



HOME and HTF Program Manual

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Introduction

This manual is a reference guide for projects receiving funding from the Indiana Housing and Community Development Authority (IHCDA) through the HOME Investment Partnerships Program (“HOME”) and Housing Trust Fund (“HTF”) programs. It is designed to answer questions regarding procedures, rules, and regulations that govern these federal programs. This manual should be a useful resource for sponsors, developers, award recipients, program administrators, and management agents. It provides guidance with respect to IHCDA’s administration of compliance under 24 CFR Part 92 (HOME) and 24 CFR Part 93 (HTF), as well as other applicable federal regulations.

Please note, however, that this manual is to be used only as a supplement to compliance with all applicable regulations. This manual should not be considered a complete guide to the HOME or HTF programs. The responsibility for compliance with federal program regulations lies with the recipient. See disclaimer below.

SCOPE OF THIS MANUAL

This manual discusses the upfront compliance requirements necessary to get an awarded project through the closeout process. This manual does not discuss the award application process. This manual only briefly discusses the ongoing compliance requirements for rental projects. Readers looking for information on rental housing compliance should refer to IHCDA’s manual entitled [Federal Programs Ongoing Rental Compliance Manual](#).

****DISCLAIMER****

The publication of this manual is for convenience only. Your use or reliance upon any of the provisions or forms contained herein does not, expressly or implicitly, directly or indirectly, suggest, represent, or warrant that your development will be in compliance with the requirements of [24 CFR Part 92](#) or [24 CFR Part 93](#). The Indiana Housing and Community Development Authority and contributing authors hereby disclaim any and all responsibility of liability, which may be asserted or claimed arising from reliance upon the procedures and information or utilization of the forms in this manual.

Because of the complexity of federal and state regulations and the necessity to consider their applicability to specific circumstances, recipients are strongly encouraged to seek competent, professional legal and accounting advice regarding compliance issues. **IHCDA’s obligation to monitor for compliance with the requirements of these federal regulations does not make IHCDA or its subcontractors liable for a recipient’s noncompliance.**

Program Backgrounds

HOME INVESTMENT PARTNERSHIPS PROGRAM

The HOME Investment Partnerships Program (HOME) provides annual formula grants to Participating Jurisdictions (States and localities) to fund a range of activities including the construction, acquisition, and/or rehabilitation of affordable housing for rent or homeownership or providing direct tenant-based rental assistance. The HOME program was authorized in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act.

HOME – AMERICAN RESCUE PLAN

To address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses, Congress appropriated \$5 billion in HOME American Rescue Plan (ARP) funds under section 3205 of the American Rescue Plan Act of 2021. Activities including development and support of affordable housing, tenant-based rental assistance, provision of supportive services, and acquisition and development of non-congregate shelter units must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other vulnerable populations.

NATIONAL HOUSING TRUST FUND

The National Housing Trust Fund (HTF) is an affordable housing production program designed to increase and preserve the supply of affordable housing for extremely low- and very low-income households, including people experiencing homelessness. The HTF was established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131. HTF funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities. No less than 90% of HTF funding must be used for the production, preservation, rehabilitation, or operation of affordable rental housing.

Chapter 1 – Policy Requirements

1.1 Eligible Activities with IHEDA HOME and HTF Funding

PERMANENT RENTAL HOUSING – HOME, HTF

The purpose of this activity is to provide funding for affordable long-term housing that will be rented to income-eligible tenants. Eligible activities include acquisition, rehabilitation, or new construction. Permanent rental housing units may not be used for temporary or emergency housing at any time. All individuals or families moving into a permanent supportive housing unit must be income certified and must enter into a lease agreement.

Information on how to apply for HOME Rental funding can be found in the [HOME Application Policies](#).

Information on how to apply for HTF funding can be found in the [HTF Application Policies](#).

PERMANENT SUPPORTIVE HOUSING – HOME, HTF

The purpose of this activity is to provide funding for affordable long-term housing and supportive services for persons that would otherwise be at risk of being homeless. Eligible activities include acquisition, rehabilitation, or new construction. Application policies may be found at the above links.

Permanent supportive housing units may not be used for temporary or emergency housing at any time. All individuals or families moving into a permanent supportive housing unit must be income certified and must enter into a lease agreement. This activity can only be funded by successfully completing the Permanent Supportive Housing Institute.

More information about Permanent Supportive Housing is located on [IHEDA's Supportive Housing webpage](#).

HOME-AMERICAN RESCUE PLAN – HOME-ARP

The purpose of this activity is to provide low barrier permanent rental housing to individuals or families who meet the definition of a qualifying population as defined in the U.S. Department of Housing and Urban Development's [CPD Notice 21-10](#):

1. Homeless,
2. At risk of Homelessness,
3. Fleeing or Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, or
4. Other Populations:
 - a. Other Families Requiring Services or Housing Assistance to Prevent Homelessness

- b. At Greatest Risk of Housing Instability.

Information on this activity can be found at [IHCDA's HOME-ARP webpage](#).

HOME HOMEBUYER HOUSING – HOME

The purpose of this activity is to provide funding for affordable long-term housing for persons interested in purchasing a home. Eligible activities include acquisition, rehabilitation, or new construction.

Homebuyer units may not be utilized for temporary housing or generally be used for rental purposes. Individuals who purchase a home with Homebuyer funding must utilize the unit as their primary residence. Funding can be utilized to reduce the purchase price of the home to make it affordable for individuals. Resources and training materials for this activity can be found at [IHCDA's HOME webpage](#).

Information pertaining to HOME Homebuyer specific requirements and regulations can be found in the [HOME Homebuyer Closing Manual](#).

1.2 Critical Deadlines for All HOME Awards

FOUR YEAR COMPLETION DEADLINE

A project that is not completed within four years from the date the written agreement is executed (project commitment) is deemed terminated and all HOME funds must be repaid.

RENTAL LEASE-UP DEADLINE

IHCDA requires 100% of the HOME- or HTF-assisted rental units to be occupied prior to completing the final monitoring review of the project. At IHCDA's discretion, IHCDA may allow the final monitoring to be completed without all assisted rental units occupied. Under this circumstance, rental units must be occupied by eligible households within eighteen months of project completion. If not, the HOME funds must be repaid for those units still vacant.

For units still vacant six months after project completion, the recipient must create and submit to IHCDA an “enhanced marketing plan” to identify strategies to lease-up the units. This plan will be submitted by IHCDA to the HUD field office.

HOMEBUYER UNIT SALE DEADLINE

Upon the final inspection, Developers have twelve months to enter into a purchase agreement with an eligible buyer. After three months, if the unit has not been sold, IHCDA will require a

marketing plan to be submitted and approved. IHEDA may also elect to have on-going technical assistance with the Developer to ensure the unit is sold within the federal timeframe.

Units which are not sold within twelve-month timeframe will automatically convert to a HOME rental activity and must meet all rental compliance terms, including the rental period of affordability.

Chapter 2 – Community Housing Development Organization

2.1 What is a Community Housing Development Organization?

A Community Housing Development Organization (CHDO) is a private, nonprofit, community-based organization that has significant capacity and whose primary purpose is to development affordable housing for the community it serves. CHDOs certified by IHCDa receive a special designation. The HOME Investment Partnerships Program definition of a CHDO may be found at [24 CFR Part 92.2](#)

CHDO BENEFITS

HOME regulations require that all Participating Jurisdictions (PJs) must set aside a minimum of 15% of its annual HOME allocation exclusively for qualified, eligible CHDO projects.

If an organization becomes a certified CHDO, it is eligible to take advantage of the HOME funds set-aside exclusively for CHDOs, as well as financing support for a portion of its operating expenses associated with CHDO projects. In addition, the CHDO will have access to predevelopment and seed money loans for subsequent HOME-CHDO projects.

REQUIREMENTS FOR IHCDa CHDO CERTIFICATION

IHCDa will certify organizations as CHDOs upon approval of either an application to the CHDO Pre-Development Fund or through an open round for HOME construction funding.

CHDOs must meet the following requirements to be certified as a CHDO:

1. All criteria as set by the U.S Department of Housing and Urban Development [24 CFR 92.2](#), as listed in Part 2.D below;
2. Meet one of the allowable CHDO roles for the project; and,
3. Be awarded HOME funding.

Organizations must submit IHCDa's CHDO application and supporting documentation to be considered for certification. Application forms and additional information can be found on [IHCDa's CHDO webpage](#).

2.2 Regulatory Requirements

All organizations seeking CHDO certification must meet all of the following criteria, which can be found under the CHDO definition section at [24 CFR 92.2](#). The requirements of CHDOs are broken down into three general categories: Legal Status, Capacity, and Organization Structure. There

are also restrictions on the relationship with the public sector and limitations on relationships with for-profit entities. IHCDCA is required to document the capacity of CHDOs each time IHCDCA commits funds to a CHDO project.

LEGAL STATUS

1. **Organized under State or Local Law:** The organization must show evidence in its Articles of Incorporation and/or Charter that it is organized under Indiana state or local law.
2. **No Individual Benefit:** No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization's Articles of Incorporation and/or Charter.
3. **Nonprofit Status:** The organization must have a tax exemption ruling from the Internal Revenue Services (IRS) under Section 501(c)(3) or 501(c)(4) of the Internal Revenue code of 1986. A 501(c) certificate from the IRS must evidence the ruling. If the organization is classified as subordinate of a central organization non-profit the organization must provide a group exemption letter from the IRS that includes the CHDO. The CHDO must also maintain a record of good standing with the State of Indiana Secretary of State's office.
4. **Purpose of Organization:** Among its primary purposes, the organization must have the provision of decent housing that is affordable to low-and moderate-income persons. This must be evidenced by a statement of the organization's Articles of Incorporation, Bylaws, Charter, or Resolution.
5. **Clearly Defined Service Area:** The organization must have a clearly defined geographic service area outlined in its Articles of Incorporation and/or Bylaws. CHDOs may serve individual neighborhoods or large areas. However, while the organization may include an entire community in their service areas (such as a city, town, county or multicounty area), they may not include the entire state.

CAPACITY

1. **Financial Accountability Standards:** The organization must meet and adhere to the financial accountability standards as outlined in [2 CFR 200.302](#) and [200.303](#) as evidenced by either a notarized statement by the President or Chief Financial Officer of the organization or a certification from a Certified Public Accountant.
2. **Community Service:** The organization must demonstrate its history of serving the community within which HOME assisted housing to be located. For newly created organizations formed by local churches, service organizations, or neighborhood organizations, a statement that documents that its parent organization has at least one year of experience in serving the community is required.

The statement must include the following:

- a. description of its history (or its parent organization's history) of activities provided which served the community, such as developing new housing, rehabilitating existing stock, managing housing stock, or delivering non-housing services that have lasting benefits for the community (e.g. counseling, food relief, or childcare facilities)
 - b. signature by the chief executive of the organization.
3. **Experience:** The key staff and Board of Directors must have demonstrated experience carrying out housing projects assisted with Federal funds, Low-Income Housing Credits, Federal Home Loan Bank Affordable Housing Program funds, or local and State affordable housing funds.

CHDOs must have paid employees with housing development experience who will work on the HOME project. The employees must receive a W-2 or 1099 from the CHDO.

- a. If the paid employees of the CHDO do not demonstrate capacity to develop a HOME-assisted project alone, the experience of paid employees may be supplemented by board members or officers of the CHDO who are volunteers. The board member or officer may not be compensated, nor have their services donated by another organization.
- b. For its first year of funding as a CHDO, an organization may satisfy this requirement through a contract with an experienced consultant who has housing development experience to train key staff members.
- c. Key staff cannot be:
 - i. non-paid board members or other volunteers,
 - ii. officers or employees of a governmental entity,
 - iii. consultants, unless in the first year of operation and training CHDO's key staff,
 - iv. employees of a sponsoring entity, or
 - v. donated by, contracted through, or cost allocated from another entity.

An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of [24 CFR 92.300\(a\)](#).

An organization that will sponsor housing must demonstrate capacity as a developer or capacity to act as an owner as defined in Section 2.3 below.

4. **Location:** The CHDO must maintain a staffed, physical office location in the proposed service area that is open for business and accessible by potential program applicants during generally accepted customary business hours.

ORGANIZATIONAL STRUCTURE

- 1. The CHDO cannot be a governmental entity and cannot be controlled by a governmental entity; however, an organization that is created by a governmental agency may qualify as a CHDO.
 - a. No more than one-third of the board members may be officials or employees of participating jurisdiction or governmental entity that created the CHDO.
 - b. No governmental entity may have the right to appoint more than one-third of the membership of the organization's governing body.

- c. The Board members appointed by a governmental entity, and the board members that are officials or employees of the PJ or governmental entity that created the organization may not appoint the remaining two-thirds of the board members.
 - d. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization.
- 2. The CHDO can neither be controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity but:
 - a. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm;
 - b. The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;
 - c. The community housing development organization must be free to contract for goods and services from vendors of its own choosing; and
 - d. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization.
- 3. CHDO's must maintain at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, low-income beneficiaries of HUD programs, designees of low-income neighborhood organizations, or designees of nonprofit organizations in the community that address the housing or supportive services needs of low-income residents or residents of low-income neighborhoods.
 - a. **Low-income residents of the community:** In order to qualify for this category, the member must be at or below 80% of the Area Median Income (AMI) for the County in which they reside. Please refer to the most recent AMI limits as posted through IHCD's [RED Notices](#).
The CHDO board need not include residents from each county in the CHDO's proposed service area, but the board's composition should in some fashion, reasonably represent that service area.
 - b. **Residents of low-income neighborhoods:** A low-income neighborhood is where 51% or more of the residents are low-income. Board members who reside in low-income neighborhoods do not have to be low-income themselves. Low-income neighborhoods can be determined based on census tract or block group.
 - c. **Low-income beneficiaries of HUD programs:** CHDOs must document which HUD program the board member receives assistance from.
 - d. **Designees of low-income neighborhood organizations:** including nonprofit organizations in the CHDO service area that address the housing or supportive service needs of low income residents or residents of low-income neighborhoods.
Organizations may include homelessness providers, Fair Housing Initiatives Program providers, Legal Aid, disability rights organizations, and victim service providers.
For urban areas, "community" may be a neighborhood or neighborhoods, city,

county, or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State).

CHDOs must provide documentation (bylaws, resolution) from the CHDO designating the nonprofit organization to have a representative on the CHDO Board.

4. A CHDO must develop and implement a formal advisory process for low-income program beneficiaries and low-income residents or the organization's service area to advise the organization in all its decisions regarding the design, location, development, and management of affordable housing projects. This can be evidenced by the Bylaws, Resolution, or a written statement of operating procedures approved by the governing body.

2.3 CHDO Roles

CHDOs applying for construction funding for rental or homebuyer programs must serve in one of four allowable CHDO roles: rental owner, rental developer, rental sponsor, or homebuyer developer. The CHDO may have different roles for different HOME projects. IHEDA must certify the CHDO role upon time of application.

CHDO AS RENTAL OWNER:

A CHDO "owns" a rental project when the CHDO holds valid legal title in fee simple or has a long-term (99-year minimum) leasehold interest in a rental property. The CHDO must oversee or hire and contract with an experienced project manager to oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work, and determining the reasonableness of costs. The CHDO must solely own property during development and for a period at least equal to the HOME affordability period.

While the CHDO may not be responsible for the development activity itself, CHDO staff must have relevant experience in the ownership and ongoing management of similar rental projects. CHDO staff should have experience managing the work of contracted professionals to provide effective oversight to the contracted project manager/developer.

CHDO AS RENTAL DEVELOPER:

A CHDO "develops" a rental project when the CHDO is the owner in fee simple or through a long-term ground lease during both the development and the affordability period. As developer, the CHDO must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME funds, selecting contractors (including architects, engineers, general contractors, and other members of the development team), overseeing the progress of work, and determining reasonableness of costs. The CHDO must solely own the property during development and for a period at least equal to the HOME affordability period.

If the CHDO itself will not own the property during development and the affordability period, but will own the property through a subsidiary partnership, or limited liability company, the project is not a CHDO “developed” project. See the description of CHDO rental sponsors below to determine if the project may still qualify for CHDO set-aside funding.

CHDO AS RENTAL SPONSOR:

A CHDO “sponsors” a rental project through one of two processes: CHDO Sponsored/Affiliate Developed, CHDO Sponsored/Affiliate Owned, or CHDO Sponsored/Turnkey. CHDOs must identify the specific sponsor role proposed within their HOME application.

1. CHDO Sponsored/Affiliate Owned or Developed:

Rental housing is owned or developed by a CHDO affiliate, defined as a CHDO’s wholly owned subsidiary (non-profit or for-profit); a limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or a limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member.

If the limited partnership or limited liability company agreement permits the CHDO to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the CHDO must be replaced with another CHDO.

The Affiliate must solely own the property in fee simple (or via long term ground lease) during development. The Affiliate must solely own the property for the required HOME affordability period. The Affiliate must solely be in charge of the development process, including obtaining zoning and other approvals; securing other non-HOME financing needed for the project; selecting the architect, engineers, general contractors, and other members of the development team; overseeing progress of work; and determining cost reasonableness.

IHCDA must enter into a written agreement with the entity that actually owns the property and determine the form of assistance.

2. CHDO Sponsored/Turnkey:

The CHDO develops housing on behalf of another non-profit organization. The rental housing is transferred by the CHDO to the other non-profit upon completion. The non-profit organization may not be created by a governmental entity. The non-profit receiving the property upon completion must be identified by the CHDO prior to the commitment of HOME funds and they must assume ownership and all HOME obligations, including any loan repayment after completion of development. The CHDO must own the property during development and be in sole charge of the development process.

If the identified nonprofit does not assume ownership as planned, the CHDO must maintain ownership for the duration of the HOME affordability period.

While the subsequent nonprofit owner will ultimately assume the HOME agreements and financing, IHCDA must enter into a written agreement with the CHDO. The HOME project must be completed while the CHDO holds title to the project.

CHDO AS HOMEBUYER DEVELOPER:

The CHDO must own and develop the property (either new construction or rehabilitation). The CHDO must be in charge of all aspects of the development process, including selecting the site, obtaining permit approvals and all project financing, selecting architects, engineers, and general contractors, overseeing project progress, determining the reasonableness of costs, identifying eligible homebuyers, and overseeing the sale of homeownership units. The CHDO may provide direct homeownership assistance (e.g., assistance with a downpayment, payment of closing costs, mortgage rate buy-downs, etc.) when it sells the housing to low-income families without being considered a Subrecipient.

SUB-RECIPIENTS

Organizations which have been certified as CHDOs may also be considered a sub-recipient for IHCDAs HOME program. A sub-recipient administers programs, such as HOME-TBRA, while a CHDO owns, develops, or sponsors rental projects or develops homebuyer projects. An organization may not be considered a CHDO solely for acting as a sub-recipient. CHDOs must additionally meet the owner, developer, or sponsor role for a HOME construction project to qualify.

2.4 Eligible Uses of CHDO Set-aside Funds

A minimum of 15 % of IHCDAs allocation of HOME funded must be set-aside for CHDO eligible projects. It is IHCDAs discretion to determine the eligible activities for HOME funding.

- 1. Eligible uses:**
 - a. Acquisition/rehabilitation and sale of units to homebuyers
 - b. Acquisition/rehabilitation of rental units
 - c. New Construction (rental or homebuyer)
 - d. Direct financial assistance to homebuyers only when also constructing or rehabilitating the units
- 2. Ineligible uses:**
 - a. Non-development activities
 - i. CHDO loaning the HOME funds to a project they are not involved in owning, sponsoring, or developing
 - ii. CHDO does not meet the definition of homebuyer developer
 - b. Tenant- based rental assistance
 - c. Homeowner rehabilitation
 - d. Down payment and losing cost assistance when not associated with unit construction or rehabilitation

CHDO PRE-DEVELOPMENT LOANS

IHCDAs may use up to 10% of the CHDO set-aside in a given program year for CHDO pre-development loans. Organizations which meet the CHDO requirements are eligible to apply for

IHCDA's pre-development loans. Specific information on eligibility and underwriting criteria may be found in the CHDO pre-development fund policy available on [IHCDA's CHDO webpage](#).

IHCDA offers two types of pre-development loans: Site Control Loans and Seed Money Loans. Funds must be provided as a loan and the CHDO must repay from construction loan proceeds or other income. IHCDA will certify the request for the predevelopment loan is for allowable costs per the HOME regulations and that the organization meets the definition of a CHDO.

IHCDA, in its sole discretion, may waive repayment if there are impediments to the project development beyond the CHDO's control and the project is deemed infeasible.

CHDO OPERATING SUPPLEMENTAL FUNDING

IHCDA may use up to 5% of its HOME allocation for CHDO Operating assistance. To be eligible for CHDO Operating Supplemental Funding, the CHDO must be funded from the CHDO set-aside for a project requesting HOME construction funding.

The operating expenses must be used for eligible operating costs. A listing of those eligible costs may be found in the HOME Rental or Homebuyer Allocation Policies.

2.5 CHDO Proceeds

HOMEBUYER

CHDOs receiving loan repayments back from homebuyers during the affordability period may retain these funds. The funds must be utilized for housing activities that benefit low-income families as provided in [24 CFR 92.300\(a\)\(2\)](#). However, if at any time during the affordability period the CHDO becomes decertified or no longer has a mission of providing affordable housing then all CHDO proceeds must immediately be remitted to IHCDA. Funds recaptured because housing no longer meets affordability requirements are not considered CHDO proceeds and are subject to the requirements of [24 CFR 92.503\(b\)](#) and must be returned to IHCDA. Please see the [IHCDA HOME Homebuyer Closing Manual](#) for more information on CHDO Proceeds and Program Income.

Chapter 3 – Environmental Review Process

Every recipient of a HOME or National Housing Trust Fund award must complete the HUD 24 CFR Part 58 Environmental Review and Section 106 Process prior to taking any physical action on a site or making any commitment of HUD or non-HUD funds related to the project. The Environmental Review Record (ERR) and Section 106 are separate federally mandated reviews, but IHEDA has combined both processes in the Environmental and Historic Review User's Guide and Environmental Review Workbook located on [IHEDA's Environmental Review and Section 106 webpage](#). The review process is complete with HUD's issuance of the "Release of Funds".

The ERR process is intended to be a project planning tool and should be started early alongside project planning. The ERR Workbook and supporting documentation will be submitted during the appropriate application funding round alongside the rest of the application.

Recipients must determine the appropriate classification of their activity/project:

1. Exempt,
2. Categorically Excluded – Not Subject to 58.5,
3. Categorically Excluded – Subject to 58.5, or
4. Assessed.

The required process to obtain the Release of Funds will vary depending upon the classification of the undertaking. To determine the classification of the undertaking, refer to the Environmental and Historic Review User's Guide.

Based on the classification determination, applicants will fill out specific portions of the Environmental Review Workbook and will provide all necessary supporting documentation. The User's Guide and other resource documents on the [IHEDA's Environmental Review and Section 106 webpage](#) will assist applicants with what sections to fill out, what supporting documentation is required, and where to access that documentation.

The ERR must include:

1. **Required Forms:** The ERR Workbook forms are required to be submitted to IHEDA will vary depending on the classification of the proposed undertaking.
2. **Source Documentation:** Required source documentation is described in each section of the ERR and will include:
 - a. Maps
 - b. Written determinations from government entities as required by 24 CFR Part 58
 - c. Photographs
 - d. Other source documentation as required by each section of the ERR Workbook
3. **Signatures:** The documents must include three original signatures to be considered complete.
 - a. Summary page of the ERR Workbook
 - b. Exhibit C, D, or E of the ERR Workbook. Only one of these will be filled out and signed depending on the classification of the project.
 - c. Findings and Signatures page of the ERR Workbook.

The Environmental Review process for the National Housing Trust Fund (NHTF) differs from the process used for applications that include HOME funds from either IHCDA or a municipal Participating Jurisdiction. To review the differences in the review process, please refer to the NHTF section of the Environmental and Historic Review User's Guide.

Chapter 4 – Funds Management and Reporting

This chapter covers steps for submitting claims throughout the construction period and reporting project information to meet HUD requirements for setting up and closing out the award. Recipients are expected to notify the Funds Management and Reporting Specialist of any modifications to the award agreement, changes in budget itemization, or changes in the estimated deadlines for construction completion and lease-up.

4.1 HOME Matching Funds

To comply with federal regulation [24 CFR 92.220](#) requirements, the HOME Program requires a 25% matching contribution of non-federal funds. As such, applicants must demonstrate eligible matching funds equal to 25% of the total amount of HOME funds. Eligible match amounts are calculated per [HUD CPD Notice 97-03](#) via the Match Spreadsheet located in the Chapter Exhibits.

ELIGIBLE FORMS OF MATCH

1. **Banked Match:** Excess match generated through prior awards. Contact the Funds Management and Reporting Specialist for proof of availability and amount of banked match per award.

Required Documentation: Attach printout of banked match balance sheet and letter of intent to use banked match for the appropriate amount to meet 25% requirement.

2. **Shared Match:** Banked match generated through a donor organization's prior awards. The donor must contact the Funds Management and Reporting Specialist for their organization's banked match balance sheet. Match cannot be sold or purchased and is provided purely at the discretion of the recipient that generated it.

Required Documentation: Attach a letter from the donor organization stating the amount of banked match they are donating toward the recipient's match requirement.

3. **Grant or Donated Cash (non-federal):** Any non-federal cash contributions made by the State, other non-federal governmental units, private entities, or individuals except a project owner or contractor.
 - a. A cash contribution may be made from program income from a federal grant earned after the end of the award period if no federal requirements govern the disposition of the program income. Contributions that support administrative or project delivery costs do not count as match for HOME Awards.
 - b. Nonprofit recipients or sub-recipients who are reporting match contributions may not count contributions that result from ongoing annual fund drives. Contributions or grants to affordable housing that are not a part of an ongoing annual fund drive may be counted.
 - c. FHLB - AHP Grant: Grant awards through the Federal Home Loan Bank Affordable Housing Program should be reported here.

Required Documentation: Attach a list of the contribution, donor, and date of contribution. Documentation should include a specific statement (e.g., donor letter) or other evidence that the contribution is for the general or specific project being reported. Please keep a copy of the check of the match/leverage coming in as well as the checks that paid for the services.

4. **Services & Counseling:** Salary costs (including benefits) and total materials costs that are directly attributable to providing supportive services or homebuyer counseling services to residents of HOME units. Overhead costs (e.g. rent, office equipment and supplies, etc.) are not considered directly attributable costs.

Required Documentation: Salary costs may be supported by attaching invoices, timesheets, etc. Material costs may be supported by attaching invoices.

5. **Volunteer Labor & Professional Services:** The value of all donated or voluntary labor that was provided in connection with site preparation, construction, or rehabilitation of the housing.
 - a. Donated or voluntary labor is valued at a fixed rate by HUD. Currently, that rate is \$10 per hour for any type of unskilled labor. The rate of pay for a skilled labor is their normal hourly rate of pay.
 - b. The value of voluntary legal, architectural, or engineering services contributed by a professional who has been contracted for other work on the HOME project cannot be counted as HOME match. Donated services are valued at the professional's actual hourly charges.

Required Documentation: **Attach** a log showing the name, date, and hours of labor donated to the specific project. For Professional Services, must document that the professional's hourly charges are reasonable and customary for the type of work performed.

6. **Sweat Equity:** The value of sweat equity may be counted as match for HOME-assisted homeowner rehabilitation units if it is part of an established sweat equity component of the recipient's program. Sweat Equity is valued at a fixed rate by HUD. Currently that rate is \$10 per hour for any type of unskilled labor. List the total number of hours used for eligible units.

Required Documentation: Attach recipient organization's sweat equity program policies.

7. **Value of Donated Materials & Equipment:** The value of all site-preparation and construction materials and equipment donated to the project.

Required Documentation: Attach a list of materials, donors, date of donation, and valuation.

8. **BMIR – Permanent Loan:** The grant equivalent of a below market interest rate loan or permanent financing to the project. The contribution is the present discounted cash value of the yield forgone, using one of the following measures of market rate yield, as appropriate:

- a. with respect to 1-4 unit housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points;
- b. with respect to 1-4 unit housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points;
- c. with respect to a multifamily project, a rate equal to the 10-year Treasury note rate plus 300 basis points; or
- d. with respect to housing receiving financing for rehab, a rate equal to the 10-year Treasury note rate plus 400 basis points.

The week ending Treasury note rate for the week of the loan closing is the one used for comparison. Current and prior week’s Treasury rates can be accessed from the [Federal Reserve](#).

Required Documentation: Attach documentation showing the loan terms including but not limited to Loan Amount, Rate Type, Interest Rate, Amortization Period, Interest Compounding, and Date Committed.

- 9. **BMIR – Construction Loan:** The grant equivalent of a below market interest rate non-amortizing loan due on sale. It is assumed that the term of the loan is equal to the Affordability Period associated with the housing units being assisted. In all other respects, calculation and required documentation follow the above BMIR – Permanent Loan section.
- 10. **Tax Exemption:** The present discounted cash value of state or local taxes. To calculate the value of foregone taxes, provide the assessed value of the property, the tax rate, number of years waived, affordability period, date exempted, week ending date of the date exempted, treasury security to be used, and the T-Note rate. Use the below table to determine the treasury security to be used. Use the T-Note rate from the week ending date of the date exempted; rates can be found on the [Federal Reserve Board’s H15](#) release.

Years Exempted for Match	U.S. Treasury Security
1 year	1-Year T-Note
2 years	2-Year T-Note
3 years	3-Year T-Note
4 to 5 years	5-Year T-Note
6 to 8 years	7-Year T-Note
9 to 14 years	10-Year T-Note
15 years +	20-Year T-Note

Required Documentation: Provide a copy of the resolution from the local unit of government, or letter from the highest-ranking official, granting the exemption.

- 11. **Tax Abatement:** The present discounted cash value of state or local taxes during the abatement period. To calculate, provide the assessed value of the property, the tax rate, number of years abated, affordability period, date abated, week ending date of the date abated, treasury security to be used, and the T-Note rate. Use the above table from Tax Exemption section to determine the treasury security to be used. Use the T-Note rate

from the week ending date of the date exempted; rates can be found on the [Federal Reserve Board's H15](#) release.

Insert the pro-rata schedule/rate for the tax abatement. If not provided by the local unit of government, insert the applicable column below.

1 Year	2 Year	3 Year	4 Year	5 Year	6 Year	7 Year	8 Year	9 Year	10 Year
100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
	50%	66%	75%	80%	85%	85%	88%	88%	95%
		33%	50%	60%	66%	71%	75%	77%	80%
			25%	40%	50%	57%	63%	66%	65%
				20%	34%	43%	50%	55%	50%
					17%	29%	38%	44%	40%
						14%	25%	33%	30%
							13%	22%	20%
								11%	10%
									5%

Required Documentation: Provide a copy of the resolution from the local unit of government, or letter from the highest-ranking official, granting the exemption.

12. **Other Government Waived Fees & Permits:** The value of state or local fees, or other charges that are normally and customarily imposed or charged by a state or local government on all transactions or projects in the conduct of state or local government operations that are waived, forgone, or deferred in a manner that achieves affordability of housing that is assisted with HOME funds. Fees or charges that are associated with the HOME Program only (rather than normally and customarily imposed or charged on all transactions or projects) are not eligible forms of contributions. For fees or charges that are given for future years, the value is the present discounted cash value, based on a rate equal to the rate for the Treasury security with maturity closest to the number of years for which the fees or charges are waived, forgone, or deferred.

Required Documentation: The Recipient must document that the waived fees and permits are reasonable and customary governmental charges. Attach a list of waived fees, date of waiver, and value of waiver.

13. **Value of Donated Land or other Real Property:** The value of donated or other real property, before HOME assistance is provided and minus any debt burden, lien, or other encumbrance. Property must be appraised in conformance with established and generally recognized appraisal practice, and value must be based on the best available data properly analyzed and interpreted. An independent, certified appraiser must perform the appraisal of land and structures. Partial donations are also acceptable (e.g.,

a sale below market price); however, the acquisition cost must be “demonstrably below the appraised value” and the seller must acknowledge in writing that the price differential is intended as a contribution to affordable housing.

Required Documentation: Attach a copy of the sales agreement or other documentation showing the sale price, the appraisal, and the seller’s statement.

14. **Required Infrastructure:** The cost of any investment, not made with federal resources, in onsite and offsite infrastructure that was directly required for the housing and made within twelve months of the time HOME funds are committed to the project (set up in IDIS). These infrastructure investments must be prorated to reflect only that portion of the costs directly attributable to the HOME-assisted housing. The costs must be reasonable and customary and may be contributed by a municipality or public or private utility. Infrastructure improvements cannot be counted as match in projects that are not HOME-assisted, regardless of whether the project will be used to meet some or all of the Recipient’s match requirement.

Required Documentation: Attach evidence from the Local Unit of Government stating the source(s) of funds used in the infrastructure project, including federal, state, local, and other sources, that directly impact the HOME project. The Local Unit of Government should distinguish only the portion of their overall infrastructure project that is on or adjacent to the project parcel. Additionally, there must be evidence of the total residential units benefitting from the project (include all households adjacent to the applicable portion of the infrastructure project, not just the HOME units.) Finally, provide the project completion date, or anticipated completion date.

INELIGIBLE FORMS OF MATCH

1. Contributions made with or derived from federal resources or funds (including Rural Development grants or loans) regardless of when the funds were received or expended;
2. The interest rate subsidy attributable to the federal tax exemption on financing (such as bonds issued by the state) or the value attributable to federal tax credits (such as the Low-Income Housing Tax Credit Program);
3. Owner equity or investment in a project (except for sweat equity);
4. Cash or other forms of contributions from applicants for or recipients of HOME assistance or contracts, or investors who own, are working on, or are proposing to apply for assistance for a HOME-assisted project (except for sweat equity or professional services donated by contractors who do not own any HOME projects);
5. Funds used to pay for administrative, environmental review, or CHDO operating costs; and
6. Contributions counted as match toward any other federally funded program.

MATCH SPREADSHEET

The Match Spreadsheet must be provided to the IHEDA Funds Management and Reporting Specialist prior to closeout monitoring, along with the Completion Report. It will generally mirror the same match/leverage information submitted with the original application, however, as those

sources are subject to change throughout the course of completing the development, the recipient must validate or update the original leverage source(s) as applicable.

For each applicable category, enter the amount of match that has been expended on the project. IHCDCA will determine whether the reported funds are eligible to be counted toward the HOME match liability. For each entry on the log, attach supporting documentation if there have been any changes in source(s) since application.

4.2 Program Income

HOME/HTF Program Income is gross income received by the participating jurisdiction generated from the use of HOME or HTF. It includes, but is not limited to, the following:

1. Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME/HTF funds or match contributions;
2. Gross income from the use of rental of real property, owned by the participating jurisdiction, State recipient, or a sub-recipient, that was acquired, rehabilitated, or constructed, with HOME/HTF funds or matching contributions, less costs incidental to generation of the income;
3. Payments of principal and interest on loans made using HOME/HTF funds or matching contributions;
4. Proceeds from the sale of loans made with HOME/HTF funds or matching contributions;
5. Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
6. Interest earned on program income pending its disposition; and
7. Any other interest or return on the investment permitted under [24 CFR 92.205\(b\)](#) of the HOME funds, or [24 CFR 93.200\(b\)](#) of the HTF funds, or matching contribution.

When housing that generates program income is only partially assisted with HOME, HTF, or matching funds, the income shall be prorated to reflect the percentage of HOME/HTF funds used.

Program Income does not include funds recaptured from a homebuyer who does not meet their affordability period or who is foreclosed upon. These funds are recaptured funds and must be returned to IHCDCA.

The following outlines the four methods in which HOME/HTF program income should be treated.

1. **Treatment by a Local Unit of Government**

Local units of government that receive HOME/HTF repayments during the affordability period must return the funds to IHCDCA. However, if you have an open HOME/HTF award with the IHCDCA, you must use these funds prior to drawing additional funds from the IHCDCA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

2. **Treatment by Not-for-Profit or For-Profit Not Acting as an Owner, Sponsor, or Developer**

Not-for-profit entities or for-profit entities that receive HOME/HTF repayments during the

affordability period must return the funds to the IHCDA. However, if you have an open award with IHCDA, you must use these funds prior to drawing down additional funds from IHCDA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

3. Treatment by Not for Profit or For Profit Acting as an Owner, Sponsor, or Developer

Not-for-profit entities or for-profit entities receiving payment back from homebuyers or rental tenants during the affordability period may keep these funds and the funds must be utilized for housing activities that benefit low-income families as provided in the IHCDA HOME Investment Partnerships Program Application.

4. Treatment by a CHDO

CHDOs receiving payment back during the affordability period may retain these funds. The funds must be utilized for housing activities that benefit low-income families as provided in [24 CFR 92.300\(a\)\(2\)](#).

However, if at any time during the affordability period, the CHDO becomes decertified or no longer has a mission of providing affordable housing then all CHDO proceeds must immediately be remitted to IHCDA. Please contact your Compliance Monitor for further assistance in this area.

4.3 Subsidy Limitations

IHCDA will release per unit subsidy limitations through each Rental Application Policy.

The minimum amount of HOME funds to be used for rehabilitation or new construction is \$1,000 per unit.

For both Homebuyer and Rental Activities, HOME funds used for acquisition, rehabilitation, new construction, program delivery, relocation, rent-up reserve (rental only), and developer fee combined cannot exceed the annually published limits set by HUD.

4.4 Cost Eligibility

PRE-AGREEMENT COSTS

The developer, sub-recipient, or professional administrator may incur specific costs prior to entering into an award agreement with IHCDA; however, costs may not be reimbursable through HOME or HTF. The organization is assuming all of the risk associated with costs incurred prior to receiving a HOME or HTF award.

If an organization chooses to expend funds prior to receiving HOME or HTF award approval, IHCDA is in no way obligated to provide funding for the development. Incurrence of specific costs may trigger a choice limiting action (e.g. acquisition), so it is the responsibility of the developer/sub-recipient/administrator to evaluate the timing of the project and the completion of the Environmental Review Record.

Recipients of HOME funds may be allowed to incur the following administrative costs if they were incurred no more than 24 months before the execution date of a HOME contract and are authorized by IHCD in writing.

1. Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups,
2. Costs of environmental studies, assessments or reviews,
3. Costs to process and settle financing for the project including private lender origination fees, credit reports, fees for title evidence, legal fees, accounting fees, filing fees for zoning or planning review and approval, private appraisal fees, fees for independent cost estimates, and other lender required third-party reporting fees

Recipients of HTF funds may be allowed to incur the following administrative costs if they were incurred no more than 24 months before the execution date of a HTF contract and are authorized by IHCD in writing.

1. Architectural, engineering, or related professional services required to prepare plans, drawings, specifications or work write-ups.

All other costs not expressly listed above must be incurred after award execution and release of funds from IHCD. Any costs incurred prior to this and not listed above will be disallowed by IHCD.

ELIGIBLE COSTS

The following lists each of the budget line items available and explains what types of costs are eligible within each of the line items.

1. **Acquisition:** Limited to the purchase price and related costs associated with the acquisition of real property. Recipients must use a title company when purchasing or selling assisted properties. All donated property must have a title search demonstrating that the property is free and clear of any encumbrances and must be submitted to IHCD. An appraisal and purchase agreement must be submitted with the claim. HOME/HTF may only be used to pay the lesser of the market value or purchase price.
2. **Demolition:** Costs associated with the demolition and clearance of existing structures.
3. **Developer Fee:** Developer fee cannot exceed 15% of the HOME/HTF award.
4. **Environmental And Historic Review:** This line item includes expenses associated with the Section 106 Historic Review and environmental review release of funds process. This does not refer to a Phase I Environmental Assessment. Eligible costs for this line item are generally between \$2,000 and \$5,000 and include professional services, publication costs, photocopying, and postage. For further information, refer to the Environmental and Historic Review User guide.
5. **New Construction:** Eligible costs include:
 - a. Hard costs associated with new construction activities.

- b. Utility connections including off-site connections from the property line to the adjacent street.
 - c. Site work related to driveways, sidewalks, landscaping, etc.
 - d. Related infrastructure costs – improvements to the development site that are in keeping with improvements of surrounding, standard developments. Site improvements may include onsite roads and water and sewer lines necessary to the development.
 - e. For multifamily rental housing, costs to construct an onsite management office or laundry or community facilities that are located within the same building as the housing and are for the use of the tenants and their guests.
 - f. Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
 - g. Contingency funds used for unanticipated hard cost overruns or change orders.
6. **Program Delivery/Soft Costs:** Soft costs that can be directly tracked by address and that are reasonable and necessary for the implementation and completion of the proposed housing activity. Recipients are allowed to draw down this line item as costs are incurred. Additionally, program delivery may pay off a HOME CHDO Predevelopment loan.
Eligible costs include:

Appraisals	Lead hazard testing
Builder's risk insurance	Legal and accounting fees
Building permits	Other professional services
Client intake/income verification	Phase I Environmental Assessments
Consultant fees	Plans, specifications, work write-ups
Closing costs paid on behalf of homebuyer	Private lender origination fees
Cost estimates	Realtor fees
Credit reports	Recording fees
Demolition permits	Fees associated with paying invoices
Engineering/Architectural Plans	Title searches
Impact fees	Travel to and from site
Financing Costs	Utilities of assisted units
Inspections	

7. **Rehabilitation:** Eligible costs include:
- a. Hard costs associated with rehabilitation activities.
 - b. Lead-based paint interim controls and abatement costs.
 - c. Mold remediation.
 - d. Utility connections including offsite connections from the property line to the adjacent street.
 - e. Related infrastructure costs – improvements to the development site that are in keeping with improvements of surrounding, standard developments. Site improvements may include onsite roads and water and sewer lines necessary to the development.

- f. For multifamily rental housing, costs to rehabilitate an on-site management office or laundry or community facilities that are located within the same building as the housing and are for the use of the tenants and their guests.
 - g. Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
 - h. Contingency funds used for unanticipated hard cost overruns or change orders.
 - i. Site work related to driveways, sidewalks, landscaping, etc.
8. **Rent-Up Reserve:** HOME/HTF funds may be used to fund a rent-up reserve, referred to in the regulations as an “initial operating deficit reserve.” This reserve can be used to meet shortfalls in development income during the rent-up period and may only be drawn down after construction is completed.

The following terms apply:

- a. IHCD will de-obligate any unused rent-up reserve remaining in the account six months after construction is completed.
 - b. These funds can be used for only development operating expenses, scheduled payments to replacement reserves, and/or debt service payments.
 - c. The recipient must receive IHCD’s approval prior to accessing its rent-up reserve funding.
 - d. The amount of HOME/HTF funds that can be utilized for a rent-up reserve is limited to three months of development operating expenses plus three months of development debt service.
9. **Relocation** – This includes relocation payments and other relocation assistance for permanently and/or temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where assistance is required and appropriate. Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket expenses for temporary relocation purposes. For additional information on relocation and displacement, please refer to the information provided in the URA Chapter.

INELIGIBLE COSTS

The following costs are ineligible for reimbursement from HOME/HTF funds, unless specifically listed as eligible in an individual Eligible Activity description:

- 1. Commercial development costs – All costs associated with the construction or rehabilitation of space within a development that will be used for non-residential purposes such as offices or other commercial uses. This does not include common areas used by tenants of rental property or the leasing office of the apartment manager. HOME awards cannot be used to underwrite any portion of the commercial costs. The expenses incurred and income to be generated from commercial space must be reported in a separate “Annual Expense Information” sheet and 15-year proforma (see Application Forms).
- 2. Replacement reserves – Funds used to initially capitalize a reserve fund used for major capital repairs to a rental or permanent supportive housing facility. These funds cannot be applied to a HOME award. These funds can be capitalized either through operating cash flow or through the development budget on the Uses of Funds exhibit.

3. Operating reserves – Funds used to initially capitalize a reserve fund that covers operating expenses when there are income shortfalls over the life of a rental or permanent supportive housing development. This line item must be included on the Uses of these Funds exhibit cannot be applied to a HOME award.
4. Cost associated with any IHEDA application preparation.
5. Purchase or installation of luxury items, such as swimming pools or hot tubs.
6. Purchase or installation of equipment, furnishings, tools, or other personal property that is not an integral structural feature, such as window air conditioner units or washers and dryers. Allowable exceptions to this prohibition, however, include stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
7. Cost of supportive services.
8. General operating expenses or operating subsidies.
9. Tenant-based rental assistance.
10. Mortgage default/delinquency correction or avoidance.
11. Loan guarantees.
12. Annual contributions for operation of public housing.

4.5 Claim Submission

Claims are submitted through [IHEDA's online management system](#). For additional support, please reference the [Partner's Guide to IHEDAOnline](#).

All payments will be made by ACH. The recipient's banking information must be submitted prior to submitting the first claim. An automatic email will be sent to the email address of the person who submits the claim when the ACH payment is sent.

Contract forms, including the executed Award Agreement and the recorded Lien and Restrictive Covenant Agreement, must be submitted to IHEDA's Funds Management and Reporting Specialist prior to submitting the claim for any contract. Refer to "The Budget Set-up Process" segment later in this chapter. In addition, all awards in the form of a loan must submit the required loan ancillary documents and finalized loan agreement documents to IHEDA's Loan Processing Analyst prior to submitting claims.

SUPPORTING DOCUMENTATION REQUIREMENTS

The following outline the supporting documentation requirements for the claims process.

1. Include a detailed summary listing expenditures being requested for reimbursement by line item.
2. Include a copy of all invoices. Construction invoices must contain a detailed description of the work performed along with the **address of the property**. Handwritten invoices and invoices with handwritten alterations will not be accepted.
3. Include a copy of the purchase agreement and appraisal when claiming funds for acquisition
4. Supporting documentation for claims for the Environmental Review, Program Delivery/Soft Costs, CHDO Operating Costs, budget line items requesting

reimbursement for time spent on the undertaking by staff of a local unit of government, sub-recipient, or not-for-profit organization must include: name of the employee, dates worked, number of hours worked, the chargeable rate, and the total wage computation. Fringe benefits must also be listed on the support documentation summary.

Do NOT include actual timesheets with the drawdown submission; however, the recipient must keep this documentation on file for IHCDCA monitoring purposes.

Additionally, at monitoring, IHCDCA staff will be documenting that the proper hourly rate and fringe benefits are being billed to the IHCDCA program.

5. Developer fee line item can be drawn by requesting this line item on letterhead of your organization signed by the Executive Director or Board Chair. Separate approval by Director of HOME and HTF Programs is not required.
6. Use of the rent-up reserve – in order to draw these funds, you must request permission from IHCDCA's Director of HOME and HTF Programs. The request must be submitted on letterhead of your organization signed by the Executive Director or Board Chair and include support for the draw. IHCDCA may request additional documentation during our review. You will receive a formal approval/denial letter allowing you to utilize these funds.
7. Indirect costs are chargeable to the program in one of two ways and can only be used for the CHDO Operating Costs line items:
 - a. Costs may be maintained directly, such as accurate counts of telephone calls, copies made, and postage spent; or
 - b. Costs may be allocated through an indirect cost allocation plan. The indirect cost allocation plan must be approved by a federal or state agency for IHCDCA to recognize this plan. The following documentation must be included with the first drawdown only:
 - i. A copy of the agency's indirect cost allocation plan;
 - ii. A summary of costs included in the indirect cost allocation plan; and
 - iii. Approval letter from federal or state agency that approved the indirect cost allocation plan.
8. The mileage rate per mile aligns with IRS standard mileage rates per year.

4.6 Receipt & Disbursement of Funds

The following outlines the timeframe in which federal funds must be expended.

Establish account for HOME/HTF funds: HOME/HTF recipients may choose to either establish a separate fund within the general fund or establish a separate bank account for the HOME/HTF program. The bank account must be non-interest bearing.

Disburse HOME/HTF funds in a timely manner. Recipients have 15 calendar days to disburse drawn funds from their local HOME or HTF account to a \$0 balance. The recipient must begin counting the 15 days from the date it receives the HOME or HTF reimbursement check from IHCDCA. Additionally, if the recipient disburses the HOME or HTF funds to a sub-recipient or award administrator, they in turn must achieve a \$0 balance within 15 calendar days of receiving the funds.

If the recipient is unable to disburse the federal funds in a timely manner, the recipient must immediately return the funds to IHCDCA.

RETAINAGE POLICY

For all rental awards, IHCD A will hold the final \$10,000 of an award as retainage. For all homebuyer awards, IHCD A will hold the final \$5,000 of an award as retainage.

Retainage will be held until such time that

1. All completion reports, leverage documentation, and closeout documentation is submitted and approved,
2. the final inspection has been completed and all inspection findings, if any, have been resolved, and
3. the final monitoring has been completed by IHCD A's Closeout Compliance Auditor and all findings and concerns associated with the monitoring, if any, have been resolved.

RETURN OF FUNDS

Repayments are submitted in the same system as claims by selecting the 'repayment' option instead of the 'grantee payment' option on the Claims Tab. If you are submitting a Return of Funds or Repayment claim, you are required to provide documentation supporting the need to return funds as well as complete the comment box at the bottom of the Claims Tab with a brief explanation of why the repayment is being submitted.

4.7 Budget Set-Up Process

Before a recipient may request HOME or HTF funds on specific properties, the recipient must first request that IHCD A "set-up" the property addresses and itemize the budget by site. Single site rental and HOME Homebuyer projects will be "set-up" per Exhibit B of the award agreement. Scattered site rental projects require submission of the Set-up Report to the IHCD A Funds Management and Reporting Specialist. Refer to Chapter 4 Appendix A for instructions on filling out the Set-up Report.

The recipient is responsible for expending on each site address *exactly* the amount of HOME or HTF funds that have been "set-up." If the HOME or HTF subsidy amount changes (either increases or decreases) during the course of award implementation, the recipient must submit a revised set-up report.

4.8 Completion Process

It is a regulatory requirement that completion information be updated in HUD's IDIS system within 120-days of the final draw on a property. To negate any risk associated in meeting this deadline, IHCD A requires a Completion Report to be submitted prior to final compliance monitoring and award closeout.

Exception: Pre-development awards do not have a completion report. To complete a pre-development award submit repayment of the loan. If the project is found to be unfeasible during the pre-development phase, contact the Director of HOME & HTF Programs for instructions.

PROJECT COMPLETION REPORTS

There are two different types of completion reports:

1. Homebuyer Activities (HOME): refer to the [HOME Homebuyer Closing Manual](#).
2. Rental Activities (HOME, HOME-ARP, HTF): refer to Chapter 4 Appendix B for instructions on filling out the Completion Report.

When the project is reaching full lease up of the HOME or HTF assisted units, notify IHCDAs Funds Management and Reporting Specialist to create the OneDrive folder where the report can be securely uploaded. After the completed report has been reviewed by the Funds Management and Reporting Specialist, they will notify IHCDAs Closeout Compliance team that the award is ready to be monitored for closeout.

Note: Tenant events *must* be reported in IHCDOnline within 30 days of an event taking place *regardless of the project status* being in completion, closeout, or official period of affordability. If tenant events are not entered timely, a finding of non-compliance will be issued. Refer to Online Compliance Reporting instructions and resources on [IHCD RED Compliance webpage](#).

Chapter 5 – Conflict Of Interest

Federal Regulations: [2 CFR 200.318](#), [24 CFR 92.356](#) and [24 CFR 93.353](#)

Recipients shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the awarding and administration of contracts supported by HOME or HTF funds. No employee, officer, or agent of the award recipient shall participate in selection, awarding, or administration of a contract supported by funds if a conflict of interest, real or apparent, would be involved.

The recipient's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. However, recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

5.1 Conflicts Prohibited

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

Immediate family ties include (whether by blood, marriage, or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of the covered person.

5.2 Persons Covered

Conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the participating jurisdiction, recipient, or subrecipients which are receiving HOME or HTF funds.

5.3 Procedures for Requesting Exceptions

The award recipient of HOME or HTF funds will need to submit the conflict in writing to its IHCD Real Estate Allocation Analyst. The letter should contain the following information:

1. A request for an exception to the conflict of interest prohibition with a full disclosure of the nature of the conflict;
2. A copy of the minutes from a public meeting denoting that the affected person has publicly disclosed the conflict of interest and has stated that he/she has withdrawn from functions or responsibilities with respect to the assisted activity in question; and
3. An opinion from the recipient's attorney that the interest for which an exception is sought would not violate state or local law.

IHCDA will forward the conflict of interest to the U.S. Department of Housing and Urban Development (HUD) to determine if an exception to the conflict is allowed. IHCDA will notify the award recipient in writing whether an exception has been allowed or denied by HUD.

FACTORS TO BE CONSIDERED WHEN GRANTING AN EXCEPTION

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program which would otherwise not be available;
2. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interest or benefits as are being made available or provided to the group or class;
3. Whether the affected person has withdrawn from his or her function or responsibilities or the decision-making process with respect to the specific assisted activity in question;
4. Whether the interest or benefit was present before the affected person was in a position constituting the conflict of interest;
5. Whether undue hardship will result either to the Participating Jurisdiction or the person affected when weighted against the public interest served by avoiding the prohibited conflict; and
6. Any other relevant consideration.

If an exception is allowed, a completed Uniform Conflict of Interest Disclosure Statement must be sent to the following parties within 15 days:

1. Indiana Housing and Community Development Authority (IHCDA);
2. State Board of Accounts; and
3. Clerk of the Circuit Court of the county in which the contract was executed.

5.4 Conflicts of Interest: Occupancy at Rental Properties

Per the conflict of interest provisions of [24 CFR 92.356\(f\)](#), the following persons may not live in HOME- or HTF-assisted units for the duration of the project's affordability period:

1. An owner, developer, or sponsor of a project; or
2. An officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor; or
3. The immediate family members of an owner, developer or sponsor; or
4. The immediate family members of an officer, employee, agent, elected or appointed official or consultant of an owner, developer, or sponsor

This provision does not apply to an employee or agent of the owner or developer who occupies a housing unit as the project manager or maintenance worker.

Chapter 6 – Procurement Procedures

This section outlines requirements that must be followed when procuring materials, supplies, equipment, and construction or professional services related to an award. The purpose of these requirements is to ensure that recipients follow competitive procurement procedures. These standards must be used in all phases of procurement, including procurement made prior to, but in expectation of, the issuance of the award.

Note that any procurement action that takes place for the award *regardless of the funding source* must follow the procurement process outlined in this chapter. For example, even if matching funds (non-HOME or HTF funds) will be used to pay for the architectural services, those services must be procured using one of the approved methods that follow, if procurement requirements apply.

It is recommended that award recipients consult with their legal counsel prior to initiating procurement activities.

PROCUREMENT APPLICABILITY

ENTITY	May be selected <u>without</u> federal procurement process?	May select contractors/other partners <u>without</u> procurement
For-profit	Yes	Yes
Private Non-Profit acting as developer	Yes	Yes
Private Non-Profit acting as sub-recipient	Yes	No
Public Non-Profit (Housing/Redevelopment. Authority)	Yes	No
Public Entity (State or local government	Yes	No

6.1 Procurement Standards by Entity Type

LOCAL UNITS OF GOVERNMENT

The most stringent procurement standard applies to procurement by local units of government—cities, towns, and counties. Both state ([IC-5-22](#); [IC-5-16](#)) and federal ([2 CFR Part 200](#)) law govern this type of procurement.

These standards apply whether staff, a sub-recipient, or a contractor of the local unit of government receiving the funds performs the procurement action.

NOT-FOR-PROFIT ORGANIZATIONS

If a not-for-profit is acting as a developer, competitive procurement standards are not required. Not-for-profit organizations acting as a developer must have site control (ownership or lease in some cases) and must plan, obtain permits, and manage the project from start to finish.

If a not-for-profit organization is instead considered a sub-recipient of a HOME or HTF award, it is required to follow competitive procurement standards. The not-for-profit may choose to either follow the local unit of government procurement procedures defined herein OR may utilize their own procurement standard. If the not-for-profit chooses to utilize its own procurement standards, the standards must be pre-approved by IHCD. A sample procurement policy is located in the Procurement Policy Exhibits.

FOR-PROFIT ORGANIZATIONS

For-profit organizations (private individuals, business associations, corporations, partnerships, sole proprietorships, etc.) are not required to follow competitive procurement standards.

6.2 Purchasing Officer Responsibility

Recipients should designate a purchasing officer for HOME/HTF purchases and procurement activities. Written procurement procedures should be in place to guide the purchasing officer. Recipients may designate the community's legal counsel, consultant, or other responsible person as the purchasing officer.

The purchasing officer is responsible for:

1. Determining the need for procurement of supplies, equipment, construction, or services based on the project plan.
2. Assigning appropriate persons to prepare specifications, manage solicitations, and negotiate contract terms.
3. Monitoring solicitation of bids including preparation of bid specifications, advertising, receipt, and evaluation of bids.
4. Participating in the final selection of contractors.
5. Overseeing pre-construction activities and negotiations.
6. Overseeing the execution of contracts.
7. Determining that the purchase is in compliance with the conflict-of-interest requirements: no member, officer, or employee of the award recipient or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during their tenure, or for one year thereafter, shall have any direct or indirect interest in any contract, subcontract, or proceeds thereof, financed in whole or in part with HOME funds.

6.3 Allowable Methods of Procurement for Local Units of Government

There are four allowable methods of procurement for local units of government, depending on the type of goods or services being procured:

1. [Competitive sealed bids](#),
2. [Competitive negotiation](#),
3. [Small purchases](#), and
4. [Non-competitive and sole source purchases](#).

A synopsis of each method and process is found in the following sections. However, this information should not be considered a substitute for reviewing the applicable state laws and federal circulars.

The basic procurement requirements for local units of government are as follows:

1. All construction contracts procured by a local unit of government must be procured through the competitive sealed bid method. Purchases may not be made in multiple increments to avoid formal competitive sealed bid procedures.
2. Procurement of materials and supplies estimated to be in excess of \$150,000 must be procured through the competitive sealed bid method. Purchases may not be made in multiple increments to avoid formal competitive sealed bid procedures.
3. Professional services over \$25,000, such as engineering or consulting services, must be procured by the competitive negotiation method if the competitive sealed bid method is not used. Purchases may not be made in multiple increments to avoid formal competitive sealed bid procedures.

METHOD 1: COMPETITIVE SEALED BIDS (INVITATION FOR BIDS)

Competitive sealed bids are solicited through formal advertising, such as in the newspaper legal section. A fixed price contract is awarded to the lowest price responsible bidder whose bid conforms to all the material terms and conditions of the bid invitation and technical specifications. The contract award may be a fixed sum or a unit price with ceiling that the contractor exceeds at its own risk, but it cannot be a cost plus percentage of cost contract. Such contracts are not allowed under [2 CFR Part 200](#).

When using competitive sealed bids, the recipient must provide all prospective bidders with a competitive description of the items or services to be purchased. This description should avoid specific brand requirements, although “brand name or equal” descriptions may be used as an example of functional or quality requirements. The procurement must lend itself to a firm fixed price contract that allows selection of a successful bidder primarily on price.

In addition, two or more responsible vendors must be willing and able to compete for the contract. If only one bid is received the award recipient must perform a “cost-price analysis” to substantiate the reasonableness of the bid price received (refer to “Cost-Price Analysis” in this Chapter).

The following describes the basic process when using the Competitive Sealed Bid method:

1. **Prepare Technical Bid Specifications:** These specifications should provide complete and accurate descriptions of materials, products, and services to be provided. The specifications should address any concerns identified during the environmental review. Where applicable, the architect or engineer must certify that accessibility standards have been or will be satisfied or specify the basis for exemption.
2. **Obtain Davis-Bacon Wage Decision:** If the project has been determined to require Davis-Bacon wages, secure the applicable wage rate decision(s) from the IHCD Labor Standards Officer and include them in the bid documents and construction contracts. To obtain applicable wage rate decisions, the award recipient must submit the "Request for Wage Determination" form to IHCD. (Refer to Labor Standards information in [Chapter 10](#).)
3. **Prepare the project bid terms and conditions.** The recipient's attorney should review the bid documents for the following:
 - a. Technical specifications
 - b. City, town, or county, as well as federal and state requirements
 - c. HOME or HTF related requirements
 - d. Cost and pricing information
 - e. Method of payment
 - f. Advertisement for bid (as required by state law)
 - g. Bidders' information specifying method of bidding, bid evaluation, and contract award
 - h. Contract form
 - i. For contracts over \$100,000:
 - i. Bid Proposal Form (Indiana General Form No. 96) required for public works projects with contracts to exceed \$100,000 (Form 7 of this Chapter).
 - ii. Bonding forms (bid, performance, and payment bonds) (Refer to "Bonding" in this chapter).
 - iii. Section 3 requirements. (Refer to Section 3 information in [Chapter 9](#))
 - iv. For projects subject to Davis-Bacon: Current prevailing federal wage publication (Refer to Labor Standards information in [Chapter 10](#)).
4. **Publication:** Bid advertisements must be published at least 14 days before the bid is due. The bid advertisement must be published twice in a general circulation newspaper at least seven days apart, and the second ad must be published seven days before bids are opened [public advertisement requirements are detailed under [IC 5-3-1-2\(e\)](#)]. If a newspaper maintains a website, a notice that is published in the newspaper must also be posted on the website of the newspaper. The notice must appear on the website on the same day the notice appears in the newspaper. A newspaper or locality newspaper may not charge a fee for posting a notice on the newspaper's or locality newspaper's website.

The advertisement must include:

 - a. The place and date where plans and specifications are available for review.
 - b. The place, date, and time fixed for receiving bids.
 - c. Bonding and certification requirements.

- d. The goal of ten percent (10%) participation by MBE/WBE firms
 - e. The goals/obligations related to Section 3.
 - f. For projects subject to Davis-Bacon, the advertisement must specify that the project is subject to Davis-Bacon prevailing wages. The current prevailing federal wage publication must be incorporated in bid packets for all applicable procurement (Refer to [Chapter 10](#)).
5. **Davis-Bacon Pre-Bid Conference:** For Davis-Bacon projects, the award recipient must conduct a pre-bid conference. Refer to Labor Standards information in [Chapter 10](#).
 6. **MBE/WBE/VBE Requirements:** IHCD has a goal of 10% participation by MBE/WBE/VBE firms in HOME or HTF funded projects. Therefore, efforts must be made (and documented) to attract proposals from minority-, women-, and veteran-owned business enterprises. The preferred method is to send a certified letter inviting the firm to bid. Such letters should be sent to at least two such firms for each procurement action. Other acceptable forms of solicitation include e-mail with return/read receipt and hand delivery and signed receipt. The State of Indiana maintains a [directory of MBE/WBE/VBE firms](#).
 7. **(Optional) Preparation of a Bidders List:** To alleviate the publication requirement each time projects go out to bid, recipients may want to create a bidder's list. To create a bidders list, the recipient must publish at least twice in a newspaper of general local circulation. The advertisements must be at least seven days apart, with the second publication made at least seven days before the deadline for submitting a request to be placed on the bidder's list. The advertisement must specify any requirements that contractors must satisfy in order to be placed on the bidders list. These requirements may include, but are not limited to, the submission of financial statements, statements of experience, proposed plans for performing the work, documentation of insurance, licensing, and/or bonding, and equipment available. Thereafter, each time a project activity goes out to bid, the recipient must notify all contractors on the bidders list and document efforts to solicit MBE/WBE/VBE enterprises. The notification should inform contractors where bid documents are available for review.

At any point in time, a contractor may request to be placed on or removed from the bidders list. Additionally, the bidders list should be updated every six months. To update the bidders list, the recipient should follow the publication requirements as well as contact each non-responsive contractor that is on the bidders list to ask if it would like to remain on the bidders list.
 8. **Maintaining Bids: Recipients** should maintain a log of bidders who were sent or submitted bid documents. All bids received during the bidding period must be logged with the name of the bidder and the time and date of receipt. The sealed bids must be secured unopened in a safe place. A bid must not be accepted if it is submitted late.
 9. **Amendments to Bid Documents (including revisions to wage rates):** Amendments to the bid documents, including revisions of wage rate decisions, must be sent to all potential bidders who obtained the original bid documents. Amendments can be issued up 72 hours prior to bid opening. If amendments are not issued within 72 hours prior to the bid opening, the date must be extended exactly one week.

10. Bid Opening & Evaluation

- a. Contracts for work on public property, including public facilities and improvements, must be awarded in a public meeting. All bids must be read aloud during the meeting. The recipient must maintain minutes of the meeting to document the project, time and date of the bid opening, and the bidders and bid amounts in the order they were opened.
- b. Where procurement is performed on behalf of an individual, such as in an owner-occupied rehabilitation award, the bid opening should include the property owner and a representative of the recipient or not-for-profit sub-recipient. Formal minutes are not required, but meeting notes are recommended.
- c. A bid tabulation sheet must be completed showing the name and bid price of each bidder and whether the bid was deemed responsive. The recipient must review all bids to determine if each is legally and technically responsive. The recipient must award contracts only to responsible contractors possessing the ability to perform successfully under the terms of the proposed procurement. Consideration should include contractor integrity, experience, compliance with public policy, performance history, and capacity of the contractor to perform within the stated time period, as well as cost when making the decision.
- d. The bid should include a completed Section 3 Forms regardless of applicability. If the contractor qualifies as a business without residential makeup, the Section 3 resident certification forms are not required.
- e. If the contract was not awarded to the lowest bidder, a detailed, written explanation must be prepared to explain.
- f. Unsuccessful bidders must be promptly notified. Any or all bids may be rejected if there is a sound documented reason.

11. **Time Limits:** The recipient has 60 days from the date of bid opening to award the contract or reject all bids. Notice to proceed must also be provided to the successful bidder within 60 days of bid opening ([IC 36-1-12-6](#)).

12. **Cost-Price Analysis:** Two or more responsive vendors must be willing and able to compete for each contract. If only one bid is received, the recipient must perform a “cost-price analysis,” as described below, to substantiate the reasonableness of the bid price received. Ask another contractor that performs the type of work that was bid to provide an estimate of cost. This estimate must be on the letterhead of the contractor and must be in writing.

13. **Bids Exceeding Project Budget:** If all the bids exceed the amount budgeted for the project, the recipient *cannot* negotiate with the low bidder to bring the contract within the budget limits. The recipient can reject all bids, provide needed funds from other sources, or re-allocate award funds. However, prior to a re-allocation of award funds, the recipient must submit an award modification request to IHCD for approval (Refer to the modification instructions in Chapter 18).

If the recipient has reason to believe that available funds are likely to be inadequate for the full scope of work proposed, they should ask all bidders to submit deductible alternatives to the project can proceed without a second bid solicitation. If deductible alternatives are requested, the document must specify the method and order in which deductible alternatives will be applied in determining the low bid. Drawings must clearly show the deductible alternative(s).

14. Other Requirements Prior to Signing Contracts:

- a. **Release of Funds:** Prior to contract award, the recipient must ensure all compliance and environmental clearances have been met. Contracts may not be executed until the award recipient receives both a written notice of Release of Funds from IHCD for the applicable budget line item and written notice from DHPA that the Section 106 Review Process has been completed (refer to the [IHCD website for Environmental Review](#) information). Failure to comply with these release procedures may result in disallowance of all applicable costs.
- b. **Verification of Contractor Eligibility:** Prior to contract award, the recipient must complete the Verification of Contractor/Subcontractor eligibility process. See chapter exhibits for instructions on completing this process.
- c. **Bonding Requirements:** The successful bidder must meet all bonding requirements prescribed by Indiana law (see "Bonding Requirements" in this chapter). Award recipients should seek the assistance of legal counsel in regard to bonding requirements.
- d. **Contract Provisions:** All contracts must include specific provisions as described in this chapter.

15. **Davis-Bacon Procurement Requirements:** Refer to Labor Standards Chapter 8 for a step-by-step outline of additional requirements applicable throughout the procurement process.

16. **Recipient's Contract File:** The recipient must maintain a contract file containing the following:

- a. Description of contractor selection method
- b. All bids received
- c. Bid tabulation
- d. Verification of contractor eligibility
- e. Contract for services
- f. Records of progress payments, including retainage
- g. Contract change orders, if any

The recipient should use this file to monitor the contractor throughout the construction period.

METHOD 2: COMPETITIVE NEGOTIATION - REQUEST FOR PROPOSALS (RFP)

The competitive negotiation method is recommended for the procurement of all professional services. The procurer prepares a formal Request for Proposals (RFP) and requests proposals from at least two qualified firms or individuals. Negotiations should be conducted with more than one of the respondents.

The following describes the basic process when using the Competitive Negotiation method:

1. **Prepare the RFP:** The RFP must not be prepared or solicited by those firms or individuals who will be submitting proposals. The RFP must include, at a minimum, the following elements:

- a. Scope of Services - detailed description of the extent and type of work to be performed.
- b. Time Requirements - performance period.
- c. Proposal Instructions - the format of the proposal.
- d. Evaluation of Proposals - The recipient must identify all significant evaluation factors (and their relative importance), including price or cost where required, technical expertise, past experience, price, staffing, etc. and how the proposals received will be scored.
- e. Federal, state, and local regulations applicable to the award.
- f. Considerations for Bidding - any additional requirements not pertaining to the scope of services that should be considered when preparing a proposal.

2. **Solicit Proposals:**

- a. Proposals must be solicited from at least two qualified sources to permit reasonable competition.
- b. The RFP must be publicized.
- c. IHEDA has a goal of 10% participation by MBE/WBE/VBE firms in HOME or HTF funded projects. Therefore, efforts must be made (and documented) to attract proposals from minority-, women-, and veteran-owned business enterprises. The preferred method is to send a certified letter inviting the firm to bid. Such letters should be sent to at least two such firms for each procurement action. Other acceptable forms of solicitation include e-mail with return/read receipt and hand delivery and signed receipt. The State of Indiana maintains a [directory of MBE/WBE/VBE firms](#).
- d. The award recipient must retain documentation of the RFP distribution process.

3. **Evaluation of Proposals**

- a. When proposals or statements of qualification are received, each should be evaluated by the award recipient based upon pre-established criteria. Evaluation criteria commonly used include the following, at a minimum:
 - i. Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project.
 - ii. Past record of performance on such federally funded contracts within the State of Indiana, and a list of other clients served including type of work, timeliness, quality requirements, and cost control. References submitted by interested bidders should be contacted.
 - iii. Capacity of the firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm.
 - iv. Familiarity of the firm with the type of problems applicable to the project.
 - v. Price
- b. The review process for both statements of qualification and proposals in response to a RFP should be thorough, uniform, and well-documented. The review process is to be conducted by a committee or board which, to the greatest extent possible, includes persons with the appropriate technical skills. Reviewers must have no conflicts of interest with the firms or individuals under review, such as family relationships, close friendships, or business partnerships.
- c. Negotiations should be conducted with more than one of the sources submitting proposals. Retain verifiable documentation recording the negotiations process.
- d. Award must be made to the responsible firm or individual whose proposal will be the most advantageous to the project, considering price and other factors. Unsuccessful bidders must be promptly notified. When the award is made to a responsible bidder

not having the lowest price, the award recipient must document its reasons for not selecting the lowest proposed price.

4. **Establish a Contract File:** The recipient must maintain a contract file containing the following:
 - a. A description of the method used to select architect, engineer, or consultant
 - b. Qualification statements or proposals received
 - c. Negotiation methods
 - d. Cost and pricing data supporting the contract
 - e. Verification of contractor eligibility
 - f. Contract for services
 - g. Records of progress payments, including retainage withheld
 - h. Contract change orders, if any

METHOD 3: SMALL PURCHASES PROCEDURES (FOR SERVICES AND SUPPLIES ONLY, NOT CONSTRUCTION CONTRACTS.)

Small purchase procedures are relatively simple and informal procurement methods appropriate for the procurement of services, supplies, or other property, costing not more than \$150,000.

1. **Services Under \$150,000:** Although competitive negotiation is the recommended method for procuring all professional services, the small purchase procedure is also acceptable.
 - a. At a minimum, two quotes must be reviewed from qualified, responsible firms.
 - b. At a minimum, one quote attempt must be documented from an MBE/WBE/VBE firm.
 - c. Receipt of quotes must be documented and a record of the procedure used must be maintained by the recipient.
 - d. If a firm is selected on a basis other than price, the reason for the selection must be documented and maintained by the recipient.
2. **Supplies and Materials Under \$150,000:** When the small purchases method is used for procuring supplies and materials, the recipient may purchase on the open market or may invite quotes from not less than two vendors.
 - a. If the award recipient purchases on the open market, at least two informal price quotations must be obtained using the "Informal Price Quotation Form"
 - b. If the award recipient chooses to invite formal quotes, a "Request for Quotation Form" should be completed.

METHOD 4: NON-COMPETITIVE AND SOLE SOURCE PROCUREMENT

Competitive procurement should be used whenever possible. Non-competitive procurement may be used only when the other methods are not feasible, and the recipient must document such a determination.

Non-competitive negotiation may only be used in one of the following circumstances:

1. Public urgency will not permit a delay for competitive solicitation;
2. The item desired is available from only one source; or
3. After solicitation of a number of sources, competition is determined inadequate.

A recipient wishing to utilize sole source procurement must first obtain approval from IHEDA. This can be accomplished by sending a letter that details the efforts undertaken to obtain multiple bids and the reason sole source procurement is needed.

Note that while this method shortens the procurement process, there must still be written bid specifications for construction services and a written scope of services for professional service contracts.

6.4 Administrative and Other Professional Services

ADMINISTRATIVE SERVICES BY STAFF OF A LOCAL GOVERNMENT AWARD RECIPIENT

A city, town, or county recipient may elect to perform some or all administrative and professional services functions in-house. The recipient may be reimbursed for the direct costs of administrative and other professional services functions. All reimbursement payments must be made to the city, town, or county "force" account.

Recipient employees may not be paid extra for performing award administration during the course of their standard work schedule. However, if an employee is selected to perform the services through a competitive procurement process, the services must be performed on their own time (not during regular work hours), and they may receive reimbursement above their standard salary.

ADMINISTRATIVE SERVICES BY A CONTRACTOR

A contractor may be a for-profit entity, a not-for-profit, or a municipal employee. A contractor may perform administrative or professional services as a stand-alone activity or in conjunction with other activities.

The competitive negotiation method is recommended for all procurement of professional services, regardless of dollar amounts, and is required for all services contracts over \$150,000 if the competitive sealed bid method is not used.

Administrative and service costs may not be bid by "fixed price", except for repetitive, low cost services such as legal opinions for title, or accounting review of pro-forma. All other procurement of services must be at an hourly rate, with an estimate of the number of hours required to accomplish the task. Different activities may be bid at different rates. Both the rates and the number of hours for the task must be available for review by the award recipient, sub-recipient; IHEDA, HUD, or their designated representatives.

ADMINISTRATIVE SERVICES BY A SUB-RECIPIENT

Distinction between Sub-recipients and Administrators:

1. Sub-recipient not-for-profits may serve as the administrator for the recipient without competitive procurement as long as the following conditions are met:
 - a. The sub-recipient is also operating the funded housing activity; and

- b. That the activity is a usual and customary activity of the sub-recipient.
2. Not-for-profit entities that wish to only provide administrative services, whether to an award recipient or sub-recipient, may only be procured through competitive procurement that meets the applicable requirements for the procurer.

The sub-recipient is reimbursed on a direct cost basis (costs actually incurred and so documented) only for costs that are reasonable and necessary to project administration.

Recipients and their sub-recipients must execute a written sub-recipient agreement that includes:

1. A statement of work describing the work to be performed, a schedule for completing the work, and a budget. These items must be described in sufficient detail to allow the award recipient (recipient governmental unit) to effectively monitor the sub-recipient's performance;
2. A description of what records the sub-recipient must keep and what records it must submit in order to assist the award recipient in meeting its record-keeping and reporting requirements;
3. A description of how any program income expected to be generated will be handled;
4. A statement of applicable uniform administrative requirements in [2 CFR Part 200](#);
5. A clause for suspension and termination of agreements for noncompliance and convenience;
6. A statement of any federally approved indirect cost allocation plans and the name of the approving cognizant agency(s);
7. A description of other program requirements such as labor standards or fair housing requirements, with the exception that sub-recipients do not assume the award recipient's environmental responsibilities;
8. A copy of the not-for-profit's 501(c) tax exempt certification should be attached to the agreement.

The recipient has the responsibility of monitoring its sub-recipients. While IHEDA does not prescribe how that monitoring should take place, it is suggested that the award recipient follow the monitoring guidelines found in [Chapter 19](#). The recipient will be held accountable for all aspects of award administration and program compliance.

6.5 Minority and Women Business Participation

Minority-owned and women-owned business enterprises (MBE/WBE's) shall have the maximum feasible opportunity to participate in the performance of contracts under federal award programs. Award recipients shall exercise their "best efforts" to ensure that MBE/WBE's are given the opportunity to participate in HOME and HTF funded contracts, including contracts for services, supplies and construction activities. Indiana has adopted a goal of ten percent aggregate participation for minority- and/or women-owned business enterprises in HOME funded projects.

A minority- or women-owned business enterprise is defined for this program as a business which has been established for at least one year and is fifty-one percent owned, operated and controlled by minorities or women. Corporation or partnerships formed merely to qualify as an MBE or WBE

for purposes of this program will not be considered minority or women-owned business enterprises.

Award recipients are required to maintain documentation supporting their “best efforts” to achieve the state goal of 10% minority and/or women-owned business enterprise participation on each HOME or HTF funded project. To document “best efforts to attain the ten percent goal, the following steps should be taken to solicit bids from and encourage participation by minority- or women-owned business enterprises:

1. Where legal notice is required by law, include language notifying bidders of the 10% MBE/WBE participation goal on the project.
2. The State of Indiana maintains a [directory of MBE/WBE/VBE firms](#). Here you will be able to find a list of firms in the categories of work needed for the project, including professional services, supply, and construction services. Use services and assistance, as appropriate, of such organizations as the Small Business Administration and Minority Business Development Agency of the Department of Commerce.
3. Contact at least two MBE/WBE firms from the referral list, notifying them of the impending bidding opportunity and how to participate.
4. If award recipients anticipate the use of subcontractors or additional purchasing contracts for supplies, then the referral list of qualified minority- and women-owned businesses should be disbursed to all prime contractors at this conference. Award recipients should supply a copy of the plans and specifications as well as a list of the organizations that will have plans and specification on file.
5. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women business enterprises.
6. Establish delivery schedules, where the requirement permits, which encourage participation.
7. Award recipients must maintain documentation supporting their “best efforts” for monitoring and auditing purposes. Award recipients must document solicitation of MBE/WBE firms through Certified Mail receipts, Certificates of Mailing, receipts from hand-delivery of notices, or email. For email notification, recipients should use a ‘delivery receipt’ and/or ‘read receipt’ function on the email and maintain a copy of both the email and the verification that it was delivered and/or opened.

Chapter 7 – Contract Requirements

7.1 Contractor Verification

Prior to awarding a contract, recipients must verify that all contractors and subcontractors are eligible to participate in federally funded projects. A contractor is eligible to participate as long as it does not appear as debarred or suspended from contracting on federal programs. The recipient must not execute a contract until the verification process is completed in order to ensure that the entity is not debarred or suspended.

There are two web-based searches that must be conducted and documented, [HUD's Limited Denials of Participation list](#) and the [System for Award Management](#) (formerly known as the Excluded Parties List System). Both of these processes must be completed for each contractor/subcontractor prior to entering into a contract.

When the process is completed, the following must be included in the project file for each contractor/ subcontractor:

1. Printed copy from HUD's Limited Denials of Participation List for both the Company and Principal's name; and
2. Printed copy from the Excluded Parties List System for both the Company and Principal's name.

The recipient must also ensure that the contractor/subcontractor has not been suspended or debarred by IHCDA. Refer to [Chapter 20](#) for information on IHCDA's suspension policy.

7.2 Insurance

Recipients must provide proof of adequate builder's risk insurance during construction that includes coverage for all work done by contractors and adequate property insurance throughout the project's affordability period of the award.

Specific policy requirements are as follows:

1. If a contractor liability policy is used, it must name IHCDA as additionally insured.
2. If a builder's risk policy is used, it must name IHCDA as both a loss-payee and an additionally insured.
3. If a homeowner policy is used, nothing needs to be added to the policy. Once the lien is placed on the home, the entity placing the lien automatically becomes a loss payee.
4. The builder's risk or contractor liability policy can be in the name of the recipient, contractor, owner of the property, or sub-recipient.
5. The builders risk coverage must be for the replacement value of the property, increasing as appropriate throughout the construction period to the full replacement value at construction completion.

6. The value of the contractor liability must be, at a minimum, for the replacement value of the property. Additionally, if the contractor employs persons, the policy must also include workers compensation.
7. The value of the property insurance must be, at a minimum, for the replacement value of the property.

7.3 Bonding Requirements

Per [2 CFR 200.326](#) and [90 FR 41872](#) the following bonding requirements are required for any construction contracts or subcontracts exceeding \$350,000:

1. A bid guarantee from each bidder equivalent to 5% of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified; and
2. A performance bond on the part of the contractor for 100% of the contract price. A "performance bond" is a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and
3. A payment bond on the part of the contractor for 100% of the contract price. A "payment bond" is a bond executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
4. Where bonds are required, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to [31 CFR Part 223](#), "Surety Companies Doing Business with the United States"

7.4 Required Contract Provisions

All contracts must include the following provisions:

1. Effective date of contract.
2. Names and addresses of recipient or sub-recipient and contractor.
3. Names of representatives of recipient or sub-recipient and contractor who will act as liaison for administration of the contract.
4. A citation of the authority of the recipient under which the contract is entered into and the source of funds.
5. Contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms and that provide for such remedial actions as may be appropriate.
6. Provisions for termination by the recipient, including the manner by which termination shall be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
7. Scope of Services:
 - a. Detailed description of extent and character of the work to be performed.

- b. Time for performance and completion of contract services, including project milestones, if any.
 - c. Specification of materials or other services to be provided by both parties, (e.g., maps, reports, printing, etc.).
 - d. Clause requiring records to be maintained throughout the applicable records retention period.
 - e. An access to records clause including a provision that all negotiated contracts awarded by recipients shall include a provision to the effect that the state, the recipient, HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of the contractor which are pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.
 - f. A Conflict of Interest Clause.
 - g. Provisions for compensation of services, including the basis for submission of billings as the work progresses and specification of the total contract amount. As well as Bonding and Insurance Requirements, as applicable
8. Federally Mandated Contract Provisions:
- a. Equal Employment Opportunity -Executive Order 11246: Equal Opportunity Clause, goals for women and minority participation and implementing regulations
 - i. The contractor and any subcontractors shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor."
 - b. Rights to Inventions Made Under a Contract or Agreement
 - i. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Invention Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
 - c. Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended, Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15)
 - i. For contracts and subcontracts of amounts in excess of \$100,000 the contractor or subcontractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Agency (EPA).
 - d. Byrd Anti-Lobbying Amendment (31 U.S.C.1352)
 - i. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
 - e. Debarment and Suspension (Executive Orders 12549 and 12689)

- i. No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or No procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.
- f. Section 3 requirements (Refer to Section 3 information in [Chapter 9](#)).
- g. Construction contracts and subcontracts for projects subject to Davis Bacon must have the following attached to them (Refer to Labor Standards information in [Chapter 10](#)):
 - i. Federal Wage Determination with modifications
 - ii. Additional Classifications (if applicable)
 - iii. Federal Labor Standards Provisions (HUD 4010)
 - Davis-Bacon Act
 - Contract Work Hours and Safety Standards Act
 - Copeland "Anti-Kickback Act"
 - iv. U.S. Department of Labor Notices (jobsite): WH 1321, WH 1462, and OSHA 2203 publications

Chapter 8 – Build America Buy America

IHCDA is finalizing its BABA policy and will release a revised version of this manual as soon as possible.

Please refer to HUD CPD Notice 25-01: Implementation Guidance for BABA's Buy America Preference (BAP) located here:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/cpd-25-01.pdf>.

Chapter 9 – Section 3: Economic Opportunities For Low And Very Low-Income Persons

Federal Regulation: [24 CFR Part 75](#) and [CPD Notice 21-07](#)

Section 3 requirements apply to a housing construction or rehabilitation project that receives over \$300,000 (per [91 FR 6752](#) effective March 16, 2026, prior to March 16, 2026, the threshold is \$200,000 per [85 FR 61524](#)) in total financial assistance from HUD programs. In accordance with [24 CFR 75.3](#), Section 3 requirements apply based on the amount of funding either provided by a single program or a combination of different applicable HUD programs exceeding the \$300,000 threshold. Applicable programs include, but are not limited to HOME, HTF, CDBG, CDBG-DR, ESG, HOPWA, Section 202, and Section 811.

The requirements do not apply to HOME or HTF projects that do not include rehabilitation or new construction (i.e. tenant-based rental assistance).

Section 3 requirements apply to the whole project, not just the HUD-financed portion. If a HOME or HTF project receives more than \$300,000 of HUD funding for housing rehabilitation or construction, then Section 3 requirements are triggered and apply to all hiring efforts made during construction, including efforts that are financed by other, non-HUD sources of funds. All contractors and subcontractors must be made aware of the need to comply with Section 3.

9.1 Tracking Labor Hours:

Under the final rule at [24 CFR 75.25](#), total labor hours must be reported for three categories of workers:

1. Section 3 Workers
2. Targeted Section 3 Workers
3. All Workers

SECTION 3 WORKER

A Section 3 Worker is a worker who meets, or when hired within the past five years met, at least one of the following categories:

1. Is a low or very low-income person that met HUD income limits for the previous or annualized calendar year.
2. Is employed by a Section 3 business Concern (see below for definition)
3. Is a YouthBuild participant. YouthBuild is a community-based pre-apprenticeship program administered by the U.S. Department of Labor that provides job training and

education opportunities for at-risk youth ages 16-24 who have previously dropped out of high school.

Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker is established. The employer may choose whether the workers are defined as Section 3 workers for a five-year period at the time of the worker's hire or when the workers are first certified as meeting the Section 3 worker definition.

Pursuant to [24 CFR 75.31](#), for a worker to qualify as a Section 3 worker, an employer must maintain one of the following records from the time the worker is certified:

1. A worker's self-certification that their income is below HUD's income limit from the prior calendar year.
2. A worker's self-certification of participation in public housing or Section 8-assisted housing.
3. Certification from a PHA, the owner agent of project-based Section 8 assisted housing, or an administrator of a tenant-based Section 8-assisted housing program that the worker is a participant in one of their programs.
4. An employer's certification that a worker's income from that employer is below HUD's income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis.
5. An employer's certification that the worker is employed by a Section 3 business concern.

TARGETED SECTION 3 WORKER

A Targeted Section 3 Worker meets the above definition of a Section 3 worker *and* one of the following:

1. A worker employed by a Section 3 business concern, or
2. A worker who currently meets, or when hired met, at least one of the categories:
 - a. Living within the service area or the neighborhood of the project. The service area of the project is defined as an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.
 - b. A YouthBuild participant.

For a worker to qualify as a Targeted Section 3 worker, one of the following additional sources of documentation must be maintained:

1. An employer's confirmation that a worker's residence is within one mile of the worksite, or, if less than 5,000 people live within the one-mile radius, within a radius that would encompass 5,000 people;
2. An employer's certification that the worker is employed by a Section 3 business concern; or,
3. A worker's self-certification that the worker is a YouthBuild participant.

If the HOME or HTF project is combined with public housing financial assistance, the employer may use the public housing definition of a Targeted Worker. A Targeted Worker may also qualify as:

1. Being a resident of public housing or Section 8-assisted housing; or,
2. Being a resident of public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance.

For a Targeted Worker to qualify under the public housing financial assistance definition, one of the following sources must be maintained:

1. A worker employed by a Section 3 business concern Section 3 Business Concern;
2. A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
3. A certification from a PHA, or the owner of property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
4. A worker's self-certification that the worker is a YouthBuild participant.

PROFESSIONAL SERVICES

Professional service jobs are non-construction jobs that require an advanced degree or professional licensing, including, but not limited to contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

These jobs are excluded from the reporting requirements for Section 3 and Targeted Section 3 workers. Labor hours worked for professional services jobs are not to be included in the total labor hours worked on the project.

However, if employees in professional services roles meet the definition of either a Section 3 worker or Targeted Section 3 worker, their labor hours may be reported.

SECTION 3 BUSINESS CONCERN

A Section 3 business concern is a business that meets one of the following definitions, as documented within the last six-month period:

1. At least 51% owned and controlled by low or very low-income persons;
2. Over 75% of the labor hours performed for the business over the previous 3-month period are performed by Section 3 workers, or,
3. It is at least 51% owned and controlled by current residents of public housing or Section 8-assisted housing.

9.2 Section 3 Benchmarks:

Benchmark 1: 25% or more of the total number of labor hours worked by all workers on a Section 3 project must be completed by Section 3 workers

Section 3 Labor Hours/Total Labor Hours = 25%

Benchmark 2: 5% or more of the total number of labor hours worked by all workers on a Section 3 project must be done by Targeted Section 3 workers

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

9.3 Reporting

Recipients must provide Section 3 reporting to IHCD. Recipients must fill out the Section 3 tab in the Completion Report workbook, identifying the Total Labor Hours, Section 3 Worker Hours, and the Targeted Section 3 Worker hours. The form will calculate the percentage and identify if benchmarks are met.

9.4 Qualified Efforts to Meet Section 3 Benchmarks

If the Section 3 benchmarks are not met, the recipient must identify the qualified efforts to provide low and very- low income persons with employment and training opportunities.

Recipients must identify all efforts to meet Section 3 benchmarks and provide documentation of those efforts. The following are acceptable qualified efforts:

1. Outreach efforts to generate job applicants who are Public Housing Targeted Workers
2. Outreach efforts to generate job applicants who are Other Funding Targeted Workers
3. Direct, on-the-job training (including apprenticeships)
4. Indirect training such as arranging for, contracting for, or paying tuition for, offsite training.
5. Technical training such as arranging for, contracting for, or paying tuition for, offsite training.
6. Outreach efforts to identify and securing bids from Section 3 business concerns.
7. Technical Assistance to help Section 3 business concerns understand and bid on contracts.
8. Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.
9. Provided or connected residents with assistance in seeking employment, including drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
10. Held one or more job fairs.

11. Provided or connected residents with supportive services that can provide direct services or referrals, work readiness health screenings, interview clothing, uniforms, test fees, or transportation.
12. Provided or connected residents with training on computer use or online technologies.
13. Assisted residents with finding childcare.
14. Assisted residents to apply for/or attending community college or a four-year educational institution.
15. Assistance residents to apply for/or attend vocational/technical training.
16. Assisted residents to obtain financial literacy training and/or coaching.
17. Bonding assistance, guarantees, or other efforts to support viable bids from Section 3 business concerns.
18. Other – description must be included. Examples may include:
 - a. Providing technical assistance to help Section 3 workers compete for jobs (i.e. resume assistance, coaching etc.);
 - b. Promoting the use of a business registry designed to create opportunities for disadvantage and small businesses, or,
 - c. Outreach, engagement, or referrals with the state one-stop system, as decided in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

Chapter 10 – Labor Standards: Davis Bacon and Related Requirements

Federal Regulation: [29 CFR Part 5.2](#)

For additional information reference [Government Contracts Compliance Assistance](#) on the [U. S. Department of Labor's website](#)

10.1 Key Acts

Contract Work Hours and Safety Standards Act: The Contract Work Hours and Safety Standards Act requires that workers receive “overtime” compensation at a rate of one and a half (1 ½) times their regular hourly wage after they have worked 40 hours in one week. It applies to all construction contracts issued under the HOME and HTF programs.

Copeland “Anti-Kickback” Act: The Copeland “Anti-Kickback” Act requires that workers be paid at least once a week, without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court processes. The Act also requires contractors to maintain payroll records and submit weekly statements of compliance to the contracting agency. Payment to employees must be in cash or a negotiable instrument payable on demand. It applies to all contracts covered by Davis-Bacon.

Davis-Bacon and Related Acts: The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work. Prevailing wages are computed by the U. S. Department of Labor (DOL) and are issued in the form of a federal wage decision for each classification of work.

10.2 Applicability of Davis-Bacon Requirements

HOME APPLICABILITY

Davis-Bacon requirements apply to any contract for the construction of affordable housing containing 12 or more HOME-assisted units, regardless of whether HOME funds are used for construction or non-construction activities (non-construction activities include real property acquisition, architectural and engineering fees, and other professional services). Such a project may be one building or multiple buildings owned and operated as a single project.

A HOME project with 12 or more HOME-assisted units that is constructed under multiple contracts each containing less than 12 HOME-assisted units is not covered. Please note

HOME regulations prohibit breaking a single project into multiple contracts for the purpose of avoiding Davis-Bacon.

If multiple HOME projects each containing less than 12 assisted units are grouped into a contract for construction that covers a total of 12 or more assisted units, the contract is covered.

Example: A recipient receives HOME funding to complete three separate rental new construction projects. Upon completion, the recipient will own and manage all three properties. The recipient has received common bank financing for all three properties. Project #1 contains six HOME-assisted units, Project #2 contains six HOME-assisted units, and Project #3 contains six HOME-assisted units. Project #1 is awarded to ABC Construction under one contract. Projects #2 and #3 are lumped in together under one contract and awarded to XYZ Construction. Davis-Bacon would not apply to ABC Construction but would apply to XYZ Construction.

In some cases, Davis-Bacon requirements may be triggered when HOME funds are used to provide down-payment assistance.

PROJECT BASED RENTAL ASSISTANCE APPLICABILITY

Project Based Rental Assistance contracts may trigger Davis-Bacon requirements. For example, a project is subject to Davis Bacon if:

1. If will receive a Project Based Voucher Housing Assistance Payment Contract for 9 or more units.
2. It will receive a Section 811 Project Rental Assistance Rental Assistance Contract for 12 or more units.

HOUSING TRUST FUND APPLICABILITY

HTF alone does not trigger Davis-Bacon requirements.

10.3 Key Roles for Managing Davis-Bacon Compliance

RECIPIENT'S LABOR STANDARDS OFFICER (LSO)

The Labor Standards Officer is the person that the recipient appoints to administer and enforce the labor standards provisions applicable to the award. This person must be identified before the start of construction to ensure compliance with all applicable labor standards requirements.

LSO duties include but are not limited to:

1. Applying Davis-Bacon requirements properly. Ensure labor standards, including Davis-Bacon prevailing wage rates, are applied where required. Ensure any exemptions or exceptions are identified.

2. Support contractor compliance with labor standards. Provide basic training and technical support to contractors and subcontractors to ensure they understand their obligations under prevailing wage and reporting requirements.
3. Monitoring contract performance. Perform reviews of certified payroll submissions and other information to help ensure contractor compliance with labor standards provisions and the payment of prevailing wages to workers. Identify any discrepancies and/or violations. Ensure corrections and/or payment of wage restitution has been made. Ensure all contracts with the general contractor and subcontractors have the required federal language physically attached.
4. Determining if contractors are eligible to work on federally assisted projects. Check [HUD's Limited Denials of Participation list](#), the [System for Award Management](#), and IHCDA's debarment list to ensure contractors are eligible.
5. Conducting onsite inspections including interviews with laborers and mechanics.
6. Investigating probable violations and complaints of underpayment. Thoroughly explore any evidence of violations, especially allegations of underpayment.
7. Ensuring all appropriate posters are posted at the construction site.
8. Informing IHCDA of non-compliance with contractors. Carry a no-tolerance policy toward contractors who violate prevailing wage laws.
9. Reporting potential criminal or complex actions to IHCDA. Examples include violations of the Contract Work Hours and Safety Standards Act (CWHSSA), violations of prevailing wages, etc.
10. Complying with all HUD requirements concerning statutory and state requirements.

IHCDA'S LABOR STANDARDS OFFICER (LSO)

IHCDA has designated its own Labor Standards Officer. The purpose of this role is to manage all projects that trigger the Davis-Bacon provision, to provide technical assistance to affected recipients, and to conduct relevant monitoring. The IHCDA LSO's duties include:

1. Determining Davis-Bacon applicability on a project-by-project basis
2. Providing recipients with wage determinations
3. Ensuring all bid documents, contracts, and subcontracts contain the applicable Davis-Bacon wage decision and Federal labor standards provisions.
4. Providing contractor training. The IHCDA LSO will provide Davis-Bacon compliance, Section 3, and MBE/WBE training at the pre-construction conference and is available for additional training and technical assistance upon request.
5. Reviewing all additional classification requests
6. Ensuring contracts and subcontracts contain all required language
7. Monitoring Davis-Bacon compliance
8. Reporting restitution and overtime pay to HUD and the Department of Labor, as required
9. Ensuring the recipient's LSO is complying with Davis-Bacon compliance

GENERAL CONTRACTOR RESPONSIBILITIES

The general contractor is responsible for the oversight and management of the construction job. Non-compliance by the general contractor or any sub-contractors may result in withholding of claims or recapture of previously paid funds. The general contractor must maintain such records relative to all laborers. Payrolls and related records must be maintained during the course of the

construction work and must then be retained by IHCD, the recipient, and the general contractor for at least three years following the completion of the work.

Duties of the general contractor include:

1. Ensuring all employees of the general contractor and any subcontractors are aware of Davis-Bacon requirements.
2. Posting all applicable posters and the wage classification in an area that can be seen by all workers at all times
3. Reviewing subcontractor payrolls on a weekly basis
4. Submitting any job classification requests, if applicable
5. Ensuring general contractor and subcontractor employees are paid according to the wage determination
6. Paying restitution to any employee who received less than the applicable wage rate
7. Maintaining a file for each subcontractor that has the following information:
 - a. Contractor's legal name and address
 - b. Business owner legal name and address
 - c. Subcontractor Davis-Bacon Certification Form
 - d. Section 3 Certification Form
 - e. Copies of payrolls and a list of fringe benefits for each employee
 - f. Executed copy of the construction contract and all required exhibits
 - g. Bonding documentation, if applicable
 - h. Insurance certification

10.4 Step-by-Step Outline of the Davis-Bacon Requirements

The recipient's designated Labor Standards Officer is responsible for the following tasks:

1. Submit the "Notice of Labor Standards Officer" Form to IHCD's Labor Standards Officer once the executed award agreement is received.
2. Request a wage decision from IHCD's Labor Standards Officer prior to preparing the project bid terms and conditions.
3. Ensure bid documents, if applicable, include the following
 - a. Federal Labor Standards Provisions - HUD Form 4010; and
 - b. The wage decision issued by IHCD's Labor Standards Officer
 - c. Ensure the bid publication procedures outlined in Chapter 6 are followed, as applicable, including specifying that the project is subject to Davis-Bacon prevailing wages.
4. Ensure a pre-bid conference is held by the recipient/architect approximately three weeks prior to bid opening, if applicable. At this conference the recipients' Labor Standards Officer should briefly explain the Davis-Bacon requirements and the construction or rehabilitation scope of work that will be completed, therefore allowing for the entities to submit a competitive bid.
 - a. Record minutes of this conference for review by IHCD's Labor Standards Officer.

7. Request wage decision updates:
 - a. The **day prior to bid opening**, review the [U.S. Department of Labor's website](#) to verify that the wage decision has not been modified. Submit the Wage Decision Update Verification form, to IHCD's Labor Standards Officer.
 - b. In the event that the contract is not awarded within 90 days of bid opening, the wage decision must again be verified and is subject to modification. If there is a change in the wage decision, you must give the wage decision to each entity/person that received a bid packet.

8. Ensure proper contract language:
 - a. Construction contracts and subcontracts for projects subject to Davis-Bacon must include the following:
 - i. Federal Wage Determination with modifications
 - ii. Additional Classifications (if applicable)
 - iii. Federal Labor Standards Provisions (HUD 4010)
 - Davis-Bacon Act
 - Contract Work Hours and Safety Standards Act
 - Copeland "Anti-Kickback Act"
 - i. U.S. Department of Labor Notices (jobsite): WH 1321, WH 1462, and OSHA 2203 publications

9. Send a "Notice of Contract Award" to the IHCD's Labor Standards Officer and to the Department of Labor (DOL) area office within 10 days of contract award. Copies should also be retained by the grantee in its project files. This information must also be filed by the contractors for all subcontracts over \$10,000.

10. Prior to construction, recipients must contact IHCD's Labor Standards Officer to schedule a Pre-Construction Conference.
 - a. A pre-construction conference must be held to acquaint the general contractor and subcontractors with federal requirements. Every contractor/subcontractor must be present.
 - b. The general contractor will sign off on the Pre-Construction Conference Packet
 - c. IHCD staff will brief the contractor on the payment process, federal wage requirements, minority/women business development goals, Section 3 goals, forms to be used and how the award recipient may use this meeting, or a similar one, to review the contractor's records and accounting systems.
 - d. Pre-construction conference sign-in sheet and minutes must be prepared and copies provided to IHCD's Labor Standards Officer. The Pre-Construction Conference Checklist at the end of this chapter may serve as an agenda.
 - e. Failure to comply with the pre-construction conference requirements could result in the recapture of funding.

11. Use of volunteers must be approved by IHCD and must meet the following requirements:
 - a. The individual must truly be a volunteer;
 - b. The individual cannot receive compensation;
 - c. The individual can be paid for out of pocket expenses (hotel, travel, etc.); and

- d. The individual cannot be employed as a contractor on the project and volunteer time.
12. Prior to start of construction, recipient must submit the “Notice of Start of Construction” to IHCD’s Labor Standards Officer.
13. Submit the “Notice to Proceed” to the contractor notifying them that construction may begin.
14. Conduct weekly review the contractor’s and subcontractors’ weekly payrolls against the wage decision to ensure compliance with prevailing wages.
15. Conduct interviews of contractor’s and subcontractors’ employees to ensure compliance with federal labor standards acts
16. Submit the “Notice of Completion/Final Inspection” to IHCD’s Labor Standards Officer.
17. Submit the “Final Wage Compliance Report” to IHCD’s Labor Standards Officer.

*****Please note: If at any point during the award term, the recipient discovers that a violation of the Davis-Bacon wage requirements has occurred, IHCD must be notified immediately.**

10.5 Types of Wage Decisions

Residential Construction: Includes the construction, alteration, or repair of single-family houses and apartment buildings of no more than four stories** in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks.

Building Construction: Includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, and equipment or supplies. This includes the installation of utilities and of equipment; as well as incidental grading, utilities, and paving.

Heavy/Highway Construction: Highway construction includes construction, alteration, or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

Heavy construction includes those projects that are not properly classified as either “building,” “highway,” or “residential.” It generally includes above ground work such as bridges, dams, docks, water and sewer line projects, and some drainage projects.

Commercial Wage Decision: Please note that residential developments of five or more stories are subject to a commercial Davis-Bacon wage decision. A commercial wage decision would be either a Building or Heavy/Highway Construction decision depending on the type and scope of the project. Public facilities and developments of less than five stories that involve significant commercial development may also be subject to the commercial wage decision. All other residential developments should be subject to the residential wage rates.

10.6 Wage Decision Effective Dates

Wage decisions “lock-in” (i.e., become effective) for each covered project based upon bid opening, contract award, and start of construction (see [29 CFR Part 1](#)). After “lock-in”, the wage decision is “frozen” for the duration of the construction work, i.e., the wage decision for the project is no longer subject to modification. Wage decisions for most projects will “lock-in” at contract award, or start of construction if there is no award, except:

1. For contracts entered into pursuant to competitive bidding, the wage decision will “lock-in” on the bid opening date *provided* that the contract is awarded within 90 days. If the contract is not awarded within 90 days, the wage decision must be updated as of the date the contract is awarded.
2. Modifications that are published less than 10 days before bid opening may be disregarded if it is found that there is not a reasonable amount of time to notify prospective bidders of the modification before bid opening. If so, a record of the finding must be made to the contract file.

10.7 Requesting Additional Wage Classifications

The job classifications listed on the wage decision are derived from the Department of Labor’s assessment of the area and the surveys completed. It should be noted that not every job classification is represented in the wage classification. If there is a position that is needed that is not listed on the wage decision, please fill out the Additional Classifications Request Form and submit it to IHEDA’s Labor Standard Officer. The form can be found in the Chapter Exhibits.

This request is submitted to HUD and then to the Department of Labor for final approval. This process can take up to 90 days. It is imperative to submit this request as soon as the General Contract has been executed. The U.S. Department of Labor will issue an official letter with the job classification and hourly wage and fringe benefit amount. This letter should be included in all construction contracts as an amendment to the contract.

Additional Wage Classifications must meet the following criteria:

1. The requested work classification is used in the area of the project by the construction industry.
2. The work that will be performed is not performed by a work classification already contained in the wage decision.
3. The proposed wage rate bears a reasonable relationship to the wage rates on the wage decision; and
4. The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s)

If the proposed wage is denied by the Department of Labor and a new wage is given, restitution will need to be paid immediately to the affected contractors. Proof of restitution must include a copy of the restitution payroll, a copy of the restitution check to the affected employee, and a signed receipt from the employee stating they received the restitution payment.

10.8 Use of Apprentices and Trainees

Apprentices and trainees may be paid less than the prevailing rates if they are registered in a bona fide apprenticeship or training program registered with the U.S. Department of Labor or a Department of Labor-recognized State Apprenticeship Council.

Bona fide programs are those that have been registered with DOL, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, Bureau of Apprenticeship and Training (BAT) or with a BAT – recognized State Apprenticeship Agency (SAA).

1. Registration – The apprentice or trainee shall be individually registered in a bona fide program certified by the BAT or a BAT-recognized SAA
2. Wage Rates – Each apprentice and trainee shall not be paid less than the specified rate in the registered program for their level of progress. If the rate specified is represented as a percentage of the journey worker for that craft, the percentage shall be applied to the corresponding wage rate contained in the wage decision.
3. Apprentices and trainees must receive fringe benefits as specified in the approved program. If the program does not document any fringe benefits, the apprentices and trainees must receive the full fringe benefit specified on the applicable wage decision for their craft.
4. Ratio to journeymen -- The maximum number of apprentices or trainees employed on the site of work may not exceed the ratio of apprentices to journeymen permitted to the employer by the BAT or BAT-approved SAA certified program. Apprentices or trainees who are employed at the site in excess of the allowable ration shall be paid the wage rate contained in the applicable wage decision for the classification of work actually performed.
 - a. If a contractor or subcontractor employs apprentices and trainees in such a number that exceeds the allowable ratio under the program, all apprentices and trainees are considered improperly employed and will be entitled to the rate for the classification of work which they are performing.

10.9 Weekly Certified Payroll Reports

Weekly certified payroll reports must be kept on Department of Labor payroll form WH-347. A fillable form WH-347 along with instructions for completing it can be found in the Chapter Exhibits. These weekly reports must also be submitted to IHCD at DavisBacon@ihcda.in.gov with the award number identified in the email.

Additional forms that may be used to ensure compliance with the required wages and fringe benefits include:

1. The monthly payroll report summary form can create a monthly summary of the payroll information being collected from the weekly payroll reports.

2. The project wage rate sheet form can be used to breakdown the required wages and fringe benefits to be paid for each job classification being utilized on the project. This form serves as a check and balance between the information the recipient's Labor Standards Officer is reviewing on the weekly certified payrolls and what is required to be paid.

10.10 Fringe Benefits

Fringe benefits include:

1. The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and
2. The rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected (D-B Act. 40 U.S.C, Sec 3141)

Documentation of fringe benefits for each employee must be documented in contractor file. It must also be documented in dollars and cents by the hour.

Bona fide fringe benefits include:

1. Health, life, dental, vision, or other similar insurance premiums paid by the employer
2. Pension or retirement contributions made by the employer into a plan recognized by the Internal Revenue Service
3. Expenses of certain recognized apprenticeship or training programs
4. Vacation/holiday pay and other paid leave may be considered as long as the employee would receive any unused amounts at termination of employment

Payroll deductions required by law are not considered fringe benefits. Examples include:

1. Social security
2. Worker's compensation
3. Unemployment insurance
4. Taxes
5. Court ordered payments

The following are also not considered bona fide fringe benefits:

1. Travel time
2. Bonus payments
3. Use of company tools or equipment
4. Use of company vehicle
5. Uniforms or safety shoes

If bona fide fringe benefits are being paid in addition to the minimum required wages, the contractor/subcontractor must include a breakdown of those fringe benefits either on the payroll form or as an attachment to the payroll form.

If bona fide fringe benefits are not being paid in addition to the minimum required wages, the contractor/subcontractor must pay at a minimum the required wages plus the required fringe benefits for the applicable classification in cash.

Example: The wage decision in the contract for a particular job requires electricians to be paid \$15.00/hr. in wages and \$5.00/hr. in fringe benefits. Contractor A is not paying any fringe benefits to its electricians. Therefore, Contractor A must pay electricians a minimum of \$20.00/hr. in wages (\$15.00/hr. in required wages plus \$5.00/hr. in required fringe benefits) for this job since it is not paying fringe benefits.

10.11 Overtime Payment

Overtime hours are defined as all hours worked at the site of work in excess of 40 hours in any workweek. CWHSSA requires the payment of time and one-half the basic rate of pay for all hours worked in excess of 40 hours in a week. Amounts paid to fulfill the fringe benefit portion of the prevailing wages listed in the wage determination – both contributions to bona fide benefit plans and cash payments made to meet wage determination fringe benefits requirements – are excluded in computing overtime obligations under CWHSSA. CWHSSA requires the payment of overtime premium pay only if the laborer or mechanic works in excess of 40 hours in a work week on the CWHSSA covered contract(s). Overtime hours worked, which are not subject to CWHSSA, may be subject to Fair Labor Standards Act overtime pay.

10.12 Employee Interviews

IHCDA requires a minimum of 10% of the employees representing each trade working on the project to be interviewed. Form HUD-11 should be used when conducting these interviews. Instructions for completing this form can be found in the Chapter Exhibits.

10.13 Interim Monitoring Requirements

Halfway through the award term, IHCDA's Labor Standards Officer will conduct an interim monitoring to ensure compliance with labor standards provisions. During the interim monitoring, all claims are placed on hold until the monitoring is complete and any issues resolved.

Focus points for the interim monitoring will include weekly collection and review of the certified payroll reports, correct payment of the required wages and fringe benefits, and conducting the required employee interviews. This interim monitoring is required and any issues found during the review must be addressed before additional claims to IHCDA will be released for payment.

Please refer to the IHCDA Monitoring Handbook exhibit in Chapter 18 for information on what will be reviewed during interim monitoring.

10.14 Restitution Requirements

If a violation of labor standards requirements results in an underpayment of wages to employees, the recipient's Labor Standards Officer must notify the general contractor to either directly make wage restitution or to direct its subcontractor to do so. Where restitution amounts are in excess of \$10 per worker, the employer must attest to wage restitution paid on a correction certified payroll.

In cases where restitution is required to be paid to workers who were not paid the required minimum wages and fringe benefits IHCDCA must see the following:

Restitution less than \$1,000

1. Original payroll reports for affected employee(s);
2. Correction payroll reports for affected employee(s);
3. A copy of the reimbursement check that was sent to the employee;
4. A signed and dated receipt from the employee showing they did indeed receive payment;
5. A signed statement of future compliance from contractor/subcontractor on company letterhead; and
6. Final Wage Completion Report Form

Restitution greater than \$1,000: In addition to the six items listed above, IHCDCA will prepare and send to HUD a HUD 5.7 Enforcement Report along with a Schedule of Back Wages Due Report

If wage violations are not corrected within 30 days after notification of noncompliance, the recipient's Labor Standards Officer must notify IHCDCA's Labor Standards Officer via DavisBacon@ihcda.in.gov to withhold payment until full payment of restitution has been made. Only the amounts necessary to meet the potential back wage and CHSSA liquidated damages liabilities will be withheld.

Chapter 11 – Lead Based Paint Requirements

Federal Regulation: [24 CFR Part 35](#)

Lead is highly toxic and affects virtually every system of the body. At high exposure levels, lead poisoning can cause coma, convulsions, and death. While adults can suffer from excessive lead exposures, the groups most at risk are fetuses, infants, and children under the age of six. At low levels, lead's neurotoxic effects have the greatest impact on children's developing brains and nervous systems, causing reductions in IQ and attention span, reading and learning disabilities, hyperactivity, and behavioral problems (Davis, 1993). These effects have been identified in many carefully controlled research studies (National Academy of Sciences, 1993). However, the vast majority of childhood lead-poisoning cases go undiagnosed and untreated, since most poisoned children have no obvious symptoms.

HUD estimates that three-quarters of pre-1980 housing units contain some lead-based paint. The likelihood, extent, and concentration of lead-based paint all increase with the age of the building. 90% of units built before 1940, 80% of units built between 1940 and 1959, and 62% of units built between 1960 and 1979 are estimated to contain some lead-based paint (HUD, 1990b). Because the greatest risk is in dwellings built before 1950, older housing generally commands a higher priority for lead hazard controls.

The belief that in order to be poisoned children *must* eat lead-based paint chips is unfounded. The most common cause of poisoning is the ingestion—through hand-to-mouth transmission—of lead-contaminated surface dust (Clark, 1991; Bellinger, 1991; Roberts, 1991; Chisolm, 1985; Farfel, 1990; Farfel, 1994). Lead-contaminated dust may be so fine that it cannot be seen by the naked eye. In addition, lead-contaminated dust is difficult to clean up. Lead-contaminated dust is generated as lead-based paint deteriorates over time, is damaged by moisture, abraded on friction and impact surfaces, or disturbed in the course of renovation, repair, or abatement projects. Lead can also be tracked into homes from exterior dust and soil.

Children can also be exposed to lead in bare soil. High levels of lead in soil typically come from deteriorating exterior lead-based paint around the foundation of a house (TerHarr, 1974; Linton, 1980). The fallout of lead emissions from the combustion of leaded automobile gasoline, lead-based paint, and industrial sources also contributes to lead levels in soil (ATSDR, 1988). In some areas high leaded soil levels result from factory and smelter emissions or deteriorating lead-based paint on steel structures, such as bridges. Bare soil that is contaminated with lead poses a hazard to children who play in it. Lead in soil may also be tracked into a home, increasing interior leaded dust levels.

11.1 General Education Requirements

IHCDA requires all recipients to participate in educating the public on the hazards of lead poisoning. The following material must be posted or distributed to the parties indicated regardless of project activity:

1. *For Contractors and Subcontractors*: “Lead Paint Safety: A Field Guide for Painting” - This brochure must be distributed to every contractor and sub-contractor participating in a housing rehabilitation program. Documentation of the distribution of this brochure to the contractors and sub-contractors must be maintained in the project file. The recipient must create a receipt form for the contractor to sign to document receipt of the brochure. This brochure can be ordered from the National Lead Information Center at (800) 424-5323.
2. *For Homeowners and Renters*: “Protect Your Family from Lead in Your Home” - This EPA brochure must be distributed to every family participating in any housing activity. Documentation of the distribution of this brochure to beneficiaries must be maintained in each project file. Additionally, for rental housing projects, all tenants during the affordability period must receive this brochure at move-in and sign a receipt form to be maintained in their file.
3. “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools”. Documentation of the distribution of this brochure to beneficiaries must be maintained in each project file. Additionally, for rental housing projects, all tenants during the affordability period must receive this brochure at move-in and sign a receipt form to be maintained in their file.

11.2 Lead Hazard Testing and Clearance Process

Determine if the property is exempt from testing. Properties that might be exempt from testing include:

1. Residential structures built after January 1, 1978;
2. Rehabilitation that does not disturb paint;
3. Areas where state and local governments banned lead-based paint prior to January 1, 1978;
4. Properties found not to have lead-based paint during earlier testing that meets the requirements of prior evaluations;
5. Properties where all lead-based paint has been identified and removed using approved methods;
6. Unoccupied units that will be demolished;
7. Property not suitable for human residential habitation;
8. Zero-room dwelling units where child occupancy is unlikely; or
9. Elderly and disabled housing (as defined by 24 CFR Part 35.110 and Part 35.115): This refers to housing designated exclusively for persons with disabilities or housing reserved for households composed of one (1) or more persons sixty-two (62) years of age or older, or other age if recognized as elderly by a specific Federal housing assistance program. It does not refer to single-family homes owned or occupied by elderly persons or persons with disabilities. Additionally, this exemption does not apply if a child less than the age of six (6) resides or is expected to reside in the dwelling unit.

The IHEDA Lead Form listed in the exhibits must be completed and submitted to IHEDA when an inspection request is submitted. The Lead Form documents exemptions, type of activity, risk assessment information, level of rehabilitation assistance, contractor certification to perform lead hazard control, and clearance testing. Depending on the project type, the applicable worksheet

to calculate the level of assistance is documented to assist in determining the appropriate lead hazard control method.

1. The “Approach to Lead Hazard Evaluation and Reduction” varies depending on level of assistance to the unit
2. The following costs are not counted when calculating the level of assistance for a project:
 - a. “Soft” Costs such as Program Delivery, Environmental Review, and Relocation Costs.
 - b. Acquisition Costs
 - c. Lead Hazard Evaluation and Reduction Costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributed to lead-based paint reduction.
3. In multi-family projects that include both assisted and non-assisted units, use the following formula:

Rehabilitation hard
costs for all
assisted dwelling
units (not including
common or exterior
areas)

Rehabilitation hard
costs for common
areas and exterior
surfaces

+

Number of federally
assisted units in the
project

Total number of
units in the project

4. Identify the “Approach to Lead Hazard Evaluation and Reduction” using the tables below.

	< \$5,000 assistance to unit	\$5,000 - \$25,000 assistance to unit	> \$25,000 assistance to unit
Approach to Lead Hazard Evaluation and Reduction	Do no harm	Identify and control lead hazards	Identify and abate lead hazards
Notification	Yes	Yes	Yes
Lead Hazard Evaluation	<ul style="list-style-type: none"> • Paint testing of surfaces to be disturbed by rehabilitation 	<ul style="list-style-type: none"> • Paint testing of surfaces to be disturbed by rehabilitation • Risk assessment 	<ul style="list-style-type: none"> • Paint testing of surfaces to be disturbed by rehabilitation • Risk assessment

Lead Reduction & Clearance	<ul style="list-style-type: none"> • Repair surfaces disturbed during rehabilitation • Safe work practices • Clearance of work site 	<ul style="list-style-type: none"> • Interim controls • Safe work practices • Clearance of unit 	<ul style="list-style-type: none"> • Abatement • Safe work practices • Clearance of unit
Ongoing Maintenance	For rental properties	For rental properties	For rental properties
EIBLL	No	No	No
Options	<ul style="list-style-type: none"> • Presume lead-based paint • Use safe work practices on all surfaces 	<ul style="list-style-type: none"> • Presume lead-based paint • Use standard treatments 	<ul style="list-style-type: none"> • Presume lead-based paint • Abate all applicable surfaces

5. Conduct the Lead Hazard Evaluation
6. Notify the occupant of the Lead Hazard Evaluation.
7. Complete Lead Hazard Reduction activities as directed according to the level of assistance and the results of the Lead Hazard Evaluation.
8. Conduct the Lead Hazard Reduction and Clearance Test.
9. Provide the occupant with the Notification of Hazard Reduction and Clearance.

11.3 Evaluation Process

Visual Assessments must be conducted by persons that have completed HUD's online visual assessment training located at:
<https://apps.hud.gov/offices/lead/training/visualassessment/h00101.htm>.

Paint testing must be conducted by a licensed lead-based paint inspector or risk assessor.

Risk assessments, if applicable, submit to IHCDCA upon the initial inspection request; must be conducted by a licensed risk assessor and uploaded to the [Indiana Department of Health's ILEAD system](#). All lead-based paint inspections and risk assessment reports must be conducted and documented in accordance with Chapter 5 and 7 of the HUD Guidelines.

All lead-based paint inspections, risk assessments and hazard control work must be completed by firms licensed for, and persons trained, licensed, and certified for, the specific work conducted.

RISK ASSESSMENT REPORT-

If applicable, submit to IHCDCA with the initial inspection request.

Through the methods and requirements described in the ([40 CFR 745.227\(d\)\(11\)](#)), the risk assessment report will contain at a minimum:

1. Date of assessment.
2. Address of each building/unit.
3. Date of construction of buildings.
4. Apartment number if applicable.
5. Picture of the property on the cover page
6. Name, address, and telephone number of each owner of each building.
7. Name, signature, and license number of the risk assessor.
8. Name, address, and telephone number of the company employing each licensed risk assessor if applicable.
9. Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
10. Results of the visual inspection.
11. Testing method and sampling procedure for paint analysis employed.
12. Specific locations of each painted component tested for the presence of lead.
13. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.
14. All results of laboratory analysis on collected paint, soil, and dust samples. (**Dust Samples are required**)
15. Any other sampling results.
16. Photos.
17. To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.
18. A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.
19. A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.
20. **The report shall list each room by name and not by a number code.** All paint testing samples and risk assessment samples must be analyzed by an approved laboratory.

11.4 Notice of Evaluation

1. The administering agency must notify occupants about the results of the lead hazard evaluation within 15 days after the results have been determined. The notification must provide the following information:
 - a. The presence and location of lead-based paint or the presumption of lead-based paint.
 - b. A description of how occupants can get additional information including the full report of the testing methods and results.
 - c. An explanation of the decision to forego evaluation and presume that lead-based paint and/or hazards exist. You must notify occupants of the reasons for making this presumption.
 - d. The notice of evaluation may be provided to the occupant as follows:

- e. In single-family buildings, recipients can provide this information to the homeowner directly.
- f. In multi-family buildings, recipients can either distribute this information to each household or post it in a central location where all residents can access it.
- g. The results and methods of all evaluations must be summarized in a report that is made available to residents. The report must be in accordance with the lead safe housing rule report requirements.
- h. Occupants must receive the results of the hazard reduction and clearance tests within fifteen (15) days of completion.

11.5 Lead Hazard Reduction

Renovations in target (pre-1978) housing and child-occupied facilities must be conducted by certified renovation firms, using renovators with accredited training, and following the safe work practice requirements.

SAFE WORK PRACTICES

1. At least one certified renovator must be at the job or available when work is being done. The certified renovator may be a certified LBP Abatement Supervisor who has completed the four hour RRP refresher course.
2. Safe work practices must be used for all work on all lead-based paint surfaces. Safe work practices are required on deteriorated interior surfaces (i) larger than two square feet, (ii) over 10% of any building component (e.g., window or door trim) and (iii) on deteriorated exterior surfaces larger than 20 square feet.
3. Occupant Protection Plan, if applicable, submitted with the initial inspection request. Contractors are required to fill out an Occupant Protection Plan form for lead-based paint projects. A licensed supervisor will be on site, available to workers and responsible for direct supervision of all workers during all work site preparation, lead hazard control activities and post abatement cleanup of work areas. The onsite supervisor will always maintain the following documents onsite: Indiana notification; Occupant Protection Plan; Employee licenses; and required OSHA documentation.

LEAD HAZARD REDUCTION MEASURES

1. **Paint Stabilization:** Includes repairing disturbed paint and applying a new coat of paint. Paint stabilization must be done by a certified abatement worker or by a contractor who is supervised by a certified abatement supervisor.
2. **Interim Controls and Standard Treatments:** Includes addressing friction and impact surfaces, creating smooth and cleanable surfaces, encapsulation, removing or covering lead-based paint components, and paint stabilization. Interim controls and standard treatments must be completed by a certified abatement worker, by a contractor who is

supervised by a certified abatement supervisor or by workers trained in a HUD approved lead based paint worker course.

3. **Abatement:** Abatement involves permanently removing lead-based paint hazards, often through paint and component removal, and enclosure. Abatement work must be done by a licensed abatement supervisor along with certified abatement workers.

11.6 Pre-Construction Conference

For activities where a licensed Lead-Based Paint Abatement Supervisor is utilized, a pre-construction conference for all contractors and workers that will be involved in disturbing lead-based paint is required. The supervisor will be required to explain safe work practices and review the work specification for each particular job site. The supervisor must explain the entire process to contractors, including possible increase in job cost, use of HEPA vacuums, clearance test, relocation, retainage, and maintaining a licensed Lead Project Supervisor onsite during all site preparation, abatement activity, and site cleanup. Award recipients are required to keep documentation of minutes and attendees of the pre-construction conference. IHEDA staff will document this requirement at monitoring.

11.7 Relocation

Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

1. Treatment will not disturb lead-based paint hazards or soil-lead hazards;
2. Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;
3. Treatment of the interior will be completed within one (1) period of eight daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g. exposed live electrical wiring, release of toxic fumes, or site-disposal of hazardous waste); or
4. Treatment of the interior will be completed within five calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health, or environmental hazards and, at the end of work on each day, the worksite and the area within at least 10 feet (three meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

5. If it is determined those occupants must be relocated from the premises, then the occupants must remain away from the unit until the unit passes clearance.

11.8 Lead Hazard Clearance Tests

Clearance Tests must be conducted by a licensed lead-based paint inspector, risk assessor or clearance technician. The clearance examiner must be independent from the individual or entity that conducted the paint stabilization or other lead hazard reduction, unless they are employees of the administering agency. Note: If agency employees are used, the same individual who conducted paint stabilization is not permitted to conduct clearance.

The purpose of clearance is to make sure that the unit is safe for occupants to return. Occupants are not permitted in the work area until it has passed clearance. Clearance must be performed at least one hour after work has been completed. During clearance, a licensed professional will take dust samples and have them tested for lead. Clearance tests are **not** required when work areas are smaller than a total of two square feet per room, 10 % of the total surface area of interior components, such as windowsills, or smaller than 20 square feet on the exterior.

1. **Before Clearance.** Prior to the clearance inspection, the contractor and program staff should ensure that the worksite is ready for inspection.
 - a. Be sure that all required work has been completed.
 - b. Be sure that all the lead hazard reduction measures have been completed.
 - c. Remove debris, paint chips, and dust from all surfaces, especially horizontal surfaces.
 - d. Remove debris and chips from the ground surrounding the building.
 - e. No less than one hour after work has been completed; perform a final check of all surfaces for dust and chips. Check where dust tends to settle such as window troughs and sills, the tops of doorframes, and baseboards.
2. **Clearance Tasks.** During clearance, the licensed professional will complete the following tasks.
 - a. Conduct a visual assessment of the unit and worksite to identify dust, debris, and deteriorated paint.
 - b. Take dust samples from floors, interior windowsills, and window troughs.
 - c. If work was done to the exterior, visually assess the soil near the worksite.
 - d. Submit the samples to an NLLAP-recognized laboratory for analysis.
 - e. Write a report presenting the results of the clearance examination.

CLEARANCE REPORT

Submit to IHCD when the final inspection is requested.

It is essential that the clearance examiner provides the client with a report documenting the results of the clearance. EPA specifies the required contents for an abatement report at 40 CFR 745.227(e)(10). HUD specifies the required report contents for non-abatement projects

in units covered by the Lead Safe Housing Rule at 24 CFR 35.1340(c). The report should include a one-page summary at the beginning of the report that is suitable for communication with residents, as well as a complete file of the visual assessment(s) form(s) and the dust sampling results form(s). The summary should contain the following information:

1. The address of the property where the clearance area is located.
2. A description of the area(s) covered by the clearance examination, including, as applicable, the specific dwelling units or common areas covered by the clearance and the specific rooms and exterior spaces.
3. The name and address of the client.
4. A summary of the results of the visual assessment. (The clearance examination should be stopped if the visual assessment fails.)
5. A summary of the results of the dust testing, which should include either:
 - a. A statement that no dust-lead hazards, as defined by the relevant EPA, State, Tribal or local standards, were found in the clearance area, and the date of the dust sampling; or
 - b. A statement that dust-lead hazards were found in the initial examination, identifying the date of the initial examination, the rooms, and surfaces where dust-lead hazards were found, including any un-sampled rooms and surfaces represented by the samples, and stating the dust-lead levels found.
6. If dust-lead hazards were found in a second or later round of dust sampling, a similar summary of the results of the dust testing should be provided for each round separately.
7. If the initial or later round of sampling found no dust-lead hazards, the report of a successful clearance examination should contain a statement that, based on visual assessment and dust sampling on the specific sampling date, no dust-lead hazards, as defined by the relevant EPA or State, Tribal or local standards, were found.
8. Identification of the clearance examiner(s), including the name of the clearance examiner, the name of the examiner's firm or organization, business address and telephone number, and the examiner's license or certification number.
9. Identification of the laboratory, including the name, address, telephone number, and NLLAP number.
10. The signature of the clearance examiner, with date
11. The report shall list each room by name and not by a number code

	Floors (mg/ft ²)	Interior Windowsills (mg/ft ²)	Window Troughs (mg/ft ²)
Lead in Dust (as measured by a dust wipe sample)	10	100	400

Final Payment to Contractor: A minimum of 10% of the total contract must be held from the contractor until a clearance report is received that confirms that the levels of lead are within the acceptable range.

11.9 Notification of Lead Hazard Reduction and Clearance

The administering agency must provide occupants with the “Notification of Lead Hazard Reduction and Clearance” within 15 days of completion.

The notice must include:

1. A summary of the hazard reduction activities and clearance results;
2. A contact name, address, and telephone number for further information; and
3. The locations of remaining lead-based paint surfaces and lead hazards.

11.10 Ongoing Lead Based Paint Requirements for Rental Projects

Owners must inform current and new occupants of the lead hazard reduction methods that took place and where lead-based paint exists in their units. The brochure entitled “Protect Your Family from Lead in Your Home” must be provided to all new occupants upon move-in (see Part B.1 of this Chapter).

Owners should request, in writing, that the occupants of rental units monitor lead-based paint surfaces and inform the owner of potential hazards.

Regular maintenance and evaluation of the lead hazard reduction work must be performed. The owner is responsible for:

1. A visual inspection of lead-based paint at unit turnover or at least annually;
2. Repair of all unstable paint;
3. Repair of encapsulated or enclosed areas that are damaged; and
4. Owners must continue to comply with the notification requirements when additional lead hazard evaluation and hazard reduction activities are performed.

Chapter 12 – Construction Standards & Physical Inspections

12.1 Construction Standards

All projects receiving IHEDA HOME or HTF funds must meet the stricter of the Indiana State Building Code, local building codes, or manufacturer's instructions. The [General Administrative Rules at 675 IAC 12](#) provides State of Indiana codes and standards for rehabilitation. In the absence of state or local building codes, the International Building Code / International Existing Building Code of the ICC must be followed. In addition, projects must meet all the affirmative habitability requirements, accessibility requirements, energy standards, and broadband requirements outlined below.

At the time of publication and adoption of this Compliance Manual, the adopted codes referenced are believed to be those in force. As standards and codes change and put into effect by the governing authorities having jurisdiction, the new standards and codes will apply in lieu of those referenced.

12.2 NSPIRE Affirmative Habitability Requirements

All projects receiving IHEDA HOME or HTF funds must comply with the [National Standards for the Physical Inspection of Real Estate \(NSPIRE\)](#) standards.

NSPIRE requires the following minimum Affirmative Habitability Requirements.

INSPECTABLE AREA = UNIT

The interior components of an individual dwelling where the resident lives:

1. Hot and cold running water in both bathroom and kitchen, including adequate source of safe drinking water in the bathroom and kitchen. EXCEPTION: Not required in approved Single Room Occupancy (SRO) units if the unit does not contain a bathroom or kitchen.
2. Bathroom or sanitary facility that is in proper operating condition and usable in privacy that contains a sink, a bathtub or shower, and an interior flushable toilet. EXCEPTION: Not required in approved Single Room Occupancy (SRO) units if the unit does not contain a bathroom or sanitary facility.
3. At least 1 battery-operated or hard-wired smoke detector in proper working condition:
 - a. On each level of the unit
 - b. Inside each bedroom
 - c. Within 21' of any door to a bedroom measured along a path of travel; and

- d. Where a smoke detector installed outside a bedroom is separated from an adjacent area by a door, must also be installed on the living area side of the door
- e. If the unit is occupied by a hearing-impaired person, the smoke detectors must have an alarm system designed for hearing-impaired persons.

*NOTE: The HOME regulations for smoke detection at [24 CFR 92.251\(a\)\(3\)\(vi\)\(B\)](#) and [24 CFR 92.251\(b\)\(1\)\(xi\)\(B\)](#) exceed NSPIRE standards and impose the following additional requirements which must be met:

- Smoke detectors must be installed in the basement and in each common area of a project. A smoke detector is not required in crawl spaces or unfinished attics.
 - For new construction, smoke detectors must be hardwired.
 - For rehabilitation, smoke detectors must be hardwired UNLESS the owner can prove hardwired smoke detectors cause an undue financial burden or are infeasible and IHEDA provides a written exception. If an exception is provided, the owner may install smoke detectors that use 10-year non-rechargeable, non-replaceable primary batteries. Such detectors must be sealed, tamper-resistant, contain a means to silence the alarm, and otherwise comply with all requirements of NSPIRE and the HOME regulation.
4. Living room and kitchen area with a sink, cooking appliance, refrigerator, food preparation area, and food storage area. EXCEPTION: Kitchen related requirements are not applicable in approved Single Room Occupancy (SRO) units if the unit does not contain a kitchen.
 5. For units with Housing Choice Vouchers or Project Based Vouchers, at least one bedroom or living/sleeping room for each two persons in the household
 6. Must meet carbon monoxide detection standards established through Federal Register notice and the NSPIRE standards, if applicable
 7. Two working outlets or one working outlet and a permanent light within all habitable rooms
 8. Outlets within 6' of a water source must be GFCI protected*
 9. Must contain a permanently installed heating source. Units may not contain unvented space heaters that burn gas, oil, or kerosene.
 10. Must have a guardrail when there is an elevated working surface drop off of 30' or more measured vertically
 11. Permanently mounted light fixture in the kitchen and each bathroom

INSPECTABLE AREA = INSIDE

The common areas and building systems within the building interior that are not inside a unit:

1. At least one battery-operated or hard-wired smoke detector on each level
2. Must meet carbon monoxide detection standards established through Federal Register notice and the NSPIRE standard, if applicable
3. Outlets within 6' of a water source must be GFCI protected*

4. Must have a guardrail when there is an elevated walking surface drop off of 30" or more measured vertically
5. Permanently mounted light fixtures in any kitchens and each bathroom
6. May not contain unvented space heaters that burn gas, oil, or kerosene

INSPECTABLE AREA = OUTSIDE

The building site, building exterior components, and any building systems located outside of the building:

1. All outside outlets must be GFCI protected
2. Must have a guardrail when there is an elevated walking surface drop off of 30" or more measured vertically

* The requirement that all outlets within 6' of a water source must be GFCI protected does not apply in the following circumstances:

- The requirement does not apply to an outlet dedicated to a major appliance (e.g., water heater, HVAC, refrigerator, washing machine, dishwasher, garbage disposal, appliance that is wall-mounted or installed within a cabinet, etc.). A "dedicated outlet" is a receptacle outlet that is only capable of serving that specific appliance. A dedicated outlet cannot be a dual/duplex outlet.
- The requirement does not apply to an outlet below a countertop and within an enclosed cabinet, regardless of its distance from the water source.

SMOKE ALARM PLACEMENT REQUIREMENTS

Smoke alarms must be installed in all areas listed in the affirmative habitability requirements. The following placement requirements must be met.

1. If mounted on the ceiling, the smoke alarm must be greater than 4 inches from the wall
2. If mounted on the wall, the top edge of the smoke alarm cannot be closer than 4 inches or greater than 12 inches from the ceiling
3. It is recommended, but not required, that smoke alarms be installed at least 10 feet from a cooking appliance and not near windows, doors, or ducts where drafts might interfere with their operation

DEFICIENCIES

During an inspection, in addition to confirming the presence of the affirmative habitability requirements listed above, the inspector will identify if any NSPIRE deficiencies exist per HUD's NSPIRE standards and deficiency lists. Any deficiencies identified must be resolved within the timeframe established by NSPIRE based on the severity level of the deficiency (life-threatening, severe, moderate, or low).

12.3 Minimum Accessibility Requirements

FAIR HOUSING REQUIREMENTS

The Fair Housing Amendments Act of 1988 design requirements apply to “covered multifamily dwellings” which were built for first occupancy after March 13, 1991. First occupancy means a building that has never before been used for any purpose. The following are considered covered multifamily dwellings:

1. All dwelling units in buildings containing four or more dwelling units if such buildings have one or more elevators
2. All ground floor dwelling units in other buildings containing four or more units

Regulations found at <https://www.ecfr.gov/current/title-24/section-100.205> 24 CFR Part 100.205 implement the Fair Housing Act’s design and construction requirements. These specific design and construction standards can also be found in ICC A117.1 Accessible and Usable Building and Facilities, Fair Housing Accessibility Guidelines (FHAG), and [HUD’s Fair Housing Act Design Manual](#). The seven design requirements for covered multifamily dwellings, in abridged form, are as follows.

1. The building must have at least one entrance on an accessible route.
2. Public and common use areas must be readily accessible to and usable by people with disabilities.
3. All doors designed to allow passage into and within all premises must be sufficiently wide to allow passage by persons in wheelchairs.
4. There must be an accessible route into and through the dwelling units, providing access for people with disabilities throughout the unit.
5. All premises within the dwelling units must contain light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
6. All premises within the dwelling units must contain reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall and shower seat, where such facilities are provided.
7. Dwelling units must contain usable kitchens and bathrooms such that an individual who uses a wheelchair can maneuver about the space.

504 REQUIREMENTS

Developments receiving federal funds (including HUD funding such as HOME, National Housing Trust Fund, Section 8 PBRA or PBV, or Section 811 PRA) must be designed and built in accordance with the accessibility requirements of Section 504. These specific design and construction standards can be found in the Uniform Federal Accessibility Standards (UFAS) and in [24 CFR Part 8](#).

For covered developments, Section 504 requires that at least 5% of the units, or at least one unit whichever is greater, must be accessible for persons with mobility disabilities and an additional 2% of the units, or at least one unit whichever is greater, must be accessible for persons with hearing or visual disabilities.

ADA REQUIREMENTS

Public common areas, such as leasing offices and any community spaces open to the general public, must meet the design requirements of the [Americans with Disabilities Act](#).

12.4 Energy Efficiency Standards

On April 26, 2024, HUD published the “adoption of energy efficiency standards for the new construction of HUD and USDA-financed housing” in the federal register. That rule became effective May 28, 2024, and applies to both HOME and HTF.

The applicable energy standards for new construction are as follows:

1. New single family and low-rise multifamily housing (one to three story buildings) must meet the standards under [2021 IECC](#).
2. High-rise multifamily (four or more story buildings) must meet the standards under [ASHRAE 90.1-2019](#).

These standards are applicable to new construction projects for which HOME or HTF funds were committed 180 days or more after the effective date of May 28, 2024 (i.e., projects with a commitment on or after November 24, 2024).

12.5 Broadband

Projects for which HOME or HTF funds were committed on or after January 19, 2017, for the new construction or substantial rehabilitation of multifamily rental projects must include the installation of broadband infrastructure.

Per 24 CFR 5.100, broadband infrastructure means cables, fiber optics, wiring, or other permanent (integral to the structure) infrastructure, including wireless infrastructure, that is capable of providing access to internet connections in individual housing units, and that meets the definition of “advanced telecommunications capability” determined by the Federal Communications Commission under section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302).

Per 47 U.S.C 1302, “advanced telecommunications capability” is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications

capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

12.6 Third-Party Building Inspectors Policy

The award recipient shall procure, or have on staff, an IHCDCA approved inspector to monitor and inspect all IHCDCA funded projects before, during, and after construction and/or rehabilitation. Third-party Inspectors must be approved prior to any construction and/or rehabilitation. Requests for persons to be approved should be sent to the IHCDCA Real Estate Inspection Coordinator with the required documentation.

QUALIFICATIONS

The following list of qualifications are for persons seeking to conduct inspections for IHCDCA funded projects. At least one of these qualifications need to be met in order to qualify to conduct inspections for IHCDCA awards.

1. Three years previous experience as a building code official or inspector- documented employment with contacts listed for verification
2. ICC (International Code Counsel) Residential Building Inspector certificate- completion certificate will need submitted for approval prior to conducting inspections
3. Documented experience conducting inspections of five or more IHCDCA awards
4. Local building code official- current building official in the project's jurisdiction
5. Licensed architect- current licensee listed at [IN Professional Licensing Agency Website](#)
6. Licensed engineer- current licensee listed at [IN Professional Licensing Agency Website](#)
7. Licensed home inspector- current licensee listed at [IN Professional Licensing Agency Website](#)

An approved inspector may be disqualified to conduct current and future inspections at the discretion of IHCDCA for the following:

1. Expired license (architect, engineer, and home inspector)
2. Failure to conduct recipient's inspection within 30 days of completion of scope of work for the project (rental) or each individual home (homebuyer)
3. Individuals/Contractors suspended or debarred in [HUD's Limited Denials of Participation list](#) and/or the [System for Award Management](#), or suspended or debarred by IHCDCA, are ineligible to remain on the approved provider list

THIRD PARTY BUILDING INSPECTOR RESPONSIBILITIES

At a minimum, the following standards are required:

1. Ensure all contractually agreed upon rehab and/or construction is in accordance with Section A of this chapter

2. Conduct progress inspections during rehab and/or construction for quality assurance
3. Verify and substantiate all change order requests
4. Conduct final inspections of all completed rehab and/or construction
5. Mitigate all issues/concerns between contractors, property owners, recipients, and/or administrators prior to IHCDCA inspections
6. Sign the IHCDCA Inspection Certification form only after determining all rehab and/or construction is in accordance with Section A of this chapter
7. Re-inspect and verify required repairs based on IHCDCA inspection(s) are complete and in compliance with Section A standards

12.7 Inspections

INITIAL INSPECTIONS FOR REHABILITATION

Applicants proposing a rehabilitation activity (regardless of number of units) must complete and provide a Capital Needs Assessment (CNA) along with the application for funding. A CNA is an inspection of the property to provide an extensive analysis of building systems, recommendations for specific improvements, and funding estimates for long-term replacement costs. The CNA must be performed by an independent, Indiana-licensed architect or engineer. The report must contain an assessment of any physical components that will be retained to verify their current condition and all necessary repairs. The CNA must assess the useful life of all “major systems” defined as structural support, roofing, cladding and weatherproofing (e.g., windows, doors, siding, and gutters), plumbing, electrical, heating, ventilation, and air conditioning.

- For rental projects: The CNA must estimate (based on age and condition) the remaining useful life of all major systems upon project completion. If the remaining useful life of one or more major system is less than the applicable period of affordability, a sufficient replacement reserve must be established to replace the systems as needed.
- For homeownership projects: Upon project completion, major systems must have a remaining useful life of at least five years. If the estimated useful life of any major system is less than five years, it must be rehabilitated or replaced as part of the rehabilitation scope of work.

Additionally, IHCDCA will conduct an initial inspection to verify the deficiencies that must be addressed during rehabilitation to ensure the units will meet HOME requirements at completion. This inspection will occur prior to IHCDCA making a funding recommendation.

The project’s Scope of Work must cover all major deficiencies identified in the CNA and IHCDCA’s initial inspection.

PROGRESS INSPECTIONS

All projects shall be inspected by IHCDCA or its contractor when the project has reached approximately 50% of completion (no later than after framing and prior to drywall installation). Homebuyer New Construction requires an additional inspection occurring after the footers have been placed and before framing begins. The inspections must be coordinated with the IHCDCA

Real Estate Inspection Coordinator. The following documents must be submitted for review prior to scheduling the first IHEDA inspection:

Rental Rehabilitation

1. Scope of work (detailed repairs, specifications, and locations of the rehab work)
2. Lead Form
3. Lead Risk Assessment report (if applicable)
4. Lead Clearance report (if applicable)
5. IHEDA Inspection Certification form (interim and final inspections)
6. Development Features/Green Building/Universal Design forms

New Construction (Rental and Homebuyer)

1. IHEDA Inspection Certification form (interim and final inspections) Development Features form (if applicable to your application commitments)
2. Lead Form
3. Description of project (number of buildings, units, accessible units, bedroom types)
4. Development Features/Green Building/Universal Design forms

IHEDA reserves the right to conduct additional progress inspections throughout the construction period.

FINAL INSPECTION

Upon completion of the project, the award recipient is responsible for inspecting the entire project to ensure it meets the standards listed in this chapter. This inspection must be performed by the local code official, licensed home inspector, architect, engineer, or IHEDA approved third-party building inspector.

The award recipient's inspector shall inspect each unit within 30 days of completion of the construction or rehabilitation scope of work and receipt of certificate of occupancy. All building code, workmanship, application commitments, and other issues found during this inspection must be corrected prior to signing the IHEDA Inspection Certification form.

The award recipient may request someone from within their agency or the administrator to conduct the inspections. Qualifications detailing the person's construction and code inspection experience needs submitted to the IHEDA Real Estate Inspection Coordinator for review and approval if in accordance with the IHEDA Approved Third-Party Building Inspector Policy.

Once the recipient's inspector has verified all the work is in compliance with the Indiana State Building Code and signs the Inspection Certification form, the recipient shall contact the Real Estate Inspection Coordinator and coordinate the IHEDA final inspection.

After reviewing the inspection documents, the Real Estate Inspection Coordinator will contact the recipient and/or administrator via phone or email to coordinate the date and time of the inspection or send a request for more information. A confirmation email will be sent to the recipient and/or administrator once the date and time of the inspection is determined.

DEFICIENCIES AND CORRECTIONS

After each IHCD A inspection, the recipient and/or administrator will receive an inspection report listing, by address, any deficiencies observed. If deficiencies are noted, the recipient must remedy such deficiencies and provide proof of correction by the correction date identified in the inspection report.

Once all repairs are made, the recipient must submit an owner affidavit (using the IHCD A provided template) to the Real Estate Inspection Coordinator via email. The affidavit shall be signed by the award recipient's authorized signatory and give a detailed description of each repair to include a photo.

After reviewing the affidavit and photo(s), IHCD A will either issue a letter stating all repairs have been corrected or requesting additional documentation.

IHCD A may conduct a re-inspection to verify the repairs are completed in accordance with all applicable standards depending on the severity of the deficiencies, or if requested by the award recipient or property owner.

The final inspection and any corrections must be completed before the award can close out.

All HOME and HTF rental projects will be inspected periodically throughout their affordability period in accordance with HOME and HTF regulations, NSPIRE standards, and IHCD A's *Federal Programs Ongoing Rental Compliance Manual*.

Chapter 13 – Accessibility Requirements

Federal Regulations: [24 CFR part 8](#), [28 CFR parts 35](#)

This chapter outlines Section 504 of the Rehabilitation Act. Per Section 504 of the Rehabilitation Act of 1973: “No otherwise qualified individual with disabilities, shall, solely by reason of his or her disability, be excluded from the participation in, or denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance from HUD.”

Recipients cannot discriminate against an otherwise qualified individual with disabilities, solely because of their disability, with regards to participation in any program or activity receiving HOME or HTF funds.

This chapter defines the recipient’s responsibilities in terms of program accessibility. For more information on accessible design requirements, refer to [Chapter 12](#). For more information on Fair Housing and nondiscrimination, refer to [Chapter 16](#).

Recipients must include the accessibility logo on all client related brochures, applications, and correspondence. An electronic copy of the logo is available in the Chapter 13 Exhibits or by contacting your IHEDA Closeout Compliance Auditor.



13.1 Program Accessibility

Recipients are required to operate and to ensure that people with disabilities have access to apply for that program.

For example, if an applicant requires an application in Braille, the recipient is required to make that accommodation.

Recipients must have a communication system in place for the hearing and speech impaired. Relay Indiana is a free service that relays calls between a person using a text telephone (TTY/TTD) and users of the general telephone network in Indiana. If the need to use this service arises, recipients should call Relay Indiana at 800-743-3333.

For more information on reasonable accommodations and modifications as required under Fair Housing, see [Chapter 16](#).

13.2 Distribution of accessible dwelling units

Accessible dwelling units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites and shall be available in a

sufficient range of sizes and amenities so that a qualified individual with a disability has a choice of living arrangements that is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade level.

13.3 Occupancy of accessible dwelling units

At initial lease-up, accessible units should be marketed to persons with disabilities requiring an accessible unit. For ongoing leasing, the following order must be followed for marketing and leasing the accessible units:

1. First offer accessible units to existing residents that require the accessibility features but are currently occupying a unit that does not offer such features.
2. Next offer accessible units to qualified applicants on the waiting list that require an accessible unit.
3. Market the unit to attract new qualified applicants that require an accessible unit.
4. Finally, offer the unit to a non-disabled household on the waiting list (a household that does not need the accessible features of the unit). If this is done, the household should understand and have an agreement in writing that it may later be asked to transfer to another comparable, but non-accessible, unit if the accessible unit is needed by a person with a disability. While the household may have to transfer if there is a comparable, vacant non-accessible unit is available, it would not be evicted or otherwise have its tenancy terminated to make room for a household in need of the accessible features. This agreement must be incorporated into the lease or a lease addendum.

13.4 Homeownership programs

Recipients are required to ensure that any newly constructed or rehabilitated housing units for purchase, i.e. single family (including semi-attached and attached) units receiving Federal financial assistance shall be made accessible upon request of the prospective buyer if the nature of the disability of an expected occupant so requires.

In such cases, the buyer shall consult with the seller or builder/sponsor regarding the specific design features to be provided. If accessibility features selected at the option of the homebuyer are ones covered by the standards prescribed by the Uniform Federal Accessibility Standards, those features shall comply with the standards prescribed in the UFAS. The buyer shall be permitted to depart from particular specifications of these standards in order to accommodate his or her specific disability.

The cost of making a facility accessible under this paragraph may be included in the mortgage amount within the allowable mortgage limits, where applicable. To the extent such costs exceed allowable mortgage limits, they may be passed on to the prospective homebuyer, subject to maximum sales price limitations (see [24 CFR 93.305](#)).

Chapter 14 – Uniform Relocation Act & Section 104(D) Requirements

Federal Regulations: [49 CFR Part 24](#), [24 CFR Part 42](#)

This chapter provides guidance on how to handle permanent and temporary displacement of residents.

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

APPLICABILITY

URA requirements apply to HOME assisted projects regardless of whether federal, local, or private funds are paying for the specific development activity that is causing displacement to occur. Assistance must be provided to displaced persons in the following circumstances:

1. Displacement that results from acquisition, demolition, or rehabilitation for HUD-assisted developments carried out by public agencies, nonprofit organizations, private developers, or others.
2. Real Property Acquisition for HUD-assisted developments (whether publicly or privately undertaken).

14.1 URA Assistance to Displaced Households

Assistance must be provided to displaced persons who **leave** the development. Displaced households must receive:

1. Appropriate notices and other advisory services to ensure they are fully informed of their rights, make informed decisions, and receive referrals to appropriate services that may be needed.
2. Replacement housing, including the offer of a comparable replacement dwelling, and, if necessary, financial assistance to make the unit affordable. Financial assistance may be in the form of a Replacement Housing Payment or tenant-based rental assistance, such as vouchers. There is no income cut-off for eligibility for relocation assistance. Anyone who is displaced may be entitled to URA assistance.

3. Moving and related expenses to help cover costs of the move. The displaced person has the option of choosing either
 - a. payment for actual, out-of-pocket, reasonable moving and related expenses; or
 - b. a fixed moving expense allowance based on the U.S. Department of Transportation's (DOT) "[Residential Moving Cost Schedule](#)".

14.2 URA Assistance to Displaced Businesses

Assistance must be provided to displaced businesses who **leave** the development. Displaced businesses must receive:

1. Appropriate notices and other advisory services to ensure they are fully informed of their rights, make informed decisions, and receive referrals to appropriate services that may be needed.
2. Payments associated with moving to another location
 - a. Commercial Move is based on the lower of two bids or estimates prepared by a commercial mover.
 - b. Self-Move is a payment based upon one or a combination of the following:
 - i. The lower of two bids or estimates prepared by a commercial mover.
 - ii. Recipient bills for labor and equipment. Hourly Labor rates shall not exceed the rates paid by a commercial mover. Equipment rental fees should be based upon actual rental cost of the equipment and cannot exceed the cost paid by day commercial mover.
3. Other Costs such as advertising signs, moving machinery, and utility connections. Contact your Real Estate Closeout Compliance Auditor for a full list of eligible costs which can also be found at [49 CFR 24.301](#)

14.3 Maximum Relocation Benefit to Displaced Person or Entity

1. Business Displacement
 - a. Maximum Reestablishment Expense Payment to a displaced business can be up to \$25,000 [[42 U.S.C. 4622\(a\)\(4\)](#)] and;
 - b. Maximum Fixed Moving Expense Payment benefit can be up to \$40,000 [[42 U.S.C.4622\(c\)](#)] and not less than \$1000.
2. Homeowner –occupant displacement
 - a. Maximum Replacement Housing Payment for displaced 90-day homeowner-occupant can be up to \$31,000 [[42 U.S.C. 4623\(a\)\(1\)](#)]
3. Residential Tenant Displacement
 - a. Maximum Replacement Housing Payment for displaced 90-day residential tenant can be up to \$7,200 [[42 U.S.C. 4624\(a\)](#)]

14.4 URA Assistance to Remaining Households

Assistance must also be provided to those persons who are expected to **remain** in the development. Remaining households must receive:

1. Appropriate notices and other advisory services - To assure that they are fully informed of their rights, make informed decisions, and receive referrals to appropriate related services that may be needed.
2. Suitable housing - The household must be offered a unit within the development that is decent, safe, and sanitary and appropriate for the household's size.
3. Affordable housing - If a household's rent increases as a direct result of a federally assisted activity to an amount that is more than the household can afford the household is considered "economically displaced." The award recipient must treat this household like any other displaced household by issuing a "Notice of Eligibility" and providing relocation assistance.
4. Temporary relocation assistance - Including moving and related expenses to cover the cost of any temporary move (e.g., while the unit is being rehabilitated).
5. Moving and related expenses - To help cover the cost of any permanent move to another unit in the development.

14.5 Property Acquisition – Willing Buyer/Seller Transaction

This situation arises when the property owner is interested in selling the property. In this case, the recipient must use the Voluntary Acquisition Disclosure to Seller form to notify the property owner:

1. of the property's estimated fair market value;
2. of the purchase price of the property; and
3. that the purchaser does not have the power of eminent domain.

This notice may be sent by certified mail or hand delivered with signed receipt. An agency requesting use of electronic signature of documents must include the following safeguards:

1. A process to document and record when information is legally delivered in digital format. A date and timestamp must establish the date of delivery and receipt with an electronic record capable of retention.
2. A process to link the electronic signature with an electronic document in a way that can be used to determine whether the electronic document was changed subsequent to when an electronic signature was applied to the document.
3. A certification that use of electronic signatures is consistent with existing State and Federal laws.

Willing buyer/seller transactions are *ineligible* for relocation assistance. However, any *tenants* residing in the building are entitled to relocation.

14.6 Property Acquisition- Non-Willing Buyer/Seller Transaction

Step 1 – Property Owner Notification

Send a notice to the seller; this packet of information must include a cover letter explaining the IHEDA recipient's interest in the property (see sample cover letter in Chapter exhibits), the informational HUD URA booklet 1041-CPD entitled "When a Public Agency Acquires Your Property" (booklet available), and the HUD URA booklet 1044-CPD entitled "Relocation Assistance to Displaced Homeowner Occupants). Notices should be issued as soon as feasible after a specific property has been identified. This packet of information should be sent certified mail; however, if certified mail is not used, a signed statement from the homeowner must be obtained to document their receipt of this information. An agency requesting use of electronic signature of documents must include the following safeguards:

1. A process to document and record when information is legally delivered in digital format. A date and timestamp must establish the date of delivery and receipt with an electronic record capable of retention.
2. A process to link the electronic signature with an electronic document in a way that can be used to determine whether the electronic document was changed subsequent to when an electronic signature was applied to the document.
3. A certification that use of electronic signatures is consistent with existing State and Federal laws.

There are different types of replacement housing depending on whether the resident is a homeowner or rental tenant as well as how long they have lived in the property. Please refer to the following information in making your determination of benefits:

1. Replacement Housing Payment Calculation for URA (90-179-Day Homeowner)
2. Replacement Housing Payment Calculation for URA (Rental Tenants)
3. Replacement Housing Payment Calculation for Section for 104(d)

For the specific requirements and calculation methods for the above, please refer to the Relocation Definitions in [Section 14.13](#).

Step 2 – Determine Value of Property

1. If the value of the property is below \$10,000, a licensed real estate appraiser may determine value. The estimate must be in writing.
2. For property valued above \$10,000, a fee appraisal documenting value must be obtained. The appraisal must be conducted by a licensed real estate appraiser.
3. For properties that have been damaged and are located within the 100-year floodplain, a fee and review appraisal must also be completed. The review appraisal must be conducted by a licensed real estate appraiser. In the event the two appraisals do not match, the review appraisal value must be utilized.

You must notify the property owner by certified mail of the time and date of the appraisal. The homeowner can attend the appraisal if they choose.

Step 3 – Notify Property Owner of Offer

After the completion of the market valuation or appraisals, the recipient notifies the property owner of the offer to purchase. This should be sent either by certified mail or hand delivery with a signed receipt.

Step 4 – Sign the Purchase Offer

Once the property owner accepts the offer, the recipient may execute the purchase offer. If this is done prior to release of funds and Section 106 Historic Clearance, the recipient must enter into a purchase option that documents the Section 106 Clearance and Release of Funds process must be successfully completed as a condition of sale.

Step 5 – Recipient Questionnaire

The recipient should complete the questionnaire, which provides additional information regarding the property.

14.7 Property Acquisition with Rental Tenants

Step 1 – General Information Notice Forms

1. Residential Tenant That Will Not be Displaced Form
2. Residential Tenant to be Displaced Form

The notice must be provided as soon as feasible after the submission of an application to IHCD, or as soon as a specific property has been identified for HOME or HTF assistance.

The notice must explain that the HOME- or HTF-assisted development has been proposed and caution the resident not to move prematurely.

The notice must inform the resident of the terms for continued occupancy if the resident will not be displaced or of the assistance available if the resident will be displaced.

If displacement is possible, the notice must enclose additional information about available relocation assistance by including [HUD URA booklet 1042-CPD](#) entitled “Relocation Assistance to Tenants Displaced from Their Homes”.

Step 2 - Notice to Tenants Moving in After Application Form

This notice must be issued to each prospective tenant BEFORE the tenant agrees to move into the development.

The notice must explain that the development has been proposed and inform residents that they may be displaced or sustain a rent increase as a result and that they will NOT be entitled to relocation assistance in either event.

Failure to issue this notice can be very costly. The award recipient may incur unnecessary relocation liability for each resident who moves in after the application for HOME- or HTF-assistance and is not given this notice.

Step 3 - Notice of Non-Displacement Form

For acquisition and/or residential rehabilitation projects, this notice is issued to residents who will remain in the project after its completion.

The notice is issued at the time of the execution of the agreement for acquisition and/or rehabilitation and contains a specific offer of a suitable, affordable unit in the project.

Step 4 - Temporary Relocation Notice

Residents who are not required to move permanently may be required to move temporarily, if all conditions of the move are "reasonable".

Residents that are to be temporarily relocated must receive "reasonable" advance written notice of the location, terms and conditions of the temporary move and of their right to reimbursement of all reasonable out-of-pocket expenses.

Step 5 - Notice of Eligibility for Relocation Assistance Forms

For acquisition and/or residential rehabilitation projects, this notice is issued to residents who will be displaced.

The notice is issued at the time of the execution of the agreement for acquisition and/or rehabilitation and contains a commitment for relocation assistance including:

1. Address of at least one (1) comparable replacement unit and other appropriate (but not necessarily comparable) referral housing units.
2. A specified amount for a replacement housing payment and moving expenses.

Because the comparable rents set an upper limit for assistance, failure to provide information about available, comparable units may result in a requirement to pay excessive relocation costs.

For a household who can be offered a decent, safe, and sanitary unit in the project but not an affordable one, the notice may offer the household the opportunity to waive relocation assistance and remain in the development.

There are different types of replacement housing depending on whether the resident is a homeowner or rental tenant as well as how long they have lived in the property. Please refer to the following information in making your determination of benefits:

1. Replacement Housing Payment Calculation for URA (90-179-Day Homeowner)
2. Replacement Housing Payment Calculation for URA (Rental Tenants)
3. Replacement Housing Payment Calculation for Section for 104(d)

For the specific requirements and calculation methods for the above, please refer to the Relocation Definitions in [Section 14.13](#).

Step 6 – 90-Day (and 30-Day) Notices

Each lawful occupant to be displaced must receive at least 90-day written notice before being required to move.

The notice cannot be given before the person is issued a Notice of Eligibility for Relocation Assistance or before being notified of the availability of a comparable replacement dwelling.

The notice must specify the date by which the property must be vacated, or if the date is unknown, it must indicate the earliest date that the occupant may be required to move.

If no date is specified in the 90-Day Notice, the occupants must be informed that they will receive at least 30-day written notice of the specific date of the move.

14.8 Donations

Owners may offer to donate properties, and these transactions would be considered voluntary. But the owners must be informed of their rights under URA, AND they must waive these rights in a written consent document. However, any tenant residing in an owner-donated property would be eligible for relocation.

14.9 Information and Counseling

All residents must be kept informed of development activities and scheduling. Information and counseling should include:

1. Referrals to other available assistance and human services (e.g., health services, public assistance, childcare)

2. Information about Federal, State, and local housing programs and how to apply for them.
3. Information about the household's rights under the Fair Housing Act.
4. For those who are displaced, information, to the extent possible, about replacement housing opportunities that may promote fair housing and moves to neighborhoods outside areas of racial concentration.

14.10 Section 104(d) Tenant Assistance and Relocation Requirements

When any unit, at any rent level that is occupied by a low or moderate-income person is demolished with HOME funds; the displaced household is eligible for relocation assistance at the Section 104(d) levels.

When a HOME funded conversion displaces a low or moderate-income household; the displaced household is eligible for relocation assistance at Section 104(d) levels.

When a low or moderate-income household remains in a development converted with HOME funds, Section 104(d) economic displacement rules apply.

Any displaced household that qualifies for Section 104(d) assistance is also covered by URA.

High-income residents of a HOME funded development who are displaced (physically or economically) are not eligible for Section 104(d) assistance but are eligible for URA assistance.

SECTION 104(D) REPLACEMENT HOUSING PAYMENT

The Section 104(d) Replacement Housing Payment is available only to low and moderate-income households; however, high income displaced tenants are eligible to receive assistance under the URA.

The Section 104(d) Replacement Housing Payment is intended to provide affordable housing for a 60-month (5 year) period. There is no cap on the Section 104(d) Replacement Housing Payment.

Replacement Housing Payment includes paying a security deposit.

For homeowners who are displaced and who qualify for Section 104(d), use the market rent of the comparable and replacement units in this calculation.

Be sure to compare the Section 104(d) calculation to the amount that they would receive under the URA formula. If the amount calculated under the URA formula exceeds the amount under the Section 104(d) formula, then the displaced household is entitled to the URA amount.

Provide homeowners with a copy of [HUD booklet 1365-CPD](#) Relocation Assistance Under Section 104(d) to Persons Displaced From Their Homes.

SECTION 104(D) ONE-FOR-ONE REPLACEMENT REQUIREMENTS

Award recipients may not use HOME or HTF dollars to reduce the supply of "low/moderate dwelling units."

Section 104(d) requires that each applicable low/mod unit that is "lost" through conversion or demolition in conjunction with a HOME- or HTF-assisted development be replaced by another affordable unit.

This is a bricks and mortar requirement. It is not related to the circumstances of the household who lives in the unit, nor whether the unit is currently owned or rented.

Award recipients **MUST** replace a unit if:

1. It meets the definition of a low/mod dwelling unit; AND
2. It is occupied or is a vacant occupiable dwelling unit; AND
3. It is to be demolished or converted to a unit with market rents above the FMR or to a use that is no longer for permanent housing.

A unit **DOES NOT** need to be replaced if:

1. It does not meet all of the triggering criteria.
2. It is a substandard unit not suitable for rehabilitation (as defined by local minimum housing standards or the State Consolidated Plan) that has been vacant for over a year.

Income of the current resident is not relevant when evaluating triggers for replacement.

DISCLOSURE AND REPORTING REQUIREMENTS

Before an award recipient executes a contract for any activity that would create the need for one-for-one replacement, the award recipient must:

1. Make the plan public, by publication in a newspaper of general circulation; and
2. Submit to IHCD the following information:
 - a. Description of the proposed activity;
 - b. Location and number of units to be removed;
 - c. Schedule for the beginning and completion of the demolition or conversion;
 - d. Location and number of replacement units;
 - e. Source of funding and timing for providing the replacement units;
 - f. The award recipient's basis for determining that the replacement units will remain affordable for at least ten (10) years from the initial date of occupancy; and
 - g. The award recipient's justification (if applicable) for replacing larger units with smaller units.

There will be no formal IHCD approval of the submission. IHCD will forward the information to HUD, and both agencies will use it during their monitoring activities.

REPLACEMENT UNITS

Replacement units must be:

1. Within the award recipient's jurisdiction and, if possible, consistent with other statutory priorities, in the same neighborhood;
2. In standard condition; and
3. Designed to remain affordable to low-income families for ten (10) years.

The total number of bedrooms replaced must equal the total number of bedrooms removed (but not necessarily in the same unit configurations).

Larger units may not be replaced with smaller units unless the award recipient can demonstrate that the replacement is consistent with the housing need of low or moderate-income households in the jurisdiction. Example: A jurisdiction might show that the need for one-bedroom units as shown in the local comprehensive plan or housing plan greatly exceeds the need for two-bedroom units.

Replacement units must be provided within a four-year time frame.

1. Units made available up to one year before the submission of the award recipient's plan for a one-for-one replacement may be counted as replacement units.
2. Units made available within three years after the beginning of the demolition or rehabilitation can be counted as replacement units.

Substandard units that are rehabilitated can count toward the replacement unit if:

1. No person was displaced by the assisted activity; and
2. The unit was vacant for at least three months before the agreement authorizing the rehabilitation; and
3. The unit is in standard condition following rehabilitation.

14.11 URA and Section 104(d) Similarities

Both URA and Section 104(d) provide assistance for persons who have been displaced as a direct result of HOME assisted developments. Specific similarities between the two sets of regulations include:

1. Minimizing displacement - Both regulations stress that displacement should be minimized when possible.
2. Notices - Both require that a General Information Notice, and a Notice of Non-Displacement or a Notice of Eligibility for Relocation Benefits be provided.
3. Economic displacement - Both regulations consider people who cannot afford to remain in the property after completion to be economically displaced.
4. Relocation assistance and procedures -
 - a. Moving expenses are the same under the two sets of regulations.
 - b. Both require payments of rental assistance, although the amounts and available types vary across the two regulations.

- c. Both permit offering Section 8 to eligible families who will remain in the development to avoid economic displacement. And, as with URA, "gap" payments may be required in some cases.
 - d. Both require that displaced tenants be offered comparable dwelling units that are decent, safe, and sanitary.
 - e. Advisory services are required under both Section 104(d) and URA.
 - f. Appeals are provided for under both sets of requirements.
5. Award recipient responsibility and records - Award recipients are responsible for ensuring subrecipient compliance with both Section 104(d) and URA and keeping adequate records.

14.12 Record Keeping System

Good record keeping is essential. Sample forms are provided to assist in record keeping and managing the development workload. All records must be retained at least three years after all displaced persons and all property owners have received the final payment to which they are entitled, or the date the development is completed, whichever is latest.

The following record keeping system must be established and maintained for each displaced person (household or business).

1. Establish a separate file for each tenant displaced.
2. Completed copy of Acquisition / Relocation Summary Form for each property (See Chapter Forms).
3. Copies of all notices and evidence of tenant receipt, including date of their receipt.
4. Demographic information (e.g., name, address, sex, race, income, disability status, female-headed household, etc.).
5. Description of relocation needs and preferences.
6. Description of comparable replacement dwellings, including monthly housing cost, number of rooms, census tract location, etc.
7. List of all referrals made, including date, address, and price. If refused, indicate reason for refusal.
8. Comparable replacement dwelling on-site description, including:
 - a. Date of relocation;
 - b. Address and census tract of dwelling;
 - c. Monthly housing cost; and
 - d. Socioeconomic neighborhood information
9. Inspection reports of comparable replacement dwellings.
10. Payment type(s) and amount(s) and evidence, including date(s) of payment(s).
11. Copies of any appeals and records of the outcomes.
12. All relevant correspondence.

The following record keeping system is required for the acquisition (voluntary or involuntary) of real property.

1. A separate case file established for each property when an owner is initially contacted.
2. Completed copy of Acquisition / Relocation Summary Form for each property.

3. A list identifying all parcels to be acquired for the development.
4. For each parcel acquired, the files should include:
 - a. Identification of property and property owner(s);
 - b. Evidence that the owner was informed on a timely basis about the acquisition and his/her rights;
 - c. Copy of appraisal reports, and evidence the owner was invited to accompany each appraiser on the inspection of the property;
 - d. Copy of the written purchase offer and date of delivery to the owner;
 - e. Copy of the purchase contract and documents conveying the property;
 - f. Copy of closing statement identifying any incidental expenses;
 - g. Evidence the owner received payment and appropriate documentation if payment differed from offer of just compensation; and
 - h. Copy of any appeal or complaint filed with the award recipient and the award recipient's response.

14.13 Key Relocation Definitions

Advisory Services - Includes timely notices, information booklets, explanation of assistance, referrals to comparable housing, referrals to social services, counseling, and advice on rights under the Fair Housing Act.

Affordable Rent - is rent plus utilities that does not exceed thirty percent (30%) of a household's gross monthly income.

Comparable - Tenants who are displaced must be referred to at least one (1) comparable replacement unit.

1. Comparables are used to:
 - a. Assure that displaced persons actually have a place to go, and
 - b. Set a limit on the maximum liability for the agency for replacement housing payments because the replacement housing payment is based upon the lesser of the cost of the household's replacement unit or the cost of the comparable unit.
2. Generally, "comparable" units must be:
 - a. Similar in size: Generally, comparable units will have the same amount of space as the original unit.
Sites should be typical in size for residential development with normal site improvements.
NOTE: If the original unit was dilapidated, a smaller, decent, safe, and sanitary unit adequate in size to accommodate the household may be considered comparable. If a household is found in an overcrowded unit, however, the comparable must alleviate the overcrowding.
 - b. Similar in function: The unit performs the same function, service, or purpose as the displacement unit and contains the same principle features.
 - c. Reasonably accessible to the person's employment
 - d. Located in equal to or better area than the displacement unit vis-a-vis public utilities and commercial and public facilities. The location should be no less desirable than the displacement location and provide access to work, services, and facilities. Comparable units may not be in areas subject to unreasonable, adverse environmental conditions.

- e. Currently available to the displaced person. Units are "available" if:
 - i. The person has been informed of the location;
 - ii. has sufficient time to negotiate an agreement to lease or purchase; and
 - iii. receives relocation payments (as necessary) in sufficient time to complete the move or purchase.
 - f. Decent, safe, and sanitary (See definition below)
 - g. Within the financial means of the displaced person.
 Note: Because URA requires that financial assistance be provided to assist the household to afford the replacement unit, the unit selected, as the comparable is not required to be affordable by the household without assistance.
3. The type of rental property affects whether it is considered comparable.
- a. Public housing is a suitable comparable unit for displaced public housing tenants, but not for other tenants.
 - b. Project based subsidized housing (e.g., Section 8 or Section 236 developments) is an acceptable comparable for displaced public housing tenants as well as those who lived in such projects before being displaced.
 - c. A privately owned unit made affordable by a tenant-based subsidy (e.g., Section 8 Rental Certificates) is an acceptable comparable for displaced person who previously lived in a unit with a project-based subsidy.
 - d. Affordable privately owned housing is an acceptable comparable for any tenant.

Conversion – occurs when:

1. Changing the use of the unit (e.g., from permanent rental housing to a hotel or to a non-residential use).
2. Rehabilitating a low/mod unit with HOME assistance causing the post rehab rent to be above the FMR (If rent increases, but does not exceed the FMR, then the household may be eligible for URA, but not Section 104(d)).

Conversion does not occur if the sole development activity is acquisition. However, if HOME funds are used for any development activity (i.e., acquisition but not the subsequently planned rehabilitation), the entire development is considered to be funded with HOME funds.

Decent, Safe, and Sanitary Units must:

1. Be structurally sound, weather-tight, and in good repair;
2. Include wiring that is safe and adequate for lighting and other devices;
3. Contain a heating system capable of sustaining a healthful temperature;
4. Be adequate in size for the household including:
 - a. Separate, well-ventilated bath with sink, bathtub or shower, and toilet in good working order and properly connected;
 - b. A kitchen area with sink, potable water, sewage drainage, and space and connections for stove and refrigerator; and
 - c. Unobstructed access to safe, open space at ground level.
5. For a person with mobility impairments, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling; and
6. Comply with the lead-based paint requirements of 24 CFR Part 35 (i.e., no cracking, peeling, chipping, scaling paint, and provide lead-based paint notice if children under seven (7) years of age will occupy the unit).
7. For programs covered by the Section 8 Housing Quality Standards (HQS), units that meet HQS are considered "decent, safe, and sanitary" replacement units.

8. Qualified persons who are knowledgeable of the local housing code must inspect units.

Demolition -

Any unit occupied by a lower income resident that is demolished with HOME funds triggers the requirement to provide relocation assistance to the occupant at Section 104(d) levels.

Whether or not a demolished unit must be replaced depends upon its condition and how long it has been vacant prior to demolition (see One for One Replacement).

Development- An activity or series of activities that are integrally related, each essential to the other, whether or not all components receive federal financial assistance. If federal funds are used in any activity, the entire development is considered a federally assisted development.

Displacement - occurs when a person (or their property) permanently moves as a direct result of a federally assisted acquisition, demolition, or rehabilitation activity. A direct result includes the following:

1. The person is required to move from the property (e.g., because the household size cannot be accommodated after rehabilitation, the unit is demolished or its use is changed, or the household's lease is not renewed).
2. The person leaves the property because a decent, safe, and sanitary and affordable unit in the property was not offered.
3. The person leaves the property because of unreasonable temporary relocation requirements or unreasonable terms for permanent moves within the property.
4. The person leaves for whatever reasons, AND the necessary notices to assure that the person was fully informed about relocation rights and assistance were not given or were not given in a timely fashion.
5. The person leaves the property because the landlord did not renew their lease in order to avoid displacement.
6. The landlord forces tenants to move in order to provide a "vacant" property for assistance.

Displacement does not include persons who:

1. Were evicted for cause, BUT not if the eviction is taken to evade paying relocation assistance.
2. Have no legal right to occupy the property (e.g. persons that meet the definition of squatters under local law).
3. Before leasing and occupying the property, but after application for development funding, receive written notice of the possibility that displacement or an increase in rent may occur and that relocation assistance will not be provided.
4. Retain the right of use and occupancy of the property following acquisition (life estates).
5. After being fully informed of their rights, waive them.
6. The award recipient decides (and HUD agrees in writing) were not displaced as a direct result of the development (professional relocatees).
7. Were required to move out for a short period to facilitate emergency repairs, as long as certain conditions are met (see Temporary Relocation).

Economic Displacement - Applies to tenants who will remain in the development after rehabilitation. If a tenant's rent increases as a result of the development and the increased rent and utilities is greater than the household's affordable rent level, then the household must be considered "economically displaced". The award recipient must treat this household like any other displaced household, by issuing a "Notice of Eligibility" and providing relocation assistance.

General Information Notice (GIN) - Informs all occupants of a possible development and of their rights under the URA. Stresses that the household should not move at this time.

HUD-assisted - Any development that involves HOME Investment Partnership Program (HOME) funds awarded through the Indiana Housing and Community Development Authority (IHCDA).

Involuntary Acquisition - The use of eminent domain to acquire a property.

Low and Moderate Income - Households that have a gross annual income below eighty percent (80%) of the area median income. HUD annually publishes a table of low and moderate incomes by area and household size.

Low/Mod Unit -

A low/mod unit is a housing unit that has a market rent (including estimated tenant-paid utilities) that is equal to or below the Section 8 Fair Market Rent.

The determination of a low/mod unit is not based upon the income of the occupant. For example, a unit that rents above the FMR that is occupied by a low or moderate-income tenant is NOT a low/mod unit. But a unit that rents below the FMR that is occupied by a high-income person IS a low/mod unit.

To determine whether an owner-occupied unit is a low/mod unit, consider the "market rent" for the unit based upon the rents for comparable units that are being rented.

Market Rent - Rent charged for an unsubsidized comparable unit. Generally, this is what a tenant pays. A reduced rent charged to a relative or on-site manager is **not** market rent. For owner-occupied units, the market rent is the rent the unit could command if it were rented.

Move-in Notice - Informs households moving into potential projects after the application that they may be displaced and that they will not be entitled to assistance.

Moving and Related Expenses - In addition to the Replacement Housing Payment, the displaced person has the option of:

1. A payment for actual, out-of-pocket, reasonable moving and related expenses; or
2. A fixed moving expense allowance based on a Department of Transportation (DOT) schedule that is published periodically (available from IHCDA).

90-Day Notice - Informs displaced households of the day by which they must vacate the property. Displaced households may not normally be given less than ninety (90) days to vacate their residence.

Notice of Eligibility - Informs households to be displaced of their rights and levels of assistance under the URA. Information on comparable units must be included with this notice.

Notice of Non-Displacement - Informs households who will remain in the project after completion of the assisted activity of their rights and of the terms and conditions of their remaining at the property.

Referral Unit - Other appropriate (but not necessarily comparable) housing which is suggested to the household as part of advisory services.

Replacement Housing Payment (RHP) - Replacement housing assistance is available to both renters and homeowners.

Assistance is provided in the form of either rental assistance or purchase assistance.

Rental Assistance may be in the form of a Replacement Housing Payment or, for eligible households, Section 8 tenant-based rental assistance if it is available. The household (not the award recipient) has the right to choose whether rental assistance is provided through a Replacement Housing Payment or through tenant-based rental assistance for URA relocation. Under Section 104(d) requirements, the award recipient (not the tenant) decides whether tenant-based rental assistance or a replacement housing payment will be made. However, if the household wants a cash payment and therefore rejects an offer of tenant-based rental assistance under Section 104(d), the household retains its right to a cash payment (forty-two (42) months) under URA.

Replacement Housing Payments must be made in installments unless the tenant wishes to purchase a home. If the tenant wishes to purchase, the full amount of the payment must be paid in lump sum and attributed to the purchase cost of the home. Down payment assistance equals 42 x monthly rental assistance payment. IHEDA may allow an increase up to \$5, 250 (if calculation is less). Under Section 104(d), cash purchase assistance can only be used to buy a co-operative unit or for mutual housing and based on present (discounted) value of 60 x monthly rental assistance payment. If the displaced tenant wishes to purchase other than a co-operative unit or mutual housing unit, replacement housing benefits may be calculated using the URA formula and paid in one (1) lump sum. The household may then use the URA assistance to buy any type of unit.

Replacement Housing Payment Calculation for URA (90-Day Homeowner)

A displaced homeowner who has owned and occupied the property for at least ninety (90) days immediately before the initiation of negotiations is eligible for a replacement housing payment.

The payment includes the difference between:

- the cost of a replacement dwelling (lesser of the comparable and actual), and
- the acquisition price of the displacement unit.

The payment also includes:

- any additional mortgage financing costs, and
- reasonable expenses incidental to the purchase.

EXAMPLE: URA Replacement Housing Payment - 90- Day Homeowner

Price of actual replacement dwelling	= \$60,000
Price of comparable replacement dwelling	= \$55,000
<i>Choose the lesser: \$55,000</i>	
Acquisition price of displacement dwelling	= \$25,000
<i>Difference: \$55,000 - \$25,000</i>	= \$30,000
<i>Increased financing costs</i>	= \$ 1,000
<i>Incidental costs</i>	= \$ 1,000

Replacement Housing Payment = \$32,000

[To be provided in a lump sum to be applied to purchase price.]

Replacement Housing Payment Calculation for URA (90-179-Day Homeowner) - Receive the same assistance as a displaced rental tenant, except this owner can never receive more than a 90-Day homeowner would receive.

Replacement Housing Payment Calculation for URA (Rental Tenants) -

Assistance for Tenants in Occupancy
More than 90 Days

Assistance for Tenants in Occupancy
Less than 90 Days

Replacement Housing Payment makes up (for a 42-month period) the **difference between:**

- The **lesser** of rent and estimated utility costs for the replacement dwelling or comparable unit; and
- The **lesser** of:
 - a. 30% of the tenant's average monthly gross income; or
 - b. the monthly rent and estimated average utility costs of the displacement dwelling; or
 - c. the welfare rent (in as-paid welfare states only)
- The **lesser** of rent and estimated utility costs for the replacement dwelling or comparable unit and;
- 30% of the tenant's average monthly gross income

Security Deposits must be included in the housing payment if it is non-refundable.

EXAMPLE: URA Replacement Housing Payment - Rental Tenant

\$600	Rent and utilities at actual replacement dwelling
\$500	Rent and utilities at comparable replacement dwelling
<i>Choose the lesser: \$500</i>	

\$400	Rent and utilities at the displacement dwelling
\$300	30% of gross monthly income
<i>Choose the lesser: \$300</i>	

Replacement Housing Payment $\$500 - \$300 = \$200 \times 42 \text{ months} = \$8,400$
[To be paid in installments, or in a lump sum if used for a down payment.]

Replacement Housing Payment Calculation for Section 104(d) -

As with URA, the payment is calculated using the lower of the cost of the tenant's replacement dwelling (including utilities) or a comparable replacement dwelling.

The Replacement Housing Payment makes up (for a 60-month period) the difference between:

- The **lesser** of the rent and utility costs for the replacement dwelling or comparable unit, and
- The tenant's Total Tenant Payment (TTP), calculated as the **greater** of:
 - 30% of adjusted income; or
 - 10% of gross income; or
 - Welfare Rent (in as-paid states only)

Be sure to compare the Section 104(d) calculation to the amount that they would receive under the URA formula. If the amount calculated under the URA formula exceeds the amount under the Section 104(d) formula, then the displaced household is entitled to the URA amount.

EXAMPLE: Section 104(d) Replacement Housing Payment

\$500	Replacement Unit Rent	\$20,000	Annual Income
<u>\$ 50</u>	<u>Estimated Average Utilities</u>	<u>\$ 1,440</u>	<u>Adjustment (480 x 3)</u>
\$550	Replacement Unit Gross Rent	\$18,560	Adjusted Income
\$490	Comparable Unit Rent	\$20,000 / 12 months x .10 = \$167	
<u>\$ 50</u>	<u>Estimated Average Utilities</u>	\$18,560 / 12 months x .30 = \$464	
\$540	Comparable Unit Gross Rent	Welfare Rent	N/A
		TTP = \$464	

Replacement Housing Payment:

\$ 540	Comparable Unit Gross Rent
<u>- \$ 464</u>	Total Tenant Payment (TTP)
\$ 76	Monthly Difference
<u>x 60</u>	Months
\$4,560	Replacement Housing Payment
	<i>[To be paid in installments, or in lump sum if used for a downpayment (some restriction apply, see definition of replacement housing payment).]</i>

Replacement Unit - The unit to which the household actually moves.

Section 8 Fair Market Rents (FMRs) -

FMRs are determined by HUD and are published annually in the Federal Register. They are published by bedroom size for individual market areas.

They are intended to represent a figure at or below which modest, decent, safe, and sanitary housing (including the cost of utilities) can be rented on the private market (approximately the 45th percentile of standard housing occupied by people who have moved within the last two (2) years).

Temporary Relocation -

Residents who will remain in the development after rehabilitation may be required to move temporarily during rehabilitation.

The temporary dwelling must be suitable and decent, safe, and sanitary - but not necessarily comparable. All other conditions of the move must be "reasonable".

In addition to the Notice of Non-Displacement discussed earlier, the resident must, at a minimum, receive:

1. Reasonable advance written notice of the date and approximate duration of the planned temporary move.
2. Information about the terms and conditions under which the tenant will be returning to the unit when the development is completed.
3. Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary move including any increase in monthly rent/utility cost. (No claim form has been developed by HUD, but adequate documentation for reimbursements should be retained in award recipient files.)

Temporary Relocation Notice - Informs households who will be temporarily relocated of their rights and of the conditions of their temporary move.

Total Tenant Payment (TTP) Under Section 104(d) - the greater of:

1. 30% of adjusted income;
2. 10% of gross monthly income; or
3. Welfare Rent (in as-paid states only)

Vacant Occupiable Dwelling Unit – defined as either:

1. A dwelling unit in standard condition (regardless of how long it has been vacant); or
2. A vacant unit in substandard condition that is suitable for rehabilitation (regardless, how long it has been vacant); or
3. A dilapidated unit, not suitable for rehabilitation which has been occupied (except by squatters) within one (1) year from before the date of agreement.

Voluntary Acquisition - In general, URA recognizes these potential types of voluntary transactions:

1. Purchases where the award recipient can exercise the power of eminent domain but agrees in writing not to do so.
2. Purchases where the award recipient does not have the power of eminent domain.
3. Purchases of property from government agencies (Federal, State, or local) if the purchasing award recipient does not have the power of condemnation.

4. Donations where the owner is informed of their rights under URA and waives these rights in a written consent document.

Chapter 15 – Lien And Restrictive Covenants & Affordability Requirements

15.1 Affordability Periods

The length of time for which a project must continue to remain in program compliance and meet its specified requirements (as outlined in the application and restrictive covenants) is called the affordability period or period of affordability.

The affordability period begins after project completion. Project completion is defined as the date that all necessary title transfer requirements and construction work have been performed; the rehabilitation completed complies with the requirements of 24 CFR 92 or 24 CFR 570 and stricter of the local rehabilitation standards or the Indiana State Building Code; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD. Final inspection and closeout monitoring must occur, and all issues be resolved, before the project will be considered complete and the affordability period begins. This date will be codified in the IHEDA closeout letter.

HOME RENTAL AFFORDABILITY PERIODS

HOME (committed before 4/20/2025)	Affordability Period
Rehabilitation or acquisition of existing housing less than \$15,000 per unit	5 years
Rehabilitation or acquisition of existing housing \$15,000 - \$40,000 per unit	10 years
Rehabilitation or acquisition of existing housing greater than \$40,000 per unit or any rehabilitation involving refinancing	15 years
New construction or acquisition of newly constructed housing (regardless of amount)	20 years

HOME (committed on or after 4/20/2025)	Affordability Period
Rehabilitation or acquisition of existing housing less than \$25,000 per unit	5 years
Rehabilitation or acquisition of existing housing \$25,000 - \$50,000 per unit	10 years
Rehabilitation or acquisition of existing housing greater than \$50,000 per unit or any rehabilitation involving refinancing	15 years
New construction or acquisition of newly constructed housing (regardless of amount)	20 years

HOUSING TRUST FUND AFFORDABILITY PERIODS

National Housing Trust Fund	Affordability Period
All awards regardless of activity type or amount per unit	30 Years

HOME HOMEBUYER AFFORDABILITY PERIODS

Refer to [HOME Homebuyer Closing Manual](#) for information regarding Homebuyer Affordability Periods.

15.2 Lien and Restrictive Covenants

RENTAL PROJECTS

The award recipient must ensure that a Lien and Restrictive Covenant Agreement is executed against every property constructed, rehabilitated, or acquired, in whole or in part, with HOME or HTF funds. Upon occurrence of any of the following events during the Affordability Period, the entire sum secured by the lien, without interest, shall be due and payable by recipient and/or owner upon demand. Repayment may be demanded upon: (1) Transfer or conveyance of the real estate by deed, land contract, lease, or otherwise, during the Affordability Period; (2) Commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within the Affordability Period; (3) Units not being used as a residence by a qualifying tenant or not leased according to the program affordability requirements. The award recipient will be responsible for repaying IHCD for any HOME or HTF funds utilized for any housing constructed, redeveloped, rehabilitated, or acquired that does not remain affordable in accordance with 24 CFR 92.252 for the entire Affordability Period.

The award recipient/shall be responsible for recording the Lien and Restrictive Covenant Agreement, and any amendments thereto, in the Office of the Recorder of the county in which the property is located. A copy of the recorded lien(s) must be provided to IHCD at the time of close-out monitoring in order for the award to begin its period of affordability.

HOMEBUYER PROJECTS

Refer to [HOME Homebuyer Closing Manual](#) for information regarding Homebuyer Lien and Restrictive Covenants.

15.3 Compliance and Reporting

RENTAL PROJECTS

All rental projects are subject to program requirements, including IHEDA reporting and monitoring, for the duration of the affordability period.

Guidance on rental housing compliance and ongoing reporting requirements can be found in IHEDA's [Federal Programs Ongoing Rental Compliance Manual](#).

HOMEBUYER PROJECTS

All homebuyer projects are subject to program requirements, including IHEDA reporting, for the duration of the affordability period.

Guidance on homebuyer compliance and ongoing reporting requirements can be found in IHEDA's [HOME Homebuyer Closing Manual](#)

Chapter 16 – Nondiscrimination Requirements

Federal Regulations: [24 CFR Part 100](#), [24 CFR Part 8](#), [29 USC 794](#)

Fair Housing and Civil Rights activities are required of all IHEDA award recipients. IHEDA does not fund institutions that discriminate on the basis of race, color, national origin, sex, religion, familial status, disability, sexual orientation, or gender identity in policy or in practice. All required actions are defined and discussed in the following pages of this section.

16.1 Fair Housing and Equal Access: Protected Classes and Affirmative Marketing Requirements

PROTECTED CLASSES AND PROHIBITED ACTIVITIES

The owner or agents of the owner shall not discriminate in the provision of housing on the basis of race, color, sex, national origin, religion, familial status, or disability (the seven protected classes under the Fair Housing Act) or ancestry or veteran status (additional protected classes under the Indiana Fair Housing code IC 9-22.5 and Indiana Civil Rights code IC 9-22). Prohibition on sex discrimination includes discrimination based on sexual orientation or gender identity.

Nondiscrimination means that owner agents cannot refuse to rent or sell a unit, provide different selection criteria, fail to allow reasonable accommodations or modifications, evict, or otherwise treat a tenant or applicant in a discriminatory way based solely on that person's inclusion in a protected class. Owners may not engage in steering, segregation, false denial of availability, denial of access to services or amenities, discriminatory advertising, or retaliation against individuals that make fair housing complaints.

Effective March 5, 2012, all HUD funded properties (including HOME, HOME-ARP, and HTF funding) are subject to the rule entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity." HUD-assisted properties must make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status. HUD-assisted housing providers are prohibited from inquiring about the sexual orientation or gender identity of applicants and occupants for the purpose of determining eligibility for housing. For purposes of this rule, the term "gender identity" means actual or perceived gender-related characteristics and the term "sexual orientation" means homosexuality, heterosexuality, or bisexuality.

REQUIRED ACTIONS- GENERAL

All owner agents should be familiar with both state and federal civil rights and fair housing laws. IHCD strongly encourages owner and management agents to provide Fair Housing and Equal Opportunity training for all staff, including maintenance staff, at least annually.

All tenant selection plans must acknowledge that the property follows the Fair Housing Act's nondiscrimination requirements, as well as the requirements of VAWA.

IHCD has established procedures for processing Fair Housing complaints made to IHCD. The procedures are as follows: 1) IHCD will forward all Fair Housing complaints to the Fair Housing and Equal Opportunity Office at HUD and also to the Indiana Civil Rights Commission for investigation and 2) IHCD will notify the owner and management company of such complaint. Noncompliance may result in penalties, including recapture of funds and/or suspension or debarment.

REQUIRED ACTIONS- AFFIRMATIVE FAIR HOUSING MARKETING PLAN & FAIR HOUSING BROCHURE

All projects with five or more program-assisted units must create and implement an Affirmative Fair Housing Marketing Plan (AFHMP) using HUD Form 935.2A prior to lease up. In addition, Affirmative Fair Housing Marketing Plans must be evaluated at least once every five years and updated according to the policies of the Fair Housing and Equal Opportunity Office of the Department of Housing and Urban Development (HUD).

Upon project entry, households living in program units must be given the Fair Housing brochure entitled "Are You a Victim of Housing Discrimination." The household must sign documentation acknowledging the receipt of this brochure at time of move-in, and this receipt must be maintained in the household's file.

Owner agents are required to post the Fair Housing and Equal Opportunity poster onsite in the leasing office and/or other common area.

16.2 Fair Housing: Reasonable Accommodations and Modifications

The Fair Housing Act requires owners to make reasonable accommodations and modifications when necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. For purposes of the Fair Housing Act, disability is defined as a person who has/is:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities; or
2. A record of having such an impairment; or
3. Regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act).

The owner agent may verify the disability only to the extent necessary to document that the applicant/tenant has a need for the requested accommodation. The owner may not require applicants/tenants to provide access to confidential medical records or to submit to physical examination. The owner agent may not ask about or verify the specific nature and extent of the disability. The verification form used must be signed by the applicant/tenant to authorize release of such information and should request that the source verify (1) whether the applicant meets the definition of disability as provided above and (2) whether the requested accommodation or modification relates to the person's specific needs. Receipt of Social Security disability payments is adequate verification of an individual's disability status, but the correlation between the disability and the requested accommodation or modification may still need verified.

Housing providers are not required to provide individually prescribed or personal items such as hearing aids, wheelchairs, etc.

REASONABLE ACCOMMODATIONS, SERVICE ANIMALS, AND LIVE-IN AIDES

A reasonable accommodation is a change, exception, or adjustment in rules, policies, practices, or services when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common spaces. Only persons with disabilities are provided reasonable accommodations. Per the Fair Housing Act, a housing provider must allow a reasonable accommodation unless doing so will be an undue financial burden or fundamentally alter the nature of the provider's operations. When a reasonable accommodation will result in an undue financial burden, the owner agent must provide all other accommodations up to the point at which further accommodations will result in the undue financial burden. For more information on reasonable accommodation, refer to the HUD and Department of Justice (DOJ) Joint Statement "Reasonable Accommodations Under the Fair Housing Act" released May 17, 2004.

A common type of reasonable accommodation involves assistance animals. IHEDA uses the term assistance animals in this manual to broadly describe a category that includes service animals and support animals. These types of animals are not pets and therefore must be permitted even in "no-pet" housing, assuming that an individual with a disability has requested an accommodation to the "no-pet" rule and that the need for the assistance animal can be verified. The owner agent cannot charge an upfront security deposit or a fee (one-time or recurring) for the assistance animal. However, the owner agent can charge the tenant the cost of repairing any damage caused by the service animal.

Clarifications on assistance animals:

- A resident may request a reasonable accommodation at any time, including before or after acquiring the assistance animal.
- Since pet rules do not apply to assistance animals, owners cannot limit the breed or size of an assistance dog. An accommodation could potentially be denied or revoked based on a specific animal's specific behaviors, a direct threat, or a resident's inability to maintain or control an animal.

- “Animals commonly kept in households” can be considered support animals. This includes dogs, cats, small birds, rabbits, hamsters, gerbils, other rodents, fish, turtles, or other small, domesticated animals “traditionally kept in the home for pleasure rather than commercial purposes.” Uncommon/unique animals include reptiles (besides turtles), barnyard animals, monkeys, kangaroos, or other non-domesticated animals.
- Uncommon animals could still potentially qualify as an assistance animal, but there is a substantial burden on the person making the accommodation request to prove “a disability-related need for the specific animal or the specific type of animal.” Consideration may be given to if the animal can be kept outdoors in a fenced area and appropriately maintained, if applicable.
 - Example 1- if the animal is trained to do something an assistance dog cannot do
 - Example 2- if a healthcare provider confirms a need for that type of animal, perhaps because the resident is allergic to common animals such as dogs and cats

Another common example of reasonable accommodation is a live-in care attendant / live-in aide. A live-in care attendant is a person who resides with one or more elderly or near-elderly persons or persons with disabilities. To qualify as a live-in care attendant, the individual (a) must be determined to be essential to the care and well-being of the tenant, (b) must not be financially obligated to support the tenant, and (c) must certify that they would not be living in the unit except to provide the necessary supportive services. Family members, including spouses, may qualify as live-in aides if they meet these criteria. A live-in care attendant cannot move a spouse, child, or other member into the unit, as doing so would indicate that they are living in the unit for reasons other than the care of the tenant.

A live-in care attendant is not counted as a household member for purposes of determining the applicable income limits, their income is not counted as part of the total household income, and they do not need to be listed on the TIC. The need for a live-in care attendant must be certified with documentation from a medical professional (e.g., a letter from the tenant’s doctor or other healthcare provider) and included in the tenant file. The owner agent may verify whether the live-in care attendant is necessary only to the extent to document that the applicant/tenant has a need for the requested accommodation. The owner agent may not require applicants/tenants to provide access to confidential medical records, to submit to physical examination, or to disclose specific information about the nature of their disability.

If the qualified tenant vacates the unit, the live-in care attendant must vacate as well. If an attendant would like to be certified as a qualified tenant and remain in the unit, normal certification procedures must be performed, and the individual must meet the applicable eligibility requirements of the program.

While the live-in care attendant is not considered a household member, they are still subject to criminal background checks (as per the tenant selection criteria effective at the property) and must comply with tenant house rules. An owner agent may deny a live-in care attendant that does not pass criminal background checks or remove an attendant who exhibits behavior that is

disruptive, illegal, or endangering to other tenants, as defined in the tenant selection criteria and lease.

Sample forms to verify and document a live-in care attendant are available as IHCDCA Compliance Forms #11 and #12.

REASONABLE MODIFICATIONS

A reasonable modification is a change to the physical structure of the premises when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common spaces. Only persons with disabilities are provided reasonable modifications. Per the Fair Housing Act, a housing provider must allow a reasonable modification at the expense of the tenant. However, if the changes needed by the tenant are ones that should have already been included in the unit or common space in order to comply with design and construction accessibility standards, then the owner agent will be responsible for paying for the modifications. For more information on reasonable modification, refer to the HUD and Department of Justice (DOJ) Joint Statement "Reasonable Modifications Under the Fair Housing Act" released March 5, 2008.

While the Fair Housing Act allows the owner to pass on costs of reasonable modifications to the tenants, Section 504 of the Rehabilitation Act of 1973 (which applies to housing that receives federal financial assistance) requires the housing provider to pay for reasonable modifications unless providing them would be an undue financial and administrative burden or result in a fundamental alteration of the program. **Therefore, the costs of reasonable modifications for HOME, HOME-ARP, or HTF assisted units are covered by the owner / housing provider.**

INTERNAL PROCEDURES AND DOCUMENTATION FOR ACCOMMODATIONS & MODIFICATIONS

IHCDA strongly advises all owner agents to have a written policy describing how they will handle requests for reasonable accommodations and modifications. The main steps are outlined below. In this context, "owner agent" means the person receiving the request for a reasonable accommodation or modification, most likely the onsite management agent.

1. Resident or a family member or someone else acting on the resident's behalf makes a request for an accommodation or modification. A request can be made either orally or in writing. If this request is made orally, the owner agent should document the nature of the request and the date and time received. An owner agent cannot deny a request because it was orally instead of in writing.
2. Owner agent verifies the need only if (1) the disability is not obvious, (2) if unsure if the disability is permanent or temporary, and/or (3) if unsure how the request relates to the need (i.e., does not understand correlation between the person's needs and the request made). The form used to request verification cannot ask specific information about the nature of a person's disability. The purpose of verification is to verify that the person meets the Fair Housing Act definition of disability and that the requested accommodation

or modification is necessary for that person's equal opportunity to enjoy and use the housing.

3. If verification supports the need, then the owner agent must take the necessary steps to provide the accommodation or modification. An undue delay is noncompliance and is treated in the same manner as a denial.
4. If verification does not support the need, then the owner agent should schedule an interactive meeting with the resident to request clarification and attempt to achieve a mutually acceptable resolution of the issue. The owner agent should carefully explain the concerns or questions related to the request and, if applicable, why the request is being denied
5. Document the tenant file with all related information.

16.3 General Public Use and Acceptance of Vouchers

Program units must be available for use by the general public. Owner agents are allowed to establish preferences for certain population groups (e.g., persons experiencing homelessness, persons with disabilities, older person, etc.). Such preferences must not violate Fair Housing or any other anti-discrimination policies, must be documented in the project's written tenant selection criteria, and must be approved by IHEDA.

If a residential rental unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for funding.

Owner agents cannot refuse to accept a prospective tenant based solely on the fact that they have a Section 8 Housing Choice Voucher or receive assistance through a similar tenant-based rental assistance program.

16.4 General Occupancy Guidelines/ Household Size

IHEDA does not impose any requirements governing minimum or maximum household size for a particular unit. Owner agents must comply with all applicable local laws, regulations, and/or financing requirements (e.g., if HUD or Rural Development, use HUD or RD regulations). IHEDA advises all owners and their agents to be consistent when accepting or rejecting applications. Occupancy guidelines or requirements must be incorporated into the development's written tenant selection plan. Owner agents should be aware of any occupancy standards set by federal, state, or local code or funder requirements that may establish a maximum or minimum number of persons per unit.

16.5 Tenant Selection Plans

All developments must have a written tenant selection plan that describes the applicable program eligibility requirements and the screening policies implemented by management. IHEDA will review the tenant selection plan as part of its monitoring efforts.

There are no federal or state requirements regarding criminal or credit background checks, landlord references, or a minimum income. Implementation of these selection criteria is up to owner agent discretion, as long as the screening criteria are applied consistently to all applicants and do not violate Fair Housing or any related nondiscrimination regulations. Minimum income requirements may not be applied to applicants with tenant-based rental assistance or for units with project-based rental assistance.

Owners implementing criminal background checks must ensure that they do not violate Fair Housing. Tenant selection plans and screening criteria must be established in compliance with HUD's "Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate Related Transaction" notice issued on April 4, 2016. Per that notice, arrest records are not sufficient basis for denying an application. Conviction records may be used for tenant screening, but "a blanket prohibition on any person with any conviction record- no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then" is not permissible. Tenant selection policies must "accurately distinguish between criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not" and must "take into account the nature and severity of an individual's conviction."

There are no regulations governing citizenship requirements for units assisted by the programs covered in this manual. Since the Fair Housing Act does not prohibit discrimination based solely on citizenship status, owner agents may require applicants to provide documentation of citizenship or immigration status as part of the screening process. If an owner agent chooses to implement such a policy, the screening criteria must be established in writing and applied in a uniform, nondiscriminatory fashion with caution to avoid any discriminatory impact based on Fair Housing protected classes- particularly race, color, national origin, or ancestry. Owner agents should be aware that other housing programs (such as Section 8, other HUD programs, or RD programs) may have stricter citizenship requirements that must be followed if the project has additional funding sources.

Because many of these tenant selection criteria are left to the discretion of the owner, it is required that each development implements a written tenant selection plan. This document must be made available to all applicants and tenants and will be reviewed by IHEDA during compliance monitoring.

At a minimum, a tenant selection plan must include the following:

1. Occupancy standards in effect (how many tenants can live in a unit based on size of the unit);
2. Program eligibility factors, including income limits, student status eligibility for HOME-assisted units, and Qualifying Population eligibility for HOME-ARP;

3. Any minimum income requirements imposed by management, if applicable. Minimum income requirements may not be applied to applicants with tenant-based rental assistance or for units with project-based rental assistance. While a minimum income requirement may be imposed, the tenant selection plan cannot require all applicants to be employed as this could have a disparate impact under Fair Housing;
4. Any citizenship requirements imposed by management or required by another funding source, if applicable;
5. Specifics on the information that is analyzed when performing credit checks, criminal background checks, and previous landlord references. The tenant selection plan must clearly spell out what findings constitute a rejection of application.
 - Criminal screening must be based only on conviction records, not arrest records.
 - Eviction screening cannot deny an applicant for “no fault” evictions or eviction proceedings where the tenant prevailed or where the matter was dropped.
 - Per VAWA protections, if an individual has a poor rental or credit history, a criminal record, or other adverse factors that directly result from being a victim of domestic violence, dating violence, sexual assault, or stalking, the individual cannot be denied assistance under a HUD program if the individual otherwise qualifies for the program.
6. Explanation of the application and waiting list process, including a process through which an applicant is notified in writing of rejection and can then choose to appeal the rejection decision;
7. Explanation of the transfer policies in effect;
8. Breakdown of any special preferences set aside at the project (e.g., units reserved for special needs populations or a Housing for Older Persons age restriction on the project); and
9. List of any other relevant items used in considering the household’s eligibility for occupancy

When creating a project’s tenant selection plan and implementing screening practices, the owner agent must be careful to follow all applicable eligibility requirements (including General Public Use), nondiscrimination requirements including Fair Housing, the Violence Against Women Reauthorization Act (VAWA), the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Rule, HUD guidance on criminal background checks, and applicable local occupancy standards. Owner agents should review the guidance issued by HUD’s Fair Housing and Equal Opportunity office on April 29, 2024, entitled “Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing” which provides considerations and potential Fair Housing impacts when considering the use of third-party screening systems. Owner agents should only use screening criteria that are relevant, recent, accurate, and are related to the ability to comply with tenancy obligations. Past actions that are unlikely to recur or that are unrelated to tenancy should not be considered. Owner agents should allow applicants the opportunity to dispute contested information on a screening report.

With the exception of accessible or special needs units, all units must be leased on a first-come first-served basis with tenants selected in chronological order from the waiting list. See Part 4.2F of the IHCD Federal Programs Ongoing Rental Compliance Manual.

Units designated as permanent supportive housing for persons experiencing homelessness are subject to special tenant selection requirements. See Part 4.6 of the IHEDA Federal Programs Ongoing Rental Compliance Manual.

16.6 Meaningful Access for Persons with Limited English Proficiency

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write or understand English (“limited English proficiency persons” or “LEP”) may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 in order to receive a particular benefit or service. In accordance with Title VI, its implementing regulations and Executive Order 13166, the recipient must agree to take reasonable steps to ensure meaningful access by LEP persons to activities funded with federal funds.

Any of the following actions could constitute “reasonable steps” depending on the circumstances. This is not, however, an exhaustive list of possible actions:

1. Acquiring translators to translate vital documents, advertisements, or notices
2. Acquiring interpreters for face-to-face interviews with LEP persons;
3. Placing advertisements and notices in newspapers that serve LEP persons;
4. Partnering with other organizations that serve LEP populations to provide translation, interpretation, or dissemination of information regarding the project;
5. Hiring bilingual employees or volunteers for outreach and intake activities; or
6. Contracting with a telephone line interpreter service.

16.7 Religious and Faith-Based Organizations

EQUAL TREATMENT AND RELIGIOUS IDENTITY

Organizations that are religious or faith-based are eligible to participate in the HOME programs on the same basis as any other organization. A religious organization that participates in the HOME program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct HOME funds to support any inherently religious activities(such as worship, religious instruction, or proselytization) and does not discriminate against program participants on the basis of religion or religious belief.

Among other things, faith-based organizations may use space in their facilities, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a HOME-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization’s name, select its board members on a religious basis, and include religious references in its organization’s mission statements and other governing documents.

BENEFICIARIES AND ANTI-DISCRIMINATION

The organization may not discriminate against program participants or potential program participants (e.g. tenants, homeowners, or applicants) on the basis of religion, religious belief, the refusal to hold a religious belief, or the refusal to attend or participate in a religious practice.

SEPARATION OF EXPLICITLY RELIGIOUS ACTIVITIES

Organizations that are directly funded under the HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the assistance funded under this part, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries.

ALTERNATIVE PROVIDER

If a program participant or potential program participant objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonable prompt time after the objection, undertake reasonable efforts to identify and refer the program participant to an alternative provider to which the participant has no objection. Except for services provided by telephone, internet, or similar means, the referral must be to an alternate provider in the reasonable geographic proximity to the organization making the referral. In making the referral, the organization shall comply with applicable privacy laws and regulations. Recipients shall document any such objections from program participants and prospective program participants and any efforts made to refer such objecting participants to alternate providers.

STRUCTURES

Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for explicitly religious activities. Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting program eligible activities. When a structure is used for both program eligible and explicitly religious activities, program funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

16.8 Violence Against Women Reauthorization Act of 2013 and 2022 (VAWA)

APPLICABILITY / “COVERED PROGRAMS”

The 2013 and 2022 reauthorizations of the Violence Against Women Act (VAWA) expanded the Act's original coverage to include projects funded through many, but not all, HUD programs. Those programs are referred to as "covered programs." The final rule and subsequent program-specific HUD regulations expanded VAWA protections to the HOME and HTF programs as outlined below.

1. HUD implemented specific VAWA regulations for the HOME program in [24 CFR 92.359](#). Per that regulation, VAWA requirements only apply to HOME projects "for which the date of the HOME funding commitment is on or after December 16, 2016."
2. HUD implemented specific VAWA regulations for the HTF program in [24 CFR 93.356](#). Per that regulation, VAWA requirements apply to all rental housing assisted with HTF.

Note: VAWA is also applicable to the low-income housing tax credit (LIHTC) program. If a project has LIHTC, the owner must follow VAWA requirements.

The 2022 reauthorization of VAWA provides that the Secretary of HUD and the US Attorney General shall implement VAWA enforcement in a manner consistent with Fair Housing enforcement.

PROHIBITED DENIAL/TERMINATION

No applicant for or tenant of covered housing programs may be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as the direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

VAWA protections apply to all victims of domestic violence, dating violence, sexual assault and stalking regardless of sex, gender identity, or sexual orientation.

HUD clarified the meaning of the phrase "on the basis" in the "Violence Against Women Reauthorization Act of 2013; Implementation in HUD Housing Programs" final rule published in the Federal Register on November 16, 2016.

"HUD interprets the term "on the basis" in VAWA 2013's statutory prohibitions...to include factors directly resulting from the domestic violence, dating violence, sexual assault, or stalking. For example, if an individual has a poor rental or credit history, or a criminal record, or other adverse factors that directly result from being a victim of domestic violence, dating violence, sexual assault, or stalking, the individual cannot be denied assistance under a HUD program if the individual otherwise qualifies for the program."

LEASE TERMS

The owner agent shall ensure that an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

1. A serious or repeated violation of a lease by the victim or threatened victim of such incident; or
2. Good cause for terminating the assistance, tenancy or occupancy rights to housing of the victim of such incident.

TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY & BIFURCATION OF LEASE

No person may deny assistance, tenancy, or occupancy rights to an applicant or tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking. Notwithstanding the foregoing, the owner and/or manager may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing. The owner and or manager must provide any remaining tenants with an opportunity to establish eligibility and a reasonable time to find new housing or to establish eligibility.

CONFIDENTIALITY OF TENANT INFORMATION RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The owner shall ensure that any information submitted to the staff, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is:

1. Requested or consented to by the individual in writing;
2. Required for use in an eviction proceeding against any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking; or
3. Otherwise required by applicable law.

EMERGENCY TRANSFERS

HUD has developed, and may amend from time to time, guidance regarding a model emergency transfer plan that allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit. The owner agent must ensure that any guidance developed will be utilized as directed by HUD and/or IHCD.

REQUIRED NOTICES AND FORMS

IHCDA mandates the use of the following VAWA forms. All forms are available in Appendix H of the IHDA Federal Programs Ongoing Rental Compliance Manual.

1. HUD 5380: Notice of Occupancy Rights Under VAWA. Must be provided at the following times, along with a copy of the HUD 5382:
 - a. At the time of initial admission; and
 - b. At the time of denial of tenancy; and
 - c. When termination / eviction notices are sent.
2. HUD 5381: Model Emergency Transfer Plan. The owner must create a model plan specific to each project. The plan must be made available for review by tenants and by IHCDA.
3. HUD 5382: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. This form is to be used by tenants as a self-certification form. A copy must be attached any time the HUD 5380 is distributed.
4. HUD 5383: Emergency Transfer Request. This form is used by tenants to request a transfer under VAWA.
5. IHCDA or HUD VAWA Lease Addendum. If the property is HUD-assisted and required to use a HUD-approved lease addendum, use the HUD VAWA Lease Addendum instead of the IHCDA version.
 - a. If the project includes Low Income Housing Tax Credits with HOME or HTF, use the IHCDA HOME/HTF VAWA lease addendum or the HUD VAWA lease addendum. There is no need to also use the tax credit VAWA lease addendum. Only one VAWA lease addendum is required per household.

NONRETALIATION AND NONCOERCION PROVISIONS (ADDED IN VAWA REAUTHORIZATION OF 2022)

An owner agent may not discriminate against any person because they have opposed any act or practice made unlawful by VAWA or testified, assisted, or participated in any VAWA-related matter.

An owner agent may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises VAWA protections, assists another person in exercising their VAWA protections, or participates in a VAWA investigation or enforcement activity.

PROTECTION TO REPORT CRIMES FROM HOME (ADDED IN VAWA REAUTHORIZATION ACT OF 2022)

Owner agents, residents, guests, and applicants have the right to seek law enforcement or emergency assistance on their behalf or on the behalf of another person seeking assistance and shall not be penalized based on such requests for assistance or their status as a victim of criminal activity. Prohibited penalties include actual or threatened:

1. Assessment of monetary or criminal penalties, fines, or fees
2. Eviction
3. Refusal to rent or renew tenancy
4. Refusal to issue occupancy permit or landlord permit
5. Closure of the property or designation of the property as a nuisance or similarly negative designation

Chapter 17 – Tenant Eligibility and Leasing Requirements

Households applying for a HOME or HTF-assisted unit are qualified for the program only if proper documentation verifying the household's eligibility is obtained and maintained in the tenant file.

HOME AND HTF PROGRAMS

All households must be income qualified at the time of move-in, using the income calculation and verification methodology found in [24 CFR Part 5.609](#), as amended from time to time (often referred to as the "Section 8 methodology." For additional information on determining income eligibility, refer to IHCD's [Federal Programs Ongoing Rental Compliance Manual](#). *Note: Homebuyer projects follow this same income verification requirement and should follow the information in the rental compliance manual for these purposes. Other rental requirements do not apply to homebuyer projects.

For the HOME program, all households must meet certain student status eligibility requirements. For information on determining student eligibility, refer to IHCD's [Federal Programs Ongoing Rental Compliance Manual](#). The HTF program does not have a student eligibility rule.

HOME-ARP PROGRAM

Income limits and student status eligibility do not apply. Rather, HOME-ARP eligibility is based on the household meeting HUD's definition of a HOME-ARP qualifying population, meaning the household is experiencing or at risk of homelessness or is fleeing from domestic violence, dating violence, sexual assault, stalking, or human trafficking. For information on HOME-ARP qualifying populations, refer to the HOME-ARP award agreement for the project and HUD [CPD Notice 21-10](#).

Please refer to IHCD's [Federal Programs Ongoing Rental Compliance Manual](#) for additional information about rental compliance requirements including lease requirements, lease prohibitions, calculation of rent and utility allowances, etc.

Chapter 18 – Modification Procedures

18.1 Modification Overview

At some point during the progress of an award, an award agreement may require a modification. Possible reasons for requesting a modification may include:

1. Extension of award expiration date,
2. Change in project activities or site,
3. Reallocation of funds across budgeted line items,
4. A change in project team members,
5. A change in any conditions listed in the award agreement, such as unit count, income and rent designations, etc.

Modification requests are reviewed by IHCD staff to determine if the recipient has proceeded in a timely and responsible manner, if the proposed modification presents any issues in meeting federal or state regulations or policy requirements, or if the request in any way changes the review factors (including scoring) which initially led to funding. If the proposed modification significantly alters the project from the original agreement, IHCD may require the recipient to return the award and reapply for funding when the project is solidified or when project obstacles have been overcome.

All modification requests must be submitted to IHCD via a request letter from the recipient signed by an authorized signatory. Request letters should be sent to the IHCD HOME and Ramp Up Analyst. The letter must provide a narrative explanation of the requested modification and a justification. A modification is not considered granted or denied until you receive a formal letter from IHCD outlining a response to your request.

Note of Caution: When any modification is anticipated, the recipient must also consider the impact of the proposed modification on other regulatory requirements (e.g., a change in project location or participants may trigger a new environmental review). Recipients should carefully review the anticipated changes against all regulatory requirements to determine the full range of possible impacts including unanticipated expenses or even the possibility that the proposed project will no longer be eligible for funding.

All requests for waivers to IHCD regulations will be approved or denied in the discretion of the IHCD following a review and evaluation of the justifications listed in support of the waiver request and a review and evaluation of the current status of the request. Federal regulations cannot be waived.

18.2 Minor Program Modifications

There are two types of modifications: minor program modifications and major program modifications. If a modification request includes both major and minor changes, the modification request will be considered a major modification request for review purposes.

A minor modification includes changes to the award such as expiration date extensions and budget reallocations. If the recipient requests a minor program modification and no other changes, the modification can be accomplished through an exchange of letters between the recipient and IHCD A.

When a minor modification is approved, IHCD A will send the recipient a contract modification agreement in the form of a PDF file signed by a signatory of IHCD A. The recipient must return a fully signed copy of the modification agreement to IHCD A before any revisions will be made in IHCD A's data management systems.

AWARD EXTENSION

An important minor modification is a request for a change of the expiration date. If an award cannot be fully drawn down by its stated date, a request for modification of expiration date must be submitted to IHCD A, and a modified project schedule must be attached. Since funds cannot be drawn after award expiration, it is recommended that modification requests be submitted well in advance of the expiration date.

Changes in award expiration dates are NOT automatic. In signing the award agreement, the recipient has certified that the project can be completed within the time period specified. The recipient has not fulfilled its contractual obligations when award funds are not expended within the time frame specified in the award agreement. In addition, IHCD A is required by HUD to meet certain performance standards for expenditure of funds. As a result, it is the policy of IHCD A to permit changes in award expiration dates only when the recipient can demonstrate that:

1. It could not have reasonably foreseen the delays; and
2. It acted responsibly and in a timely manner to overcome the delays; and
3. It informed IHCD A immediately upon learning that the project could not be completed within the time frame specified in the award agreement; and
4. All aspects of the project can be *completed* within a very short period of time after the original end date -- usually not to exceed six months.

In all other instances, it is recommended that the recipient voluntarily return the award and reapply for funding when the project is ready to proceed or, where possible, consult with IHCD A to consider redesign of the project to allow earlier completion.

If you have determined that you would like to move forward with an extension to the expiration date, the modification request must include, but is not limited to, the following information:

1. Explanation as to why the modification is needed; and
2. Detailed timeline by site address of what has transpired to date, please include all site addresses; and
3. Detailed timeline by site address for completion of the project; and

4. Signed modification request from the chief executive officer of the award recipient on organization letterhead.

BUDGET REALLOCATION

When requesting a budget modification, the modification needs to include, but is not limited to, the following information:

1. Explanation as to why the modification is needed; and
2. What led to the change in the costs attributable to the line item, e.g. requesting money to be moved into rehabilitation – additional costs due to historic preservation of existing windows; and
3. Revised Budget; and
4. Signed modification request from chief executive officer of the award recipient on organization letterhead.

18.3 Major Program Modifications

A major modification is a substantial change in terms of the project purpose, scope, location, or beneficiaries. The recipient should allow a minimum of 30 days for approval when requesting a major modification. Types of changes that can result in major modifications are changing from one eligible activity to another, changing project site, changing number of units or AMI/Rent limits, etc.

AWARD AGREEMENT CONDITION CHANGES

When requesting an award agreement change, e.g. decreasing the number of units served or income and rent restrictions, the modification must include, but is not limited to, the following information:

1. Explanation as to why the award recipient cannot fulfill the requirements stated in its initial application for funding; and
2. The steps taken to meet the original requirements; and
3. Description of beneficiaries that the recipient is planning to serve, number of units that it is planning to serve, etc.; and
4. Revised application reflecting proposed changes; and
5. Signed modification request from the chief executive officer of the award recipient on organization letterhead.

Please note that if you are increasing the number of units that will be served, you must still request approval from IHCDA and will be held to the terms of the modification for all HOME or HTF assisted units throughout the period of affordability.

ACTIVITY TYPE OR SITE CHANGE

When requesting an activity type change, e.g. from rehabilitation to demolition and new construction, the modification must include, but is not limited to, the following information:

1. Explanation as to why the award recipient cannot fulfill the requirements stated in its initial application for funding; and
2. The steps taken to meet the original requirements; and
3. Detailed timeline of what has transpired to date; and
4. Detailed timeline for completion of the project as newly proposed; and
5. Any new or revised site control and/or zoning documentation; and
6. New Environmental Review Record workbook and all attachments; and
7. New site plans, floor plans, construction cost estimates; and
8. Revised application reflecting proposed changes; and
9. Signed modification request from the chief executive officer of the award recipient on organization letterhead.

This type of change will trigger the need for a new Environmental and Historic review and new Release of Funds. If the timeline is not feasible to meet HUD required performance standards, it is recommended that the recipient voluntarily return the award and reapply for funding when the project is ready to proceed.

18.4 Effective Date of Modification

Unless otherwise communicated in writing to the award recipient by IHCD, all modifications will become effective as of the date that the modification agreement is signed by a signatory of IHCD.

Chapter 19 – Program Monitoring & Record Retention

The purpose of monitoring is to verify that the program is progressing as planned, that necessary records are being maintained, that contracts and purchase orders are appropriate and are being met in accordance with the required procurement procedures, and that specific program requirements and objectives are being met.

The purpose of final closeout monitoring is to determine, upon completion of all activities, that the award was administered in accordance with all applicable state and federal laws, and in full compliance with award objectives.

19.1 IHCDCA Monitoring

All awards will receive a final closeout monitoring from IHCDCA. The recipient must ensure that all records relating to the award are available at the time of IHCDCA's monitoring. The IHCDCA Monitoring Tool is found as Exhibit 1 of this chapter. This is the tool that staff will utilize in the monitoring of your award implementation. **IHCDCA will retain \$10,000 of each rental and \$5,000 of each homebuyer award until the final monitoring has been completed and all findings and concerns associated with it have been resolved.**

At the time of final monitoring, the recipient must upload all applicable documentation requested by the IHCDCA compliance auditor in the Monitoring Confirmation letter, including beneficiary files, to the IHCDCA provided One Drive link by the due date provided. These files must contain the income certification and verification documents for all beneficiaries (i.e. tenants or homeowners assisted).

For those projects determined to need special attention, IHCDCA may conduct one or more monitoring visits while award activities are in full progress. There are two possible types of special monitoring:

1. Initial monitoring- monitoring early in the award term to ensure contract requirements and procurement procedures have been properly followed.
2. Interim monitoring- monitoring halfway through the award term or award amount. Note: all projects invoking Davis-Bacon will receive an interim monitoring to review labor standards requirements.

Additionally, all awards subject to Davis-Bacon requirements (see [Chapter 10](#)) will receive an interim monitoring halfway through the award term. The purpose of the interim monitoring is to ensure compliance with labor standards provisions, focusing on review of certified payroll reports. This interim monitoring is required and any issues found during the review must be addressed before additional claims to IHCDCA will be released for payment.

IHCDA may conduct additional monitoring during the award term as deemed necessary. Reasons for additional monitoring may include, but are not limited to:

- Activity appears behind schedule
- Previous monitoring findings for the recipient or administrator
- Inexperience of recipient or administrative firm

Upon completion of a monitoring, IHCDA will send the recipient a monitoring results letter within 10 business days. The letter will list those areas of compliance that were reviewed and detail the results of the review. Determinations must be classified as (1) Satisfactory; (2) Findings - statutory or regulatory violations; (3) Concerns – clarifications or issues not involving a statutory or regulatory requirement.

The recipient must submit a response to identified issues by the deadline established by IHCDA in the monitoring letter. That response may include a request for additional time to research the issue or prepare the response. It is imperative that recipients adhere to the monitoring response schedule. Where a recipient fails to be responsive or timely, sanctions may be imposed.

If the recipient indicates it has taken specific actions to clear a finding, the reviewer must verify that these actions have taken place before clearing the finding. If the nature of the violation is serious, or if it represents a recurrence of a previously identified issue, the reviewer may need to verify that corrective measures have been adopted before clearing the finding. Once the review indicates that satisfactory action has taken place, the reviewer will send a letter to the recipient indicating that the finding has been resolved.

Upon review of information submitted in response to a concern, the reviewer will determine if the information is satisfactory. If there is no doubt that the statutory or regulatory requirement has been met, the reviewer will send a letter indicating that the matter is resolved. If the response leads the reviewer to the conclusion that a statutory or regulatory violation has taken place, the reviewer will make a finding. The recipient will receive written notice that a finding has been made in the matter and will be given a specific action to resolve the finding.

19.2 Sanctions

If the monitoring results in findings, or if IHCDA otherwise has reason to believe that the recipient has failed to comply in a substantial or serious manner with any requirement of federal statute, regulations, or other program guidelines, IHCDA may elect to take action in order to (1) prevent a continuation of the deficiency, (2) mitigate, to the extent possible, the adverse effects or consequences of the deficiency, or (3) prevent a recurrence of the deficiency. In some instances, IHCDA action is dictated by the nature of the violation, and the sanction may be specifically prescribed under federal law or regulation.

IHCDA may pursue one or more of the following sanctions in response to noncompliance:

1. Require submission of additional correction actions from the recipient, including affidavits certifying the requirements will be followed on future awards

2. Deobligate remaining funds and/or initiate recapture of previously claimed funds
3. Suspend or debar the recipient and/or administrator in accordance with the suspension and debarment policies in Chapter 20 of this manual.
4. Refer the matter to the US and/or State Attorneys General with a recommendation that appropriate civil action be instituted;
5. Condition the use of funds from any other allocation or program income upon appropriate corrective action by the recipient;
6. Any other action or remedy under state or federal law

19.3 Single Audit

GENERAL INFORMATION AND REQUIREMENTS

[OMB Circular A-133](#) governs the audit requirements of states, local governments, and non-profit organizations.

As part of their award agreement with IHCD, recipients are required to file all necessary IRS tax documentation. Depending on the total amount a recipient expends in federal funding in a fiscal year, they may also be required to submit their Single Audit report / Audited Financial Statements report.

- Recipients that expend \$1,000,000 or more in federal funds (aggregate of all sources) during a fiscal year are required to submit their Single Audit to IHCD by the earlier of 30 days after the receipt of the auditor's report(s) or nine months after the end of the audit period.
- Recipients that expend less than \$1,000,000 in federal funds (aggregate of all sources) during a fiscal year are exempt from federal audit requirements for that fiscal year, but records must be made available for review or audit by representatives of IHCD, HUD, and/or General Accounting Office (GAO). The recipient must submit its IRS Form 990, if applicable, to IHCD.

Note: The \$1,000,000 single audit threshold is effective for fiscal years that end on or after September 30, 2025.

The recipient is responsible for follow-up and corrective action on all audit findings. The recipient must prepare a Summary Schedule of Prior Audit Findings that reports the status of all audit findings included in the prior year's Schedule of Findings and Questioned Costs relative to federal awards. The summary schedule should explain the following:

1. If audit findings have been fully corrected, the schedule must list the audit findings and the corrective action taken.
2. If audit findings were not corrected or were only partially corrected, the schedule must describe the planned corrective action as well as any partial corrective action taken.
3. If corrective action taken was significantly different from corrective action identified in the corrective action plan or in the federal agency's management decision, the schedule must provide an explanation.

4. If the recipient believes the audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:
 - a. Two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse;
 - b. The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and
 - c. A management decision was not issued.

SANCTIONS

If the recipient does not adhere to tax and single audit reporting requirements, IHCD, in its sole discretion, may take appropriate action, including but not limited to:

1. Withholding payment of claims;
2. Terminating an award agreement and recapturing any funds already disbursed; and
3. Suspending or debaring the recipient from participating in future IHCD awards.

COST OF SINGLE AUDIT

Costs of conducting the single audit cannot be reimbursed from HOME, HOME-ARP, or HTF funds.

19.4 Ongoing Rental Compliance Monitoring

All rental projects will be subject to ongoing compliance monitoring throughout their affordability period. This will consist of both (1) a review of annual owner certifications of compliance and (2) periodic file audits. For additional information on ongoing compliance requirements for rental projects, refer to [IHCD's Federal Programs Ongoing Rental Compliance Manual](#).

19.5 Record Retention and Custodial Requirements

All records pertaining to each fiscal year of HOME or HTF funds must be retained for the most recent five year period, except as provided below:

1. For rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents, and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates.
2. For homeownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.

3. Award agreements must be retained for five years after the agreement terminates.
4. Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.
5. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required retention period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

IHCDA, HUD, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of award recipients and sub-recipients to make audits, examinations, excerpts, and transcripts.

The award recipient must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

Chapter 20 – Suspension Policy

20.1 Purpose of this Policy

As a recipient of federal and state funds, IHCD has a moral, and often legal, obligation to ensure that those funds are used as intended. To fulfill this duty, IHCD must have the discretion to suspend or debar those who misuse, abuse, or otherwise fail to use funds correctly.

The purpose of this policy is to define suspension as it relates to misuse of funds on IHCD funded HOME & HTF projects during the award term and the affordability period and to explain how suspension is recommended, approved, and maintained.

This policy, while in alignment with the agency's overall suspension policy, applies specifically to the programs administered and monitored by IHCD's Real Estate Development Department. These programs include Low-income Housing Tax Credits, the HOME Investment Partnerships Program, Tax Credit Assistance Program (TCAP), Section 1602 Exchange, Community Development Block Grants (CDBG & CDBG-D), the Neighborhood Stabilization Program (NSP), the National Housing Trust Fund (HTF), and the Indiana Affordable Housing & Community Development Fund ("Development Fund").

20.2 Scope of Persons Affected

This policy applies to all persons directly or indirectly receiving, administering, or associated with funds from IHCD Programs whether or not such person has a contractual relationship with IHCD, including but not limited to the following persons:

- Contractors
- Sub-contractors
- Applicants
- Award/grant recipients
- Borrowers
- Sub-recipients
- Sub-grantees
- Property owners
- Developers
- Syndicators
- Administrators
- Management companies/agents
- Individuals employed by, contracted by or affiliated with any of the persons listed

Such persons will be referred to as "affected persons" in this policy. For the purposes of this policy, the term "person" shall be interpreted broadly to mean any individual, trust, corporation, cooperative, association, organization, or any other entity.

20.3 Definitions

Affected person - any person directly or indirectly receiving, administering, or associated with funds from an IHCD Program whether or not such person has a contractual relationship with IHCD. For the purposes of this policy, the term “person” shall be interpreted broadly to mean any individual, trust, cooperative, association, organization, or any other entity. Examples of types of affected persons can be found in Part 20.2 above.

Debarment - a determined period of time, not to exceed five years, during which an affected person is prohibited from participating in an IHCD Program(s). See Part 20.8 below for additional information on debarment.

Suspension - an indefinite but temporary status assigned to an affected person making it ineligible to apply for additional funding until such time that the suspension status is revoked. Suspension is generally invoked for failure to meet federal and/or state compliance obligations and reporting requirements. Other considerations leading to suspension could include but are not limited to fraudulent activity, financial health concerns, and poor record of past performance. Unlike debarment, suspension is not for a set amount of time and can generally be revoked as soon as IHCD’s concerns and any identified issues have been resolved.

Part 20.4 below discusses suspension recommendations based on noncompliance. Other scenarios resulting in the recommendation of suspension are not discussed in detail but will follow the same basic guidelines herein, including issuance of

1. Preliminary issue letters giving the affected person the opportunity to satisfy concerns,
2. A suspension recommendation letter notifying the affected person that suspension has been recommended, and
3. An official notice that suspension has been invoked.

Suspension does not waive any compliance requirements or release the project from its affordability period. A suspended organization must continue to keep its project(s) in compliance and work towards remedying any issues with the project(s) that caused the suspension recommendation. Failure to do so could result in further penalties as outlined below.

Suspension list - IHCD’s internal roster of entities that have been officially suspended. IHCD will also maintain a list of entities recommended for suspension but not yet officially suspended. This may also be referred to as the “watch list.”

Suspension recommendation - the act of an IHCD employee recommending (usually based on the persistence of uncorrected noncompliance) that an entity be disqualified from future IHCD funding by being placed on the IHCD’s Suspension List. A suspension recommendation does not implement an actual suspension until approved by the appropriate IHCD staff.

20.4 Suspension Recommendations

BASED ON FAILURE TO COOPERATE WITH FILE AUDIT REQUEST

If files are not submitted for a monitoring request or the auditor is not given access to files for an onsite audit, IHCDCA will send a notification letter to the designated contacts giving a final 10-day correction period. There are two possible results following issuance of this letter:

1. If the files are received, they will be reviewed by the assigned Compliance Auditor. Issues identified could result in a suspension recommendation as defined in Part E below.
2. If the files are not received, the organization will be recommended for suspension.

A recommendation for suspension can be made by any Compliance Auditor by issuing the letter entitled "Notice of Suspension List Recommendation." This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

"Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDCA's Suspension List. In order to have this recommendation rescinded, you must submit the files necessary to demonstrate compliance."

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described below.

BASED ON FAILURE TO CORRECT AUDIT ISSUES

After completion of a monitoring, the affected person is sent either a "no issues" or an "issues identified" letter. If issues are identified, affected person is given a correction period to respond. There are three possible results following issuance of an issues identified letter:

1. If a correction response is received that adequately resolves the issues, the audit is closed and an "issues resolved" letter is sent.
2. If a correction response is received but the issues are not adequately resolved, a follow-up letter is sent identifying the remaining issues and giving an additional correction period to submit additional documentation. If no response is received after this additional correction period, a follow-up letter is sent giving a final 10-day correction period. This letter states that failure to submit the requested response will result in recommendation of suspension.
3. If no response is received during the correction period, a follow-up letter is sent giving a 10-day correction period. This letter states that failure to submit the requested response will result in recommendation of suspension.

If the response is not received after the final letter is sent, the affected person will be recommended for suspension. A recommendation for suspension can be made by any

Compliance Auditor by issuing the letter entitled “Notice of Suspension List Recommendation.” This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

“Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDAs Suspension List. In order to have this recommendation rescinded, you must submit the files necessary to demonstrate compliance.”

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described below.

BASED ON PHYSICAL INSPECTION ISSUES

If IHCDAs is denied access to conduct a physical inspection or issues identified during an inspection are not corrected (and proof of correction provided to IHCDAs) within the correction timeframe established by the NSPIRE inspection protocol, IHCDAs inspector may issue a recommendation for suspension by issuing the letter entitled “Notice of Suspension List Recommendation.” This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

“Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDAs Suspension List. In order to have this recommendation rescinded, you must submit the files or correction documentation necessary to demonstrate compliance.”

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described below.

20.5 Suspending an Organization

After a suspension recommendation letter has been sent, the recommendation will be reviewed by the Chief Real Estate Development Officer and the Director of HOME & HTF Programs. This review will ensure that the proper steps were taken by IHCDAs staff and that the issue (1) has not been resolved and (2) warrants the suspension recommendation.

If suspension is invoked, the affected person will receive an official “Notice of Suspension” letter stating that the organization has been added to IHCDAs Suspension List effective the date of the letter. All suspension letters will come directly from the Chief Real Estate Development Officer, not from a Compliance Auditor. A copy of the letter will be sent to IHCDAs General Counsel. Copies of the suspension letter and all prior notifications will be maintained by IHCDAs in the file for the applicable project/award.

Suspension is at the sole discretion of IHCDAs. Unless otherwise stated, a suspension will apply to not only the affected person, but to any entity owned, controlled, or managed by the affected person or a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, cousin,

grandchild, parent or grandparent of the affected person, including “in-laws”, “half” or “step” relations.

20.6 Maintaining a Suspension and Debarment List

IHCDA will internally maintain a list of entities recommended for suspension, suspended entities, and debarred entities (for more information on debarment see Part J below). This list will be available to IHCDA management and appropriate staff. Because the suspension list will apply to the entire agency and be made available across departments, suspension based on performance on a HOME or HTF award could affect future funding from other IHCDA departments’ funding sources.

20.7 Removal from Suspension List / Reinstating an Organization from Suspension

An affected person can be removed from the suspension list if the original issues that invoked the suspension are sufficiently resolved, the necessary documentation proving such is submitted to IHCDA, and the project /award is considered otherwise in compliance.

To request removal from the suspension list, the affected person should send a letter to IHCDA requesting such removal and providing a narrative of how the outstanding issues have been resolved. All necessary supporting documentation to prove compliance should be attached to the letter. This packet must be submitted to the Chief Real Estate Development Officer. Upon receipt of the request, the Chief Real Estate Development Officer, the Director of HOME & HTF Programs, and the Compliance Auditor that originally recommended suspension (if applicable) will meet to review and make a determination. Removal from the suspension list is at the sole discretion of IHCDA.

20.8 Debarment

In its sole discretion, IHCDA may debar an affected person from participation in an IHCDA Program(s) for a set of time based on reasonable evidence that the affected person has behaved or is behaving improperly with regard to an IHCDA Program(s), whether intentionally or unintentionally. The period of time may be permanent/in perpetuity or a set number of years.

The difference between suspension and debarment is that a suspension is used to allow IHCDA to determine whether a debarment or other action is warranted pending completion of an investigation. Therefore, suspension is an indefinite but temporary measure, while debarment is for a set amount of time.

An IHEDA decision to debar an affected person may be appealed within 30 calendar days of notice to the affected person of that decision. The appeal must be in writing and contain, at a minimum, the reasons for the appeal and supporting documentation or evidence. The appeal should be sent to IHEDA, 30 South Meridian Street, Suite 900, Indianapolis, IN 46204, Attn: Chief Real Estate Development Officer. The Chief Real Estate Development Officer will review with IHEDA's General Counsel and respond to the appeal within 45 calendar days of the receipt of the appeal. The response to the appeal is not appealable.

An IHEDA decision to suspend an affected person is not appealable because it does not represent final disposition on the matter.

20.9 Potential Recapture of Funds

In addition to suspension or debarment by IHEDA, affected persons found to be out of compliance with the HOME or HTF programs are subject to all recourse under the regulations and statutes of those programs, including possible recapture of funds. If an affected person remains on the suspension or debarment list for more than 90 days and has not informed IHEDA of corrective actions in progress, IHEDA will consider that affected person noncompliant and begin the process of recapturing funds for the project(s) that invoked the suspension.