor Repair** | **Homebuyer Activities** | **Rental Housing Activities** | **TBRA** |
| **Non-Discrimination and Equal Access Rules** | | | | | |
| Fair Housing and Equal Opportunity | • 92.202 and 92.250<br>• Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. Seq.)<br>• Fair Housing Act (42 U.S.C. 3601-3620)<br>• Executive Order 11063 (amended by Executive Order 12259)<br>• Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)<br>• 24 CFR 5.105(a) | Yes | Yes | Yes | Yes |
| Affirmative Marketing | • 92.351 | Yes | Yes, for projects containing five or more HOME-assisted units | Yes, for projects containing five or more HOME-assisted units | Yes |
| Accessibility for Disabled Persons | • Section 504 of the Rehabilitation Act of 1973 (implemented at 24 CFR Part 8)<br>• Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (implemented at 28 CFR parts 35 and 36)<br>• For multifamily buildings only, 24 CFR 100.205 (implements the Fair Housing Act) | Yes | Yes | Yes | Yes |
| **Employment and Contracting Rules** | | | | | |
| Equal Opportunity Employment | • Executive Order 11246 (implemented at 41 CFR Part 60)<br>• 2 CFR Part 200 Appendix II (C) | Yes | Yes | Yes | Yes |
| Section 3: Economic Opportunity | • Section 3 of the Housing and Urban Development Act of 1968 (implemented at 24 CFR Part 135) | Yes, if amount of assistance exceeds $200,000 or contract/ subcontract exceeds $100,000 | Yes, if amount of assistance exceeds $200,000 or contract/ subcontract exceeds $100,000 | Yes, if amount of assistance exceeds $200,000 or contract/ subcontract exceeds $100,000 | No |
| Minority / Women Business Enterprise | • Executive Orders 11625, 12432 and 12138<br>• 2 CFR 200.321 | Yes | Yes | Yes | Yes |
| Davis Bacon & Other Labor | • 92.354<br>• Davis-Bacon Act (40 U.S.C. 341)<br>• Contract Work Hours and Safety Standards Act (40 U.S.C. 3701)<br>• 24 CFR Par 70 (Volunteers)<br>• Copeland Anti-Kickback Act (40 U.S.C. 276c)<br>• 2 CFR Part 200 Appendix II (D) | No | Yes, if construction contract includes 12 or more HOME-assisted units. | Yes, if construction contract includes 12 or more HOME-assisted units. | No |
| Conflict of Interests | • 2 CFR 200.112 | Yes | Yes | Yes | Yes |
| Excluded Parties (e.g. debarred contractors) | • 24 CFR Part 5, Subpart A<br>• 92.350<br>• 2 CFR Part 200 Appendix II (H) | Yes | Yes | Yes | Yes |
| **Environmental Requirements** | | | | | |
| Environmental Review | • CPD Notice 01-11<br>• 92.352<br>• 24 CFR Parts 50 & 58 National Environmental Policy Act (NEPA) of 1969 | Yes | Yes | Yes | Yes |
| Flood Insurance | • Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) | Yes | Yes | Yes | Yes |
| Site and Neighborhood Standards | • 24 CFR 893.6(b)<br>• 983.57(c)(2) and (e)(3) | No | No | Yes | No |
| Relocation | • 92.353<br>• Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)<br>• 24 CFR Part 42<br>• 49 CFR Part 24 | Yes | Yes | Yes | Yes |
| Lead | | Yes, for units built before 1978. | Yes, for units built before 1978. | Yes, for units built before 1978. | No |
| **Administrative / Other** | | | | | |
| Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards | • 2 CFR Part 200<br>• 2 CFR Part 200 Appendixes I-XII | Yes, if acting as a subrecipient | Yes, if acting as a subrecipient | No | Yes, if acting as a subrecipient |
| Violence Against Women Act | • 24 CFR Part 5.2005 | No | No | Yes | Yes |

## *Appendix B: 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 HOME, CDBG, or NSP funds, households must have annual (gross) incomes at or below 80% of area median income, adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD).

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

- Whose income to count
- Types of income to count
- Treatment of assets
- Income inclusions and exclusions
- Verifying income
- Comparing annual income to published income limits
- Determining household size
- Source documentation
- Timing of income certifications

For subsequent income determinations during the period of affordability, the City may use any of the following methods: examine the source documents evidencing annual income for the household, 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, or obtain a written statement from the administrator of a government program under which the household receives benefits and which examines each year the annual income of the household. The statement must indicate the tenant's household size and state the amount of the family's annual income; or the statement must indicate the current dollar limit for very low or low-income families for the household size of the tenant and state that the tenant's annual income does not exceed this limit.

The City must calculate the annual income of the household by projecting the prevailing rate of income of the household at the time the City determines that the household is income eligible. 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.

The City is not required to re-examine the household's income at the time the HOME assistance is provided, unless more than six months has elapsed since the CITY determined that the household qualified as income eligible.

The City must follow the requirements of 24 CFR Part 5.617 when making subsequent income determinations of persons with disabilities who are tenants in HOME-assisted rental housing or who receive tenant-based rental assistance.

Income limits are updated annually and are published on HUD's website.

## *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. 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

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

## *Appendix D: Resale/Recapture Requirements for Homebuyer Activities*

### I. OVERVIEW

The primary purpose of the HOME Investment Partnerships Program (HOME Program) 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).

### II. DEFINITIONS

**Affordability Period:**

This is the period of time that a property must be occupied by qualified individuals 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 | |
|---|---|
| **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 |

**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.

## III. 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.

### a. 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. The 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 of the HOME subsidy will be forgiven each year during a five year affordability period on the anniversary of the closing date.

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.)

**b. 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 homeowner's investment and any capital improvements. The City has defined a fair return on investment according to TABLE B:

| TABLE B: FAIR RETURN ON INVESTMENT | | |
|---|---|---|
| **AFFORDABILITY PERIOD** | **Lower Range** | A homeowner can sell the home for a price not to exceed more than 15% over the Bexar County Appraisal District (BCAD) most recent appraisal value. |
| **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** | **Lower Range** | There is no cap on the appreciation rate |
| | **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. |

*Example 1:* The following is one example of how fair market value will be applied.

- **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 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.

## IV. 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.

## *Appendix E: Optional Relocation Assistance Policy*

The City of San Antonio (the City) may provide optional relocation assistance to households who are displaced or temporarily relocated by an activity that is not required by either Uniform Relocation Assistance or section 104(d) relocation assistance.

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. Departments 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 in accordance with the City' Rehabilitation Policy; and
2. Based on the determination of the City 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**

Moving assistance will be available to eligible applicants to assist them in moving their personal property from the dwelling while work is being performed. 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 of three months (not to exceed twelve months) and shall not exceed $750.

**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*

The U.S. Department of Housing and Urban Development (HUD) adopted regulations in relation to the treatment of lead based paint in properties built before 1978 that are assisted with HUD funding. The requirements are outlined below based on the activity undertaken. To obtain a copy of the rules from HUD, go to the HUD website at: https://www.hud.gov/program_offices/healthy_homes/enforcement/regulations and download the regulation.

The section does not outline the City programs that are available to provide financial assistance in relation to lead abatement.

**For Down Payment and Closing Costs Assistance Programs**
The following are HUD's requirements See 24 CFR part 35 (subpart K):

- Distribute Lead Hazard Information Pamphlet and Disclosure to buyers of homes built prior to 1978.
- Perform Visual Assessment of all painted surfaces. If Visual Assessment reveals deteriorated paint, action must be taken to stabilize each deteriorated paint surface. At this point, one will have to assume every component has lead since the Visual Assessment does not determine where lead is present. Safe work practices must be used by trained worker in this field. Paint stabilization works will on non-friction surfaces such as walls (interior/exterior). When dealing with friction points such as windows and doors, abatement procedures (removal, replacement, enclosure) are recommended.
- After paint stabilization, clearance must be performed by a certified Risk Assessor or Lead Inspector. HUD has established lead levels that meet clearance requirements.
- Notify the homebuyer within 15 days of results of clearance exam.
- At the Visual Assessment Stage, the homebuyer may opt for a lead test. This will reveal the levels of lead present in the home. A lead inspection will not tell you the risk involved, but only where the lead is located. This is when a buyer may request a Risk Assessment to outline the necessary Lead Hazard Reduction methods needed to insure a lead safe residence.

Following are some options (not requirements) to consider in relation to program design for down payment assistance programs:

- If the visual assessment reveals defective paint in which stabilization and clearance is required then this cost can be funded by the nonprofit or the homebuyer or seller.
- If visual assessment shows no deterioration of a painted surface, the homebuyer can sign a waiver stating that they are aware of the potential presence of lead paint and they choose not to address it.
- A qualified consultant should advise on any lead inspection, lead hazard screen or risk assessments.

**For Rehabilitation Programs (Owner-Occupied, Homebuyer, and Rental Rehabilitation)**
See 24 CFR Part 35 (subpart J)
For a rehabilitation programs including Owner-Occupied, Homebuyer and Rental, HUD's requirements are a bit more stringent in relation to lead based paint. The following describes HUD's requirements:

- Lead hazard evaluation and reduction activities must be carried out for all projects constructed before 1978.
- In all cases, notification must be made to the homeowner/buyer in the form of the HUD Lead Hazard Information Pamphlet and Disclosure or an acceptable alternative pamphlet.
- The required evaluation and reduction activity is dependent upon the amount of HUD funding used for the project.

*For cases where less than or equal to $5,000 will be spent on the rehabilitation:*
Testing: Paint Testing of surfaces to be disturbed by the rehabilitation activities must occur.

Lead Hazard Reduction: Surfaces, which are disturbed during rehabilitation, must be re paired. Safe work practices must be used. After the rehabilitation activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

*For cases where $5,000.01 to $25,000 will be spent on the rehabilitation:*
Testing: Paint testing of surfaces to be disturbed by rehabilitation must occur. In addition, a risk assessment must be performed.

Lead Hazard Reduction: Interim controls must be used. This means that the friction and impact surfaces would be addressed. Interim controls include paint stabilization and cleaning. Safe work practices must be used. After the rehabilitation activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

*For cases where more than $25,000 will be spent on the rehabilitation:*
Testing: Paint testing of surfaces to be disturbed by rehabilitation must occur. In addition, a risk assessment must be performed.

Lead Hazard Reduction: abatement of hazards is the required approach. Abatement involves permanently removing lead based hazards, often through paint and component removal, replacement, encapsulation and enclosure. Interim controls and paint stabilization may be used on the home's exterior if it is not involved in the rehabilitation. Safe work practices must be used. After the lead hazard reduction activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

*Calculating the level of rehabilitation assistance:*
When calculating how much HUD funding will be used on a rehabilitation project, the following costs are counted: soft costs, administrative costs, relocation costs, environmental reviews, acquisition of property, and lead hazard evaluation and reduction costs.

## *Appendix G: Environmental Review Requirements*

**Overview**

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). 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.

**Purpose**

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 to ensure compliance with regulations pertaining to these factors. All HUD funded projects and activities are required to have an Environmental Review Record (ERR) completed prior to the commitment of funds.

The environmental review process 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

**Levels of Review**

- **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.

**Procedure**

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.
4. 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).
5. Preparation and submission of the Request for Release of Funds (RROF) to HUD.
6. Approval of the Environmental Review Record.
7. Compliance with record-keeping requirements of the Environmental Review Record.

**HEROS – HUD Environmental Review Online System**

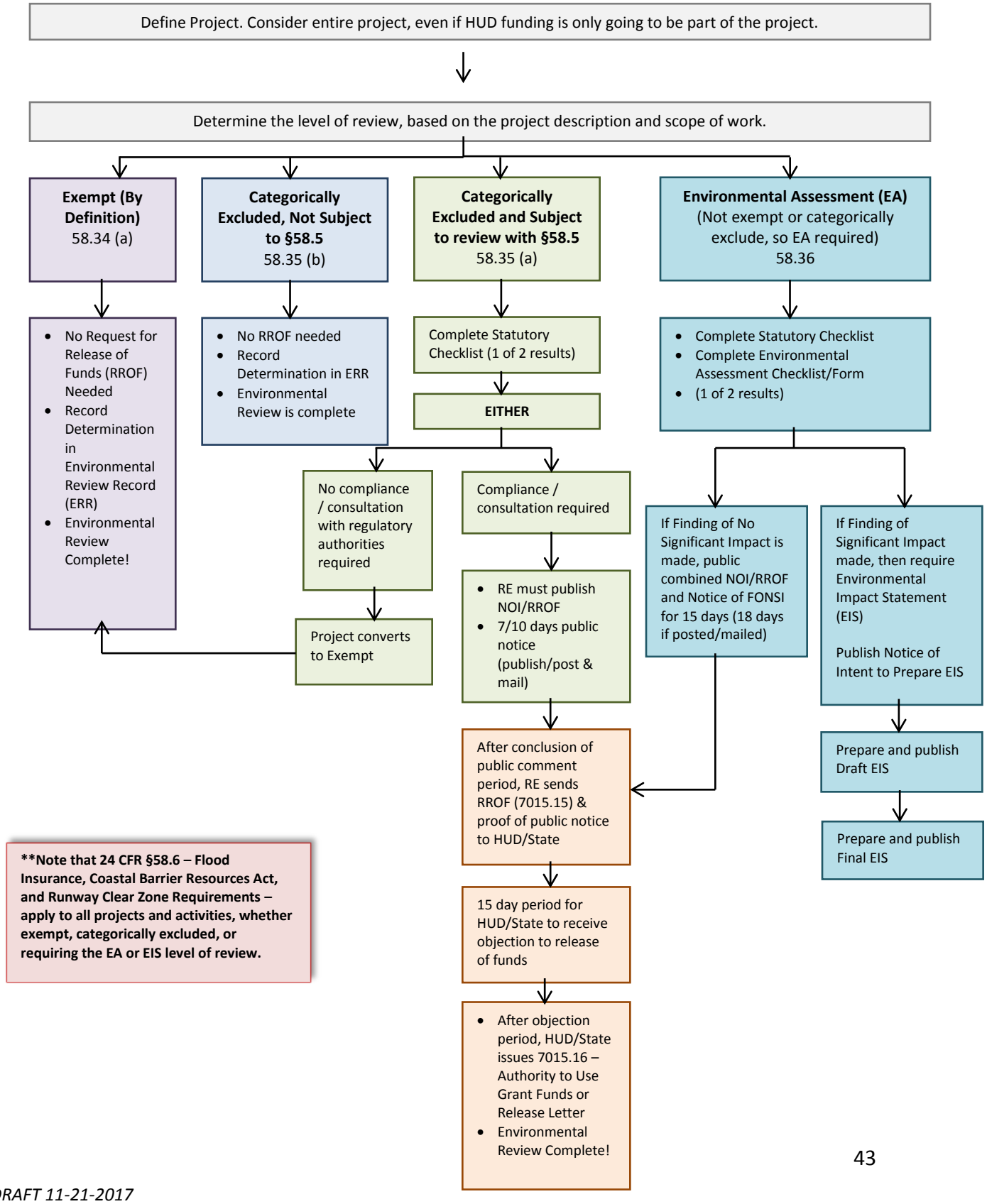
In 2015, HUD created an online system for developing, documenting, and managing environmental reviews. This comprehensive online tool will replace the current paper-based environmental review process when it is fully implemented. HEROS will cover all levels of environmental reviews for both Part 50 and Part 58 activities including compliance with related laws and authorities.

**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

- Code of Federal Regulations, Part 50, Housing and Urban Development (HUD), Protection and Enhancement of Environmental Quality (24 CFR Part 50) https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=7535b23fa032db7717e929e9607cd937&mc=true&r=PART&n=pt24.1.50
- Code of Federal Regulations, Part 58, Housing and Urban Development (HUD), Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 CFR Part 58) https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr58_main_02.tpl
- National Environmental Policy Act of 1969 https://ceq.doe.gov/
- Link to HEROS – HUD Environmental Review Online System https://www.hudexchange.info/environmental-review/heros/
- Link to HUD Environmental Review Website https://www.hudexchange.info/programs/environmental-review/

The following flowchart illustrates the process a Responsible Entity (RE) should conduct for each HUD funded project or activity:



## *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 Universal Design and Construction requirements.

**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 on the 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 extreme 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 can take different forms, including independent market studies, waiting lists and other market information assembled by the applicant. The scope of the assessment should be relative to the project scope.

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:

  - For new construction:
    - Copies of the year-end operating information from three comparable developments that have been in operation preferably at least three years
  - 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.

- 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.
- 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.
    - 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.
    - 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.
    - 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** |
| 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

In lieu of an operating pro-forma, the applicant must submit a sales plan from homebuyer developers (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. 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.

- 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. The meanings ascribed to these terms in 10 T.A.C. § 10.3 are persuasive but not binding on the City.
- 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*

**Introduction**

In order to comply with 24 CFR 92.251, all HOME-funded properties must meet certain minimum property standards at project completion. Table 1 lists 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 -

- *City Residential Building Codes:* Includes all adopted building codes, land use regulations and the City's design 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:* In some cases, 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 Titles II and 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 the 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**

| Applicable Section of the Manual | Minimum Property Standards by Activity | Minimum Property Standard to be Met |
|---|---|---|
| **Section 4** | Tenant-Based Rental Assistance (TBRA) | Housing Quality Standards<br>Lead Safe Housing Rule |
| **Section 5** | Single Family Homebuyer Property Standards - Acquisition of newly constructed or existing housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only) | Texas Department of Housing and Community Affairs' Texas Minimum Construction Standards<br>City Residential Building Code<br>Lead Safe Housing Rule<br>Broadband Infrastructure<br>Down Payment Assistance<br>City Residential Building Code<br>Uniform Physical Condition Standards |
| **Section 5** | Single Family Homeowner Property Standards - Rehabilitation of housing | Major systems must have a useful life of at least five years, upon project completion.<br>Texas Department of Housing and Community Affairs' Texas Minimum Construction Standards<br>City Residential Building Code<br>Accessibility Requirements<br>Lead Safe Housing Rule |
| **Section 5** | Single Family Homebuyer Property Standards - New construction of housing | City Residential Building Code<br>Accessibility Requirements<br>Manufactured Home Construction and Safety Standards<br>Broadband Infrastructure |
| **Section 6** | Multi-Family Property Standards - Acquisition of newly constructed or existing housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only) | Texas Department of Housing and Community Affairs' Property Standards for HOME Multifamily.<br>City Residential Building Code<br>Uniform Physical Condition Standards<br>Lead Safe Housing Rule<br>Broadband Infrastructure |
| **Section 6** | Multi-Family Property Standards - Rehabilitation of housing | Major systems must have a useful life of at least five years, upon project completion.<br>City Residential Building Code<br>Uniform Physical Condition Standards<br>Texas Department of Housing and Community Affairs' Property Standards for HOME Multifamily.<br>Accessibility Requirements<br>Lead Safe Housing Rule |
| **Section 6** | Multi-Family Property Standards - New construction of housing | City Residential Building Code<br>Accessibility Requirements<br>Site and Neighborhood Standards<br>Broadband Infrastructure |

## Section 1: General Information

The U.S. Department of Housing and Urban Development provides federal funds to rehabilitate and construct affordable housing. 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.

1. **Permits:** The Contractor shall obtain and display at the job site all permits and permit cards as required by the City.
2. **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.
3. **Sanitary Facilities:** Contractor shall be responsible to determine the need for adequate sanitary facilities and to provide those accommodations on site.
4. **Equipment:** Contractor shall be responsible for the safe operation of equipment at all times.
5. **Trades persons:** All work shall be done with skilled and licensed craftsman and accomplished with care.
6. **Construction Materials:** All materials used shall be new (unless otherwise specified in the specifications manual) and of a good quality.
7. **Qualifications of Bidders:** 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 the City all such information and data for this purpose as the Owner or the City may request. The Owner, or the 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.
8. **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 rehabilitation (construction) work outlined in the description of the work to be performed.
9. **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):** 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.
- **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.
  Note – The City's Residential Building Code does not include a disaster mitigation plan.
- **Lead Safe Housing Rule:** Pre-1978 housing assisted with HOME 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 HOME funds shall comply with the regulation implementation Title X of the 1992 Housing and Community Development Act.
- **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:
    - 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.

  If manufactured housing is rehabilitated with HOME 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 HOME funds.

- **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.
- **Major Systems** 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. Upon 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 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.
- **Site and Neighborhood Standards:** For the 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 HOME funds.
- **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.
- **Housing Quality Standards (HQS):** For Tenant-Based Rental Assistance only, 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.
- **Texas Department of Housing and Community Affairs (TDHCA) Property Standards** for HOME Multifamily: 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 federal assistance.

**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,

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

- *Lead Safe Housing Rule:* All units in a project assisted with HOME 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 HOME funds must meet specific standards required by the HOME Rule.

**Acquisition only:** Properties receiving assistance for acquisition only (without rehabilitation) that are newly constructed units, and any units that have been rehabilitated within 12 months of project commitment, the property shall meet-

- *TDHCA's Texas Minimum Construction Standards*
- *City Residential Building Code*
- *Lead Safe Housing Rule*
- *Broadband Infrastructure*
- *City Residential Building Code*
- *Uniform Physical Condition Standards*

**Rehabilitation:** If the project involves rehabilitation, the following property standards and requirements apply -

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

**New Construction:** If the project involves new construction, the following standards and requirements apply -

- *City Residential Building Code*
- *Accessibility Requirements*
- *Manufactured Home Construction and Safety Standards*
- *Broadband Infrastructure*

**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 and City codes and ordinances at project completion.

**Section 6: Multi Family Property Standards**

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

**Acquisition only:** For properties receiving assistance for acquisition only (without rehabilitation) that are newly constructed units, and any units that have been rehabilitated within 12 months of project commitment, the property must meet the HOME property standards for new construction or rehabilitation.

- *TDHCA's Property Standards for HOME Multifamily*

- *Uniform Physical Condition Standards*
- *Lead Safe Housing Rule*
- *Broadband Infrastructure*

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

- *Major Systems Useful Life*
- *City Residential Building Code*
- *Uniform Physical Condition Standards*
- *TDHCA's Property Standards for HOME Multifamily*
- *Accessibility Requirements*
- *Lead Safe Housing Rule*

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

- *City Residential Building Code*
- *Accessibility Requirements*
- *Site and Neighborhood Standards*
- *Broadband Infrastructure*

**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 and City codes and ordinances at project completion.

**Section 7: Affordability Period for Rental Housing**

**Ongoing standards during affordability period:** 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 HOME-assisted rental housing to determine compliance with their 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 HOME-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 HOME-assisted project, as set forth by HUD through notice. For projects with one-to-four HOME-assisted units, City shall inspect 100 percent of the HOME-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-assisted units.

## *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 — or middle — 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 Based Development Organization (CBDO)
An association or corporation organized under State or local law to engage in community development activities primarily within an identified geographic area of operation within the jurisdiction of the City. CBDOs are generally nonprofit organizations that undertake specific kinds of CDBG-funded activities. CBDOs can be for-profit or non-profit organizations, but cannot be governmental entities.

Community Development Block Grant (CDBG)
The CDBG program is a flexible program 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 CDBG 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 pertaining to each of the following:

- Legal structure;
- Independence;
- Accountability to the low-income community;
- Capacity; and
- Experience

Development Subsidy
Assistance provided to developers by the City in an amount that can be above the fair market value up to the total development cost.

Direct HOME Subsidy
The amount of assistance, including any program income that enables the homebuyer to buy the unit. This includes: down payment assistance, closing costs assistance, interest subsidies and any direct subsidy that reduces the purchase price from fair market value to an affordable price.

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).

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 travel for non-local staff, job lodging for non-local staff, job meals for non-local staff, 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;
    - Construction Trade Training Program;

- 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); and
- Other Similar Expenses.

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)
The HOME program provides formula grants to States and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. HOME is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.

Household
All the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as 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.

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

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

Participating Jurisdiction (PJ)
Any State or local government that has been designated by HUD to administer a HOME program grant.

Public Facility Corporation (PFC)
"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, 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)
In order to comply with 24 CFR 92.251, all HOME-funded properties must meet certain minimum property standards at project completion. The RCMP lists the minimum property standards that apply to each type of HOME activity.

Soft Costs
In short, 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)
HUD assists 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.