Clark County

Affordable Housing and HUD HOME Investment Partnerships Program

Policies

(Revised 5/2020)

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HOME INVESTMENT PARTNERSHIPS PROGRAM OVERVIEW

First created by Congress in 1990, the HOME Investment Partnerships Program (HOME) funds are provided by the U.S. Department of Housing and Urban Development (HUD) and authorized under the National Affordable Housing Act, as amended. HOME funds can be used for a wide range of activities to build, buy, and/or rehabilitate affordable housing for rent or homeownership, or to provide direct rental assistance to households who are low-income. Program regulations are at 24 CFR Part 92.

The main purpose of the HOME program is to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing for low- and very low-income Americans. The program is planned and controlled locally, although compliance with federal regulations is required. Participating communities decide how they will meet their identified needs based on a locally-determined assessment.

Clark County's HOME allocation is used to fund activities in Clark County and within the city limits of Woodland. Although County HOME funds can be used in the City of Vancouver, the City receives its own HOME allocation. Activities inside Vancouver's city limits must also receive funding from the City of Vancouver.

The HOME Program is also guided by the Clark County Consolidated Housing and Community Development Plan. With community input, the plan provides an assessment of housing and community development needs in Clark County; develops strategies and goals to ensure affordable housing and decent living environments for persons who earn 80% or less of the area median income; develops strategies and goals to ensure support for programs and facilities that promote viable communities and address community development, infrastructure, and human service needs of urban and rural areas; and reports on the proposed use of HUD entitlement funds. The plan is available online: http://www.clark.wa.gov/cdbg/documents.html.

To ensure cooperative local involvement in the program, a consortium of Clark County and participating cities is formalized by three-year intergovernmental cooperation agreements. In these agreements, the County and the participating cities agree to work together to secure and administer the HOME Program. Each jurisdiction appoints a representative to the Urban County Policy Board (UCPB), which serves as the advisory body to the Clark County Council.

Clark County Community Services is responsible for administering the HOME Program. Final approval of the application for funds, must be approved by the County Council.

Disclaimer: The following policies are developed within the guidelines of the HOME regulations established by HUD and may be revised at any time as necessitated to be in conformance with Federal mandates.

CITIZEN PARTICIPATION

Clark County follows a Citizen Participation Plan that addresses the following issues: public participation; access to meetings; information and records; publishing plans and reports; public hearings and comment; technical assistance; and complaints. The plan is online: www.clark.wa.gov/cdbg.

Together with community partners, Clark County assures citizen participation in the HOME Program by providing opportunities as follows:

- Involvement in defining housing and community development needs during the periodic identification and evaluation of needs undertaken in each participating community;
- Review via public hearings of the Consolidated Annual Performance Evaluation Report, community development project proposals, proposed amendments to the Community Development Plan, and any substantive amendments to previously submitted final lists of project activities; and
- Comment and consideration of views at UCPB and County Council meetings where HOME-related matters are under discussion.

Specifically, jurisdictions who are signatories of the HUD Urban County Qualification Agreement shall hold public meetings in their communities to solicit citizen views about housing and community development needs. Housing developers and nonprofit organizations shall reach out to local jurisdictions to identify affordable housing needs and proposed projects.

Recipients of HOME funding should provide for adequate citizen information and involvement including, if appropriate, the formation of advisory committees composed of affected citizens to oversee the planning and implementation of projects.

HOME FUNDING REQUIREMENTS

Match: The HOME program requires match in the amount of at least 25% of the total HOME funds drawn down for project costs. Match is defined as a permanent contribution to affordable housing and it must be non-federal dollars. Eligible forms of match include: cash or cash equivalent from a non-federal source; value of waived taxes; fees or charges for the HOME project; value of donated land or real property; cost of infrastructure improvements associated with a HOME project; a percentage of the proceeds of housing bonds issued by state or local government; and value of donated materials, equipment, labor, professional services, or sweat equity.

Community Housing Development Organizations (CHDO): CHDOs are private, nonprofit, community-based service organizations that develop safe, decent, and affordable housing in the community it serves. The CHDO Board of Directors must be composed of one-third representatives from the low-income community, no more than one-third public officials, and the balance of the board is unrestricted. HOME regulations require that 15% of the annual HOME allocation is set aside for CHDO funding. To qualify for CHDO funding, a CHDO must act in the role of an owner, developer, or sponsor of affordable housing. CHDO qualifications will be determined on a project by project basis prior to funding award. There will be no reservation of HOME CHDO funds for projects that have yet to be determined. Clark County may use up to 5% of the annual HOME allocation for CHDO operating expenses if the CHDO has a current project or expects to have one underway within 24 months.

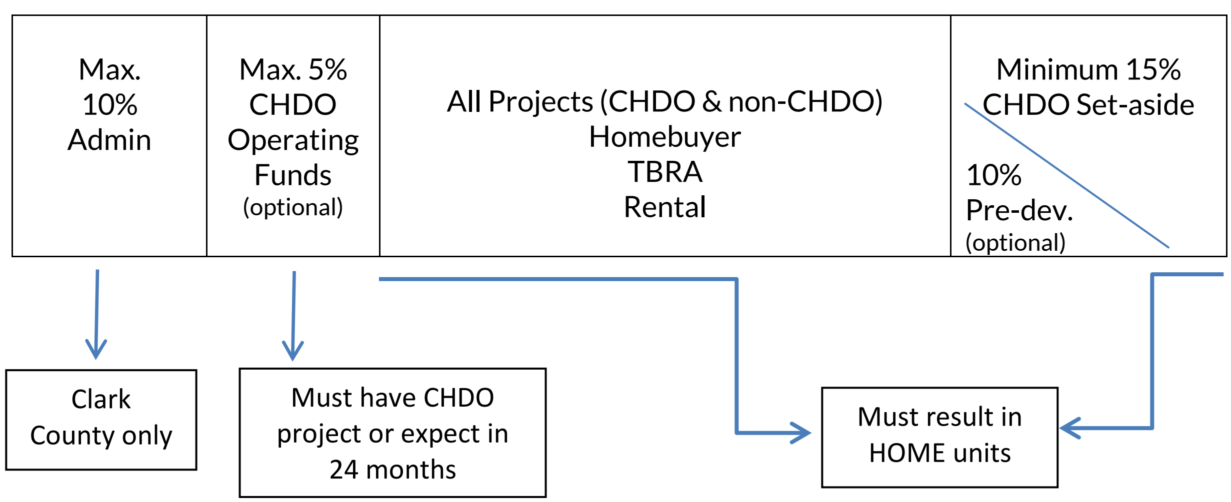
CHDOs must be certified as such by Clark County before a HOME contract can be executed. Clark County will evaluate CHDOs for legal requirements, staff capacity, board make-up, and fiscal soundness.

Commitment and Expenditure Deadlines: HOME funds must be committed to a project within two years of HUD's agreement with Clark County. Funds are considered committed when a contract has been executed for a project. Before committing HOME funds to a project, all other financing must be secured, a budget and schedule established, and underwriting and subsidy layering completed by Clark County staff. To execute a contract, there must be a reasonable expectation that construction will begin within 12 months of the date of the agreement. If the project is acquisition of existing housing, the title transfer should occur within six months of contract execution.

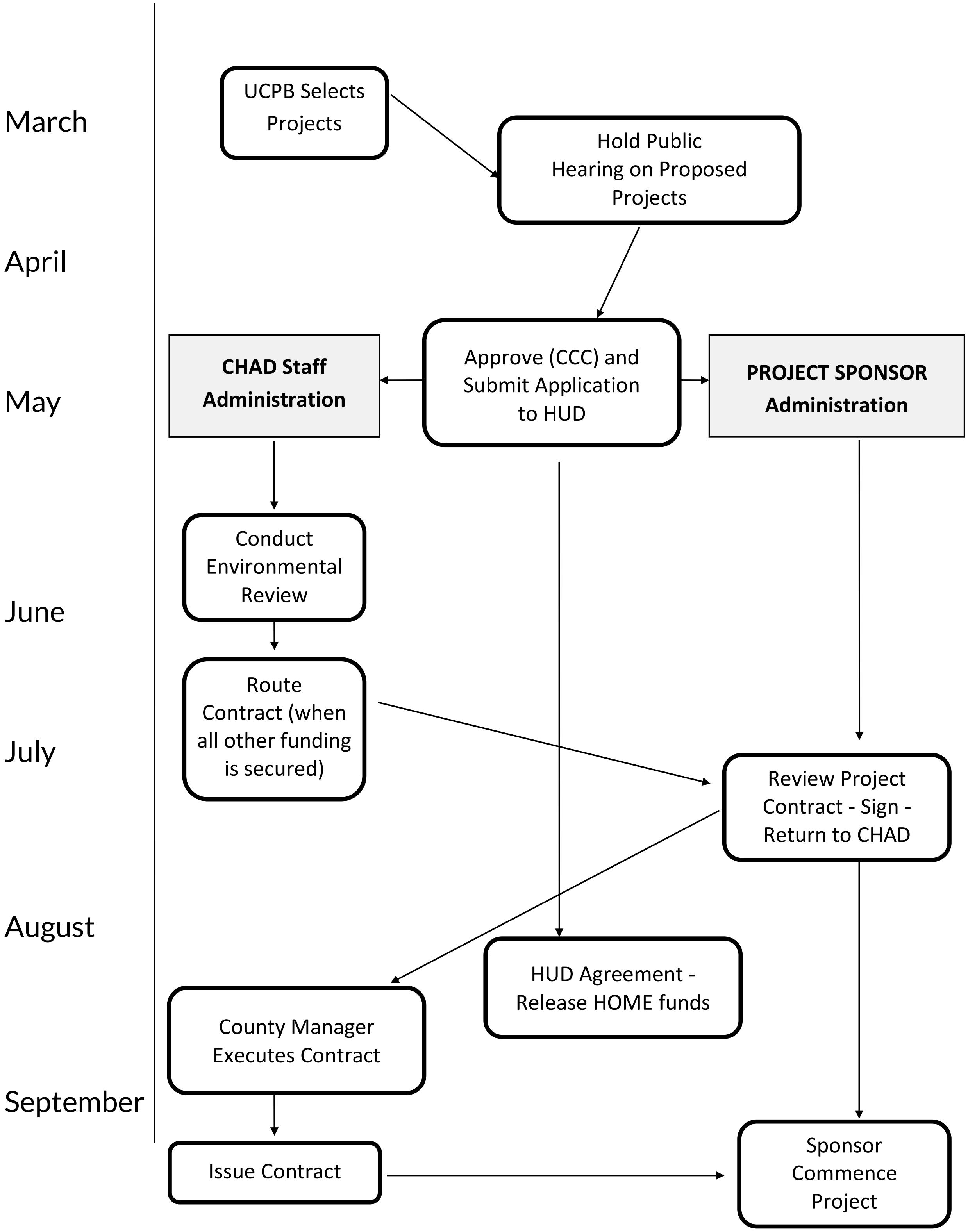
To meet HUD-required timelines, applicants anticipate all other project funding committed within 18 months of application award and full expenditure of HOME funds within four years of project award. Failure to meet these commitment timelines may result in award cancelation.

For homeownership programs, HOME funds may be committed after Clark County receives a HUD agreement, a budget and schedule. The funding will be considered committed upon the execution of a legally binding written agreement with a subrecipient. Individual homebuyers must have an environmental review and will be underwritten prior to disbursement of any HOME funding based on the guidelines in the homebuyer section of these policies.

USE OF FUNDS



CLARK COUNTY HOME PROGRAM YEAR TIMELINE



TYPES OF HOME PROJECTS

HOME funds can be used for a broad range of eligible housing activities, such as home purchase or rehabilitation assistance to eligible homeowners and new homebuyers; build or rehabilitate housing for rent or ownership; or for "other reasonable and necessary expenses related to the development of non-luxury housing," including site acquisition or improvement, demolition of dilapidated housing to make way for HOME-assisted development, and payment of relocation expenses. Jurisdictions may also use HOME funds to provide tenant-based rental assistance if such activity is consistent with their Consolidated Plan and justified under local market conditions. Clark County generally uses HOME funding for:

- Tenant Based Rental Assistance
- Homeownership Assistance
- Rental Housing Development

Program Year: Clark County's program year starts July 1. Planning for each program year begins the previous fall, with requests for proposals released in October and due in December. Funding recommendations are made in March and funds are estimated to be available in July or August, with the understanding that no contracts/agreements can be executed until Clark County has received its grant agreement from HUD.

Monitoring: Monitoring is done to ensure production and accountability in funded projects and programs. Monitoring ensures compliance with funding and associated federal requirements and is an evaluation of organizational and project performance. Specific requirements are outlined in the homeownership, rental and tenant-based rental assistance sections. Clark County will perform a risk assessment and prepare a monitoring plan for each funded agency prior to contract execution.

Other Federal Requirements: Clark County enforces the required additional federal regulations that may apply to a project or program. Additional federal requirements may include, but are not limited to, environmental reviews, labor standards, relocation requirements, lead-based paint, conflict of interest, fair housing and affirmative marketing, and women and minority business owners.

Administrative Costs: Clark County may use up to 10% of its annual HOME allocation for program administration and planning. Administrative costs include general management, oversight and coordination; staff and overhead; public information; fair housing; indirect costs; preparation of the Consolidated Plan and other Federal requirements, including lead-based paint evaluations.

DEFINITIONS

Action Plan. The one-year portion of the Consolidated Plan that serves as the annual application for HOME funds.

Adjusted Income. The annual (gross) income reduced by deductions for dependents, elderly households, medical expenses, handicap assistance expenses and child care (these are the same adjustment factors used by the Section 8 program). Adjusted income is used in HOME to compute the tenant payment for TBRA programs.

Affordability. The requirements of the HOME Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME Final Rule. Affordability requirements vary depending upon the nature of the HOME assisted activity and the amount of funding provided.

Annual Income. The HOME Program allows the use of one of three definitions of annual income: Section 8 annual income; annual income as reported on the U.S. Census long form; and adjusted gross income as defined for reporting on IRS Form 1040.

Area Median Income (AMI). The midpoint in the income distribution within a specific geographic area. By definition, 50% of households earn less than the median income, and 50% earn more. HUD calculates AMI levels for different communities annually, with adjustments for family size. AMI is used to determine eligibility of applicants for federally funded housing programs.

Commitment. Execution of a legally binding agreement with a recipient, subrecipient, CHDO or contractor to use a specific amount of HOME funds for an eligible project or program.

Consolidated Plan. A plan prepared in accordance with the requirements set forth in 24 CFR Part 91 that describes community needs, resources, priorities and proposed activities to be undertaken utilizing certain HUD programs, including HOME.

Community Housing Development Organization (CHDO). A private, nonprofit organization that meets certification requirements established under the HOME regulations at 24 CFR Part 92.2, and is not under the direction of an entity seeking to derive profit from the CHDO's activities nor created by a for-profit entity whose primary purpose is the development or management of housing. A participating jurisdiction must set-aside at least 15% of its annual allocation for CHDO eligible project(s).

CHDO Eligible Project. Each year, a minimum of 15% of the HOME allocation must be set-aside for award to a project in which a certified CHDO is the developer, owner or sponsor as established in 92.300. If the CHDO owns the project in partnership, it must be the managing general partner with effective control.

Cost Burden. The extent to which gross housing costs, including utility costs, exceed 30% of an individual's or family's gross income, based on data from the U.S. Census Bureau. Severely cost burdened is defined as housing costs (including utility costs) exceeding 50% of gross income.

Extremely Low-Income. Households that earn less than 30% of the area median income as determined annually by HUD.

Fair Market Rent (FMR). Published by HUD, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe and sanitary rental housing of a modest (non-luxury) nature with suitable amenities. The FMRs are the maximum rent levels allowed under the Section 8 Housing Choice Voucher Program.

First-Time Homebuyer. An individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with HOME funds. Definition also includes an individual who is a displaced homemaker or single parent as defined by HUD.

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

HOME-Assisted Units. A term that refers to the units within a HOME-funded project for which rent, occupancy and/or resale restrictions apply. The number of units designated as HOME-assisted affects the maximum HOME subsidy that may be provided to a project. Units may be designated as “fixed” or “floating” meaning that the HOME unit is the same unit throughout the affordability period, or may change over time as long as the total number of HOME-assisted units in the project remains constant.

HOME Rents. The HOME Program restricts the rents of HOME-assisted units. Rents of HOME assisted units cannot exceed the High and Low HOME rent levels that have been established by HUD. Rents cannot exceed 30% of the targeted AMI for the appropriate unit size.

Homeownership. Means ownership in fee simple title or a 99-year leasehold interest in a one- to-four unit dwelling or in a condominium unit, or housing located on land owned by a community land trust with a leasehold of at least 50 years. Other equivalent forms of ownership may be eligible if approved by HUD. A contract for deed is not an eligible form of homeownership.

Household. One or more persons occupying a housing unit.

Housing. Housing recognized under the HOME program includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing does not include emergency shelters or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories.

Joint Project. Projects located within the City of Vancouver can receive Clark County HOME funds only if there is also a financial contribution from the City of Vancouver to the project.

Low-Income. Households with earnings that do not exceed 50% of the AMI. Students under age 24 at an institution of higher education are generally not eligible for any type of HOME assistance.

Low-to-Moderate Income. Households earning 80% or less of the AMI.

Match. The local contribution to HOME program activities. The match contribution must equal not less than 25% of the HOME funds drawn down in that fiscal year.

Participating Jurisdiction (PJ). A state, local government or consortium that has been designated by HUD to administer a HOME Program. HUD designation as a PJ occurs if a state or local government meets the funding thresholds, notifies HUD that they intend to participate in the program and has a HUD-approved Consolidated Plan. Both Clark County and the City of Vancouver are Participating Jurisdictions for the HOME program.

Program Income. Gross income received by Clark County or a subrecipient directly generated from the use of HOME funds or matching contributions. Program income does not include gross income from the use, rental or sale of real property received by the owner, developer or sponsor unless the funds are paid BY the project owner, developer or sponsor TO Clark County or the subrecipient.

Project. A site and building or two or more buildings, together with the site or sites on which the building or buildings are located, which are under common ownership, management and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking. The project includes all the activities associated with the site and building. For tenant-based rental assistance, project means assistance to one or more families.

Project Completion. All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw down has been disbursed for the project; the units are ready for occupancy, and the project completion information has been entered into HUD's Integrated Disbursement and Information System (IDIS). For TBRA, project completion means the final draw down has been disbursed for the project.

Reconstruction. Rebuilding, on the same lot, housing standing on a site at the time of project commitment, except that housing that was destroyed may be rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction. The number of housing units on the lot may not be decreased or increased as part of a reconstruction project, but the number of rooms per unit may be increased or decreased.

Single Room Occupancy (SRO). Housing consisting of single room dwelling units. Each unit must contain food preparation and sanitary facilities if the project involves new construction, conversion of non-residential space, or reconstruction; these units may charge the 0-bedroom FMR rent. If the units do not contain both sanitary facilities and food preparation, the building must contain these facilities shared by the tenants and the maximum HOME rent is 75% of the 0-bedroom FMR. An SRO project must be in compliance with the county's building and zoning codes.

Subrecipient. A public agency or nonprofit organization selected by a PJ to administer all or a portion of the PJ's HOME Program. A public agency or nonprofit organization that receives HOME funds solely as a developer, owner or sponsor of housing is not considered a subrecipient.

Targeting. Requirements of the HOME Program relating to the income or other characteristics of households that may occupy HOME assisted units, typically by AMI.

GENERAL PROGRAM RULES

The HOME Program has a number of basic general rules that apply to all program activities, including:

- The definition of a project
- The form and amount of subsidy
- Eligible costs
- The property
- The applicant or beneficiary
- The long-term affordability of the project
- Applicability of other federal requirements

Clark County HOME funds are intended to provide gap financing for development projects and to fund projects that would otherwise not be available in the community. In addition, HOME funding in a project must not exceed the proportionate share based on the number of units designated as HOME units compared to the overall project size.

Definition of a Project: Project means a site or sites together with any building or buildings located on the site(s) under common ownership, management and financing, to be assisted with HOME funds as a single undertaking. The "project" includes all of the activities associated with the site and building.

Forms of Subsidy: HOME allows virtually any form of financial assistance to be provided for eligible projects and to eligible beneficiaries. Clark County determines what forms of assistance it will provide. Some forms of assistance will require legal instruments for implementation. HOME regulations list the following forms of assistance as eligible:

- Interest or non-interest bearing loans or advances: These loans are amortizing loans, with or without accruing interest. Repayment is expected on a regular basis so that over a fixed period of time all of the principal and interest is repaid. The term of the loan may vary and the property or some other assets are used as collateral.
- Deferred Loans (forgivable or repayable): These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred until some point in the future. Deferred loans can be structured in a variety of ways and terms will differ depending on the project. Deferred payment loans use the property or some other form of collateral as security for repayment.
- Grants: Grants are provided with no requirement or expectation of repayment. They require no liens on the property or other assets.
- Equity Investments: An investment made in return for a share of ownership. Under this form of subsidy, Clark County acquires a financial stake in the assisted property and is paid a monetary return on the investment if money is left after expenses and loans are paid.

Clark County must get written HUD approval prior to providing any type of assistance that is not identified in the HOME Rule.

Subsidy Limits and Project Underwriting Reviews: The maximum per unit HOME subsidy varies by metropolitan area and is based on Section 234-Condominium Housing basic mortgage limits.

Each year, HUD calculates these maximum amounts by area. Current subsidy limits may be obtained by contacting staff or at https://www.hudexchange.info/resource/2315/home-per-unit-subsidy/. Clark County will utilize the subsidy limit to evaluate the number of units required to be HOME-assisted units based on the total funding. If there are 5 or more HOME-assisted units, 20% of the units will be considered Low HOME rent units that must be rented to very low-income families.

The minimum amount of HOME funds that may be invested in any project is $1,000 per HOME-assisted unit. The minimum relates only to HOME funds, not to any other funds, including match that might be used for project costs. The minimum amount does not apply to tenant based rental assistance.

If a project has multiple funding sources, an evaluation must be made to ensure that the HOME funds, in combination with other governmental funds, do not exceed what is necessary to provide affordable housing. This is generally referred to as the "subsidy layering review." Clark County will conduct a subsidy layering analysis and underwriting review prior to the award of any funds. Clark County will also evaluate the reasonableness and need for the requested assistance by analyzing project pro formas for cash flow, debt-coverage ratios, and the appropriateness of fees charged with and without the HOME funds.

Match Requirements: The HOME program requires participating jurisdictions to have a match of at least 25%. Sources of match can be cash, donated land or real property, infrastructures improvements, bonds issued by state or local government, donated materials, equipment, or professional services, sweat equity, and the value of foregone taxes.

Eligible Costs: Eligible costs depend on the activity. HOME funds can be used to cover both hard costs (construction, rehabilitation) and soft costs (fees, insurance, appraisals) associated with a project. Eligible expenses HOME funds may be used for:

- New Construction: Funds can be used for new construction of both rental and ownership housing. Any project that includes the addition of dwelling units to an existing structure is considered new construction.
- Rehabilitation: Includes the alteration, improvement or modification of an existing structure.
- Reconstruction: This refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction also includes replacing a substandard manufactured house with a new manufactured house. During reconstruction, the number of rooms per unit may change, but the number of units may not.
- Conversion: Conversion of an existing structure from another use to affordable housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls of an existing structure, the entire project will be deemed new construction.
- Site Improvements: Site improvements include new on-site improvements (sidewalks, utility connections, sewer and water lines) where none are present that are essential to development or repair of existing housing.
- Acquisition of Property: Acquisition of existing standard housing, or substandard housing in need of rehabilitation, is eligible as part of either a homebuyer program or a rental housing project.
- Acquisition of Vacant Land: Acquisition of vacant land is eligible only if construction will begin on a HOME project within 12-months of purchase.

- Demolition: Demolition of an existing structure may be funded only if construction will begin within 12 months.
- Relocation Costs: The Uniform Relocation Act and Section 104(d) apply to all assisted properties. Both permanent and temporary relocation assistance are eligible HOME costs. However, these funds are included in the subsidy limit calculation.
- Refinancing: Funds may be used to refinance existing debt on funded rehabilitation properties. The refinancing must be necessary to reduce the owner's overall housing costs to make the housing more affordable.
- Project-Related Soft Costs: These costs must be reasonable and necessary, including:
    - Finance related costs
    - Architectural, engineering and related professional services
    - Affirmative marketing and fair housing services to prospective tenants or owners of a funded project
    - Staff time directly related to carrying out a project

Prohibited Activities: Funds cannot be used for project reserve accounts, tenant based rental assistance to serve special purposes of the Section 8 program, as match for federal programs (except McKinney-Vento Act funds), operations or modernization of public housing, payment of delinquent taxes, fees, or charges on properties to be assisted with Clark County HOME funds.

During the first year after completion of a project, Clark County may commit additional funds to a project. After the first year, no additional HOME funds may be provided to a previously assisted project. However, rental assistance to families may be renewed, rental assistance may be provided to families that will occupy housing previously assisted with HOME funds, and a homebuyer may be assisted to acquire a unit that was previously assisted with HOME funds. Funds cannot be used for rent assistance if the recipient of the rent assistance is tied to occupancy in a particular project.

A PJ may not use funds to reimburse itself for property in its inventory. However, a jurisdiction may use funds to acquire property or reimburse itself for property acquired with other funds in anticipation of an eligible project.

Property and Property Standards: Depending on the nature of the activity, specific guidelines apply to the properties to be eligible for funding.

For owner-occupied and homebuyer properties, the value and purchase price of the property are limited. The price or value may not exceed 95% of the area median purchase price for the housing type; in the case of rehabilitation the limit is based on value after rehabilitation. Current maximum value limits may be obtained by contacting Clark County staff. The recipient must ensure they are using the current limits when assistance is provided.

Assisted properties must also meet established guidelines regarding physical condition. Generally, a unit/structure must meet the more stringent of the HUD-determined property standards identified in the table below or the local building code. Locally, this means assisted properties must be inspected for, and determined to be in compliance with, the local building code and other applicable standards.

Activity	Property Standards
Acquisition of Existing Owner-Occupied Housing, with or without rehabilitation	Local Building Code or UPCS or HQS, as required by HUD
Tenant-Based Rental Assistance	HQS or UPCS, as required by HUD
Rehabilitation of Housing, Multi-family or Owner-Occupied*	Local Rehabilitation Standards and Local Building Codes or Minimum Property Standards and Applicable Accessibility requirements
New Construction of Housing	Local Building Code or Minimum Property Standards and Model Energy Code and Applicable Accessibility requirements

*Clark County does not currently fund any homeowner rehabilitation or multi-family rehabilitation with HOME funds.

In addition, all assisted housing must comply with the accessibility requirement of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. Site and neighborhood standards apply to all new construction, rental housing.

Applicant/Beneficiary: The HOME Program is designed to provide affordable housing to low-income families and individuals. Therefore, the program has rules about targeting program resources and establishing applicant eligibility.

By regulation, all HOME funds must be used to assist families with incomes below 80% of AMI. Additional restrictions apply when HOME is used for rental housing or tenant based rental assistance. For each HOME allocation, 90% of the occupants of HOME assisted rental units and households assisted with HOME-funded TBRA must have incomes that are 60% or less of the area median. In projects with five or more HOME-assisted units, at least 20% of the HOME units must be occupied by families with incomes at or below 50% of AMI.

Income eligibility: Beneficiaries of HOME funds must be determined income eligible based on a review of their income including projecting their annual anticipated income. Annual income is the gross amount of income anticipated by **all** adults (everyone over 17 years of age) in a household during the 12 months following the effective date of determination. The determination must not be more than 6 months old at the time assistance is received.

To calculate annual gross income, a PJ may choose among two definitions of income:

- Section 8 annual gross income (Part 5); or
- IRS adjusted gross income, using the calculation for "adjusted gross income" on IRS form 1040.

Clark County determines which definition of income will be used. There may be different definitions for different programs, but the same definition must be used within a program. All recipients will use the online HUD income calculator to document beneficiary eligibility: https://www.hudexchange.info/incomecalculator/

To determine if a household is initially income eligible for a rental project, the property owner must verify income using two months of source documentation. For subsequent income determinations during the period of affordability, one of the following methods may be used:

- Examine at least 2 months of source documents evidencing annual income for the family. **Income must be verified with source documentation at least every fifth year after the initial income determination.**
- Obtain a written statement from the household of the amount of their annual income and family size, along with a certification that the information is complete and accurate. The certification must state that the family will provide source documents upon request.
- Obtain a written statement from the administrator of a government program under which the family receives benefits and which examines each year the annual income of the family. The statement must indicate the family size and the amount of the family's annual income; or alternatively, the statement must indicate the current dollar limit for very low- or low-income families for the family size of the tenant and state that the tenant's annual income does not exceed this limit.

Income eligibility is based on anticipated income, so likely changes in income must also be used in the determination. For example, pay stubs show current income but they do not report projected raises or bonuses, which must be included in the income calculation. If six months has passed before assistance is provided, e.g. rehabilitation has not yet started or family closes on the purchase of a home, income must be re-certified in the manner described above.

Long-Term Affordability: To ensure investments provide long-term affordable housing, rent and occupancy restrictions continue throughout the period of affordability. The minimum length of affordability depends on the amount of the HOME investment in the property and the nature of the activity. Clark County may require an additional local affordability period after the HUD affordability expires.

Funding Amount/Activity	**Minimum Affordability Period**
Less than $15,000 HOME investment per unit	5 years
$15,000 to $40,000 HOME investment per unit	10 years
Greater than $40,000 HOME investment per unit	15 years
New construction	20 years
Refinancing of rental housing	15 years

Occupancy: Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent.

If a home purchased with HOME assistance is sold during the period of affordability, resale or recapture provisions, outlined in the homebuyer section, apply to ensure the continued provision of affordable housing.

OTHER FEDERAL REQUIREMENTS

Funded projects and programs are also subject to a number of cross cutting federal regulations. Some of the major additional requirements are:

The National Environmental Policy Act of 1969 and the implementing regulations in 24 CFR, Parts 51 and 58. The purposes of the act are to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources; important to the National and to establish a Council on Environmental Quality. 24 CFR 51 and 56 are the environmental criteria and standards and the environmental review requirements.

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act): Prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, national origin, disability or familial status, as well as establishing administrative enforcement mechanisms, revised and expanded Justice Department jurisdiction, and contains design and construction accessibility provisions for certain new multifamily dwellings developed for first occupancy. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act, which:

- expanded the coverage of the Fair Housing Act to prohibit discrimination based on disability or on familial status (presence of child under age of 18, and pregnant women);
- established new administrative enforcement mechanisms with HUD attorneys bringing actions before administrative law judges on behalf of victims of housing discrimination; and
- revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts.

Title VI of the Civil Rights Act of 1964, and the regulations of HUD, including 24 CFR, Parts 1: Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

Section 3 of HUD Act of 1968: Section 3 requires HOME recipients to the greatest extent feasible, opportunities for training and employment arising from HOME will be provided to low income residents in the program service area. HOME recipients will be required to keep records and provide reports on their Section 3 efforts.

Executive Order 11063, as amended: Prohibits discrimination in the sale, leasing, rent and other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

Age Discrimination Act of 1975: Prohibits age discrimination in programs receiving Federal financial assistance. Age Discrimination Act regulations may be found in 24 CFR Part 146.

Section 504 of the Rehabilitation Act of 1973: Prohibits discrimination based on disability in any program receiving federal financial assistance.

Executive Order 11246 (applies to contracts in excess of $10,000): Bars discrimination in federal employment because of race, color, religion, sex, or national origin.

The Fair Labor Standards Act: establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.

Section 202(a) of the Flood Disaster Protection Act of 1973: provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 3(a) of said Act (42 U.S.C. 400(a)), one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, for use in any area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program.

Sections 302 and 401 (b) of the Lead-Based Paint Poisoning Prevention Act: These subparts implement the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

Davis Bacon Act, as amended: Any contract for the construction of Affordable Housing with 12 or more units will require all laborers and mechanics who are employed to perform work, or any contractor or construction work which is financed, in whole or in part, with assistance which is received under the Housing and Community Development Act of 1974, shall be paid wages at rates which are not less than those that prevail in the locality for similar construction and shall receive overtime compensation in accordance with the Contract Work Hours and Safety Standards Act. The contractor and its subcontractors shall also comply with all applicable Federal laws and regulations which pertain to labor standards, including the minimum wage law.

Title I of Housing and Community Development Act of 1974: Grantee shall:

- not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give preference in employment to persons on the basis of religion; and
- not discriminate against any person applying for such public services on the basis of religion and not limit such services or give preference to persons on the basis of religion; and
- provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision of such public services.

Executive Orders:
11625 - Prescribing additional arrangements for developing and coordinating a national program for minority business enterprise,
12432 - Minority business enterprise development, and
12138 - National Women's Business Enterprise Policy and National Program for Women's Business Enterprise.

49 CFR Part 24: Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs: The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.), in accordance with the following objectives:

- To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs;
- To ensure that persons displaced as a direct result of Federal or federally- assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and
- To ensure that agencies implement these regulations in a manner that is efficient and cost effective.

Financial Management Requirements: Projects and programs receiving HUD funds must abide by the financial management requirements of the Federal Office of Management and Budgets which pertain to their particular type of organization, whether it is an institution of Higher Education, a hospital, other non-profit, a state, a local government, etc. These requirements can be found at 2 CFR part 200.

APPLICATIONS

All HOME funds are allocated based on the review and recommendations of the Urban County Policy Board (UCPB) and approval of the Clark County Council. Clark County accepts applications for HOME funding annually via an online funding process. Funding will be awarded for the upcoming program year (July 1-June 30). However, no contracts/agreements for funding can be executed until Clark County has completed an environmental review and received an executed funding agreement with HUD, which may be as late as August or September of the program year.

Application Process: Applications are made available in October for the upcoming program year. The applications are due in December with funding recommendations made by the UCPB in March. All applications must be submitted online through Zoomgrants. Applications cannot be accepted after the stated deadline. This is a competitive application process for limited funding; therefore, applications that meet all criteria are not guaranteed an award of funds and successful applications may receive less than the amount requested. Funding requests may be adjusted based on underwriting, subsidy layering reviews, staff’s determination of financial gap, proven market-based demand and economic growth.

Additional Commitment Considerations:

- No contracts can be executed until the Certifying Officer has executed funding agreements with HUD. The funding agreement from HUD is usually received in late July each year.

- No HOME funds can be committed to a project until all other necessary financing is secured, a budget and schedule established, any necessary underwriting and subsidy layering is completed and construction is scheduled to begin within 12 months.
- No work on the project may begin nor can HOME Program funds be released until the environmental review process has been completed in accordance with the provisions of the National Environmental Policy Act of 1969 and the related authorities listed in HUD's Regulations at 24 CFR Parts 50 and 58.
- The applicant shall not exclude any organization or individual from participation under any program funded in whole or in part by HOME Program funds on the grounds of age, disability, race, creed, color, national original, familial status, religion or sex.
- No applicant, clients or contractors that have been suspended or debarred (debarred list at http://epls.arnet.gov) under any federal program may receive HOME funds.
- All projects or programs funded must meet a goal and need identified in the Five-Year Consolidated Plan.

Program Applications: The application questions will vary depending on whether an applicant is requesting funding for a program or project. Program applications include CHDO operations, homebuyer assistance, and tenant-based rental assistance. Programs shall be funded to operate for one year, with uncommitted funds de-obligated at the end of each contract year and made available during the project funding cycle.

Project Applications: A project is considered any construction project (conversion, acquisition and new construction). The project application requires that the applicant provide copies of any partnership agreements, extensive financial information, and proformas. These applications must also consider environmental justice, fair housing and sustainable development standards. Project applications are reviewed by a consultant to advise the UCPB on project and financial viability.

This application is also used for all CHDO set-aside eligible construction projects and pre-development loans. Only CHDOs may qualify for pre-development loans. For a project to be considered for CHDO set-aside funding, whether the CHDO is the owner with one or more individuals, a corporation, a partnership or other legal entity, the CHDO MUST be the managing general partner with effective decision making control.

Post Award Requirements: Projects and programs awarded funding must:
- Enter into a funding agreement within 18 months;
- Expend all funds within 48 months of contract execution;
- Complete relocation surveys, if applicable, within 90 days of obtaining site control, if the previous owner denies access to complete this activity, then the surveys must be completed within 90 days of assuming management control; and
- Must not conduct any activity until the HUD-required environmental review has been completed and a contract executed.

WRITTEN AGREEMENTS

A written agreement must be executed before any activities begin or any funds disbursed to a recipient. When executed, the agreement is:

- A statement of the relationship between Clark County and the funding recipient;
- A statement of the conditions under which the funds are provided;
- Tool for monitoring performance and verifying compliance;
- A tool for parties using funds to learn about the applicable rules and regulations;
- A method for enforcing the program requirements and protecting the HOME investment.

Required Provisions: The specific contents of agreements will vary depending upon the type of activity and the administrative role of the recipient. Under HOME regulations, there are specific provisions that must be included in written agreements. These include requirements for income determination, underwriting and subsidy layering guidelines, refinancing guidelines, homebuyer polices, resale and recapture provisions and affordability requirements, as applicable. Other required provisions include:

- **Use of HOME funds:** Description of the amount and use of the HOME funds for one or more programs, including the type and number of housing projects to be funded, tasks to be performed, a schedule for completing the tasks, a budget, any requirement for matching contributions and the period of the agreement. These items must be in sufficient detail to provide a sound basis for effectively monitoring performance under the agreement.
    - Documents detailing this information must be provided by the applicant to Clark County prior to the execution of the funding agreement.
- **Program Income:** The agreement must state if program income is to be remitted to Clark County or to be retained by the subrecipient for additional eligible activities.
- **Requests for Disbursement of Funds:** Requirement that HOME funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.
- **Project Requirements:** Enumeration of all project requirements applicable to the type of projects(s) to be assisted. Examples include affordability requirements, property standards, rents and recapture/resale provisions.
- **Records and Reports:** Enumeration of records that must be maintained, and information and reports that must be submitted.
- **Reversion of Assets/ Requirements:** Statement upon expiration of the agreement, the subrecipient must transfer to Clark County any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.
- **Fees:** Prohibition from charging servicing, origination, or other fees for the cost of administering the HOME program, except as permitted by 24 CFR 92.214(b)(1).
- **Enforcement and Duration of the Agreement:** This provision is in the agreement with all parties, including owners, and is the means of enforcing the provisions of the written agreement.
- **Affirmative Marketing:** Requirements for affirmative marketing in projects with 5 or more HOME-assisted units.
- **Other Program Requirements:** Requirements regarding other federal requirements, including non-discrimination and equal opportunity, affirmative marketing and minority outreach, environmental review, displacement, relocation and acquisition, labor standards, lead-based paint, and conflict of interest.

- **Uniform Administrative Requirements:** Requirement to comply with applicable federal administrative requirements. (2 CFR Part 200, except as indicated by 24 CFR 92.505.)
- **CHDO Provisions:** Requirements for the use of funds to CHDOs, including set- aside funds, operating expenses and project-specific loans and capacity building assistance.
- **Conditions for Religious Organizations:** Includes conditions set forth in 24 CFR Part 92.257 concerning religious organizations.
- **Conflict of Interest:** HOME regulations require Clark County and its subrecipients (including CHDOs) to comply with two different sets of conflict-of-interest provisions. The first set is provisions under 24 CFR Parts 84 and 85; the second, which applies only in cases not covered by 24 CFR Parts 84 and 85, are set forth in the HOME regulations. The conflict covered is a financial benefit or interest. Conflict of interest provisions also prohibit certain persons from occupying HOME-assisted housing: immediate family members of an owner, developer, or sponsor of HOME-assisted housing cannot live in HOME-assisted units during the period of affordability.

Additional Provisions: In addition there are a number of elements that may be included in the funding agreement to increase its usefulness to both parties. These include:
- The roles and responsibilities of each party
- Criteria for successful completion of the program or project
- A description of project close-out requirements
- The consequences of non-performance
- CHDO provisions (24 CFR 92.300 and 92.301)
- Monitoring

Amending Documents: Written agreements may be amended by mutual agreement if there are changes in terms, for the receipt of additional funds, or changes in project scope. However, agreements will be automatically amended if so required to ensure compliance with regulations. Agreement enforcement and termination can be found at 24 CFR 85.43 and 85.44

Other Documents: Other types of documents may be executed as conditions of funding and may include mortgage and loan agreements, deed restrictions and other use agreements between the PJ and the owner, property management agreements between the owner and property manager, and asset management agreements between the owner and asset manager.
- Loan documents are signed at closing and contain the financial terms and conditions of the loan.
- Deed restrictions and covenants may be used to place specific restrictions on the property.

RENTAL PROJECTS

Activities allowed with the use of HOME funds are activities and projects that support and provide incentives for the development of affordable rental housing that addresses needs identified in the Consolidated Plan. These activities may include new construction, reconstruction, acquisition or rehabilitation of non-luxury housing available with rent restrictions serving very-low and extremely-low income households. Housing development may only be permanent or transitional housing. Single-room occupancy (SRO) and group homes are permitted but have additional conditions.

Funding will be limited to the amount necessary to facilitate completion of the project and will not exceed a proportionate share of costs in a project with floating units.

Eligible Costs: [24 CFR 92.206] Funds may be used to pay the following:

- Development hard costs for both new construction and rehabilitation*;
- Refinancing of existing debt secured by a housing project that is being rehabilitated with HOME funds
- Acquisition costs
- Costs relating to payment of loans
- General Management
- Related soft costs for new construction, rehabilitation or acquisition of housing assisted with HOME funds
  - Architectural, engineering or related professional services required;
  - Costs to process and settle the financing for a project;
  - Costs of a project audit required by Clark County;
  - Costs to provide information services such as affirmative marketing and fair housing information to prospective tenants as required by 92.351;
  - Cost of funding an initial operating deficit reserve for new construction or rehabilitation projects to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months). Only to be used to pay project operating expenses, scheduled payments to a replacement reserve, and debt service;
  - Operating costs directly related to carrying out the project, such as work specifications preparation, and loan processing inspections;
  - Costs for the payment of impact fees charged for all developments within a jurisdiction; and
  - Costs of environmental review and release of funds in accordance with 24 CFR part 58 directly related to the project.

*Although rehabilitation is an eligible cost under the HOME program, Clark County does not use HOME funds for rehabilitation of single-family or multi-family housing.

All costs must be in direct relation to a HOME-assisted unit and supporting documentation of all expenditures is required for all costs being paid with HOME funding. With the exception of acquisition and financing costs, HOME funds are only available as cost reimbursement for eligible expenses. Any related soft costs must be necessary for the development of HOME units.

Costs Incurred Before Commitment of HOME Funds [§92.206(d)(1)] HOME funds may be used to pay architectural and engineering and other professional services costs that are incurred before

Clark County has made a commitment of HOME funds. These costs can only be paid if Clark County expressly authorizes payment in the written agreement and if the costs have been incurred within 24 months prior to the commitment of funds.

Prohibited Activities and Fees: [24 CFR 92.214] HOME funds may NOT be used to:
- Purchase property for Land Banking;
- Provide project reserve accounts or operating subsidies;
- Provide tenant-based rental assistance for the special purposes of the existing section 8 program;
- Provide non-federal matching contributions for other federal programs
- Provide assistance for activities related to Public Housing Capital and Operating funds.
- Provide assistance to housing previously assisted with HOME funds (other than TBRA);
- Pay for the acquisition of property owned by any of the member jurisdictions, unless purchased in anticipation of carrying out a HOME eligible project;
- Pay delinquent taxes, fees or charges on properties to be assisted with HOME funds;
- Pay any costs that are not eligible under the HOME program; nor
- Invest alone or in combination with Capital Funds, for public housing units.

No staff time, overhead costs or other administrative costs can be charged to, or paid by, low-income families.

Form & Amount of Assistance: [24 CFR 92.205(b)] While regulations allow assistance to be given as equity investments, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, or grants, Clark County HOME assistance to development projects will be given in the form of a loan. Loan terms may be negotiated and will run for the period of affordability. Before any monies are released, an agreement must be executed between Clark County and the project recipient. The agreement will satisfy Federal requirements and establish the terms under which the funding is being provided.

Clark County provides gap financing to affordable housing projects and programs. A subsidy layering review will determine the amount of necessary HOME subsidy for each project.

Monitoring: The development process will be monitored by Clark County staff throughout the project timeline, including construction inspections and reviewing reimbursement requests. Rental projects must submit an annual certification that each building and all HOME-assisted units in the project are suitable for occupancy as well as a tenant monitoring report. In addition, staff may also review property management processes, review HOME tenant files, and/or conduct a physical inspection of the property and assisted units.

On-site inspections of rental units are required at project completion, again within 12 months of completion, and then regularly throughout the affordability period, according to the total number of units in a project. Inspectable items include site, building exterior, building systems, and common areas. If any deficiencies are found, a follow-up inspection will be necessary to confirm corrections are made.

Number of HOME-Assisted Units	Inspection Required	HOME Units Inspected
1 to 4	Upon completion, within 12 months, then every 3 years	100%
5 or more		20%; minimum of one from each building, no fewer than four units

For affordable housing properties that were built with other housing funds and were *not* constructed with HOME funds, another government agency's inspection may be utilized if available, or a Landlord Habitability Standards Certification form may be accepted in lieu of a physical inspection. County staff may choose to do a physical unit inspection if there are any concerns or questions.

Property Management: Property owners may have property management staff within their organizations or hire an outside management firm to manage properties in its portfolio. Property management is important to ensure the owner's physical, financial, administration and occupancy performance standards for the property. When working with HOME-assisted units, it is expected that these units will be operated in accordance with all applicable regulations.

Subsidy Layering: Before committing HOME funds to a rental project, Clark County staff will evaluate the project and verify that the owner did not request or was not allocated any more HOME funds in combination with other governmental assistance than is necessary to provide the affordable housing. Clark County is required to review and keep project records demonstrating that each rental housing project meets required subsidy layering guidelines. Part of the documentation process includes a pro forma (project income and expense statement) which should include achievable rent levels, market vacancies and operating expenses.

Underwriting Analysis, Developer Capacity and Market Need: In order to comply with HUD Notice CPD 15-11 (Requirements for the Development and Implementation of HOME Underwriting and Subsidy Layering Guidelines), all HOME-funded projects will utilize the HOME Underwriting Template to determine project feasibility and debt capacity. In addition, Clark County will comply with the requirements of the notice through the following steps:

Before committing HOME funds by entering into a legally binding written agreement to a rental activity, Clark County will ensure:

- the HOME project is associated with one of the approved Consolidated Plan/Action Plan projects;
- environmental review requirements have been met;
- the specific identifiable project has been defined;
- an assessment of the current market demand in the area where the project will be located has been completed and reviewed within 12 months;
- all project financing is secured with firm commitments;
- subsidy layering and underwriting has been reviewed, documented and approved; costs are deemed reasonable and eligible, number of HOME units determined;
- an assessment of the experience and financial capacity of the developer or rental project owner has been completed;

- project construction will begin within 12 months and has a reasonable completion schedule; and
- projects funded with CHDO setaside will meet all CHDO requirements at 24 CFR 92.2.

Clark County will include documentation for all of these items in the project file, or electronically on the shared drive, prior to contract execution. Staff will use the HUD prescribed underwriting template for all rental projects. The template shall be completed and analysis done prior to entering into a written agreement with the nonprofit and a copy shall be placed in the file. The completed template must include all sources and uses and an operating pro forma projected for the HOME affordability period, at a minimum.

CHDO Development Capacity shall be evaluated to determine if the agency has the capacity to complete the proposed project. Clark County will use the CHDO certification process to determine if the agencies who desire to be a CHDO and develop projects in the county have the capacity to complete proposed projects. The focus of this analysis shall include a strong emphasis on CHDO staffing. HUD defines CHDO staff as paid employees who are responsible for the day-to-day operations of the CHDO. Staff does not include volunteers, board members, or consultants. CHDO information is detailed further in these policies.

HOME Investment Per Unit: The HOME program has minimum and maximum per-unit subsidy limit on projects.

- The minimum HOME investment is $1,000.
- The maximum HOME investment is determined by HUD and is adjusted annually. Contact county staff for maximum allowed per unit investment.

Project Type: HOME rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management and financing. Projects may be permanent housing, transitional housing, group homes and SRO's. There are no preferences for project or unit size or style. Any property previously financed with HOME funds that is still in the affordability period is not eligible for additional HOME funding. HOME funds will not be used for operations or modernization of public housing projects.

Property Standards: All properties constructed with HOME funds must meet local codes and standards at a minimum. Properties will be monitored to meet the applicable standards annually. Owners must maintain properties in accordance with property standards throughout the affordability period. Monitoring visits will be conducted by Clark County to ensure property standards are being met.

Accessibility: In addition to applicable Fair Housing Requirements, assisted housing must meet the accessibility requirements of 24 CFR Part 8 which address "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development." The purpose of this part is to effectuate Section 504 of the Rehabilitation Act of 1973.

Affordability: The HUD affordability period is determined by the amount of funds invested in a project. Clark County usually requires an additional local affordability period beyond the required HUD affordability period (outlined earlier). Throughout the period of affordability, the owner must comply with funding and reporting requirements. This includes rent limits, income limits and property standards. Affordability requirements will be enforced with a recorded covenant and will apply without regard to the term of any mortgage or loan, or transfer of ownership.

During the affordability period, the project will be monitored annually for compliance with funding requirements and all assisted units must be in compliance with rent and income limits.

"Fixed" or "Floating" HOME Units: Clark County will determine the number of units based on the funding award. Generally, Clark County the assisted units will be designated as "floating" units. A "floating" unit allows more flexibility and different units throughout the project's affordability period can be designated as the HOME-assisted units. No matter which type of designation the units have, there must always be the required number of designated HOME units in the project. Clark County will designate the number and type of HOME-assisted units in the written agreement and the property owner must designate the units before initial occupancy.

Rent Limits: Every HOME unit is subject to rent limits. HUD releases rent limits annually. The rent limits are the maximum amounts that can be charged per unit by bedroom size including a utility allowance. If a unit has multiple restrictive funding sources, (e.g. HOME and Low Income Housing Tax Credits), the more restrictive programs guidelines must be met for rent and income limits. At no time can a tenant be charged more than HOME rent limits even in conjunction with another program. Current limits are available at https://www.clark.wa.gov/community-services/cdbg-and-home-documents.

Any increases in rent for HOME-assisted units must be approved by Clark County. Annually, when the new rent limits are published by HUD, Clark County will inform property owners of the new rent limits and request a rent schedule be submitted for each property. Clark County will approve the rent schedule if it does not exceed the new HOME rent limits. If a rent increase is approved for a property, rent increases for occupied units will be subject to the terms of the lease.

Determining Allowable Rent: To determine the maximum rent allowed for contract rents both the HUD rent standards and utility allowance must be considered. The utility allowance must be subtracted from the rent standards allowed for the unit bedroom size (the High or Low HOME rent) to determine the total tenant rent.

Overpayment of rent by either the tenant or the Section 8 program will result in the owner reimbursing that amount of the overpayment to the tenant or the housing authority.

Utility Allowances: The utility allowance requirement at §92.252(d) in the HOME Rule is applicable to all rental projects to which HOME funds were committed on or after August 23, 2013. Clark County requires property owners to choose from any of the acceptable methods outlined below to prepare (or employ a qualified third-party professional to prepare) and submit a utility allowance determination for staff's review and approval annually. Additional information about these methods is available from staff or in the HOMEfire notice Vol. 13, No. 2, from May 2016. The five options available are:

1. HUD Utility Schedule Model
2. Multifamily Housing Utility Analysis
3. Utility Company
4. LIHTC Agency Estimate
5. Energy Consumption Model (Engineer Model)

Fees: Project owners are prohibited from charging fees to tenants that are not reasonable or customary, such as a monthly fee for access to pay laundry facilities. This provision also clarifies what fees are allowable, including reasonable application fees to prospective tenants, parking fees in neighborhoods where such fees are customary, and the cost of non-mandatory services such as meal or bus service.

Project Completion: A final project completion inspection will be completed by Clark County and the following documentation will be required prior to final payment:

- occupancy permit
- affirmative marketing plan
- architect's certification of compliance with ADA
- copy of lease
- tenant selection plan
- utility allowance/rent approval
- Section 3 Report
- Contract/Subcontract Report (if Davis Bacon)
- copy of new tenant income eligibility for HOME units (2 months source documentation)

If any HOME units are not occupied within 6 months of project completion, Clark County is required to send marketing information to HUD and will require that the property owner create an enhanced marketing plan. **If the unit remains unoccupied after 18 months, all HOME investment must be repaid to HUD.**

RENTAL PROJECT TENANTS

Tenant Selection Criteria: Projects must have written tenant selection policies and criteria that are based on local housing needs and priorities established in the Consolidated Plan. Selection criteria must specify the program is for income-eligible tenants and reasonably be related to program eligibility and the applicant's ability to meet the obligations of the lease. This refers to the applicant's ability to pay rent, to maintain the unit in reasonable condition, and not to interfere with the rights of other tenants. Programs must ensure they do not discriminate in housing by following state and federal fair housing laws. Property management must also maintain a written waiting list and give written notice to rejected tenants.

Income: Before a tenant occupies a HOME unit, all income must be verified with source documents, such as wage statements, interest statements and unemployment compensation statements for at least the past 60 days. The agency will be required to collect and obtain this information to be kept in client file. Clark County requires the Section 8 definition of annual income. If a household member 18 years of age or older are claiming they receive no income, they are required to complete an Affidavit of non-employment.

Recertification: To ensure compliance with the affordability period, owners must establish systems to re-certify tenant income on an annual basis. Typically each tenant's income will be examined on the anniversary date of the original income certification or at lease renewal. However, the owner may adopt an annual schedule to perform all verifications at the same time.

Recertification documentation will be monitored by Clark County. There are two alternative methods to the initial income verification method which may be used:

1. A written statement from the family indicating size and income. This must include a signed certification from the family and source documents must be available upon request.

2. A written statement from the administrator or other government program from which the family receives benefits. Statements must include family size, current income, current income limit for their program and a statement that the family's income does not exceed that limit.

Full income verifications and collection of two months of source documents is required every fifth year.

Over Income Tenants: A tenant's income is likely to change over time. If these changes occur during the affordability period, the project owner must take certain steps to maintain compliance with HOME rent and occupancy requirements.

The project must maintain the correct number of units targeting the identified incomes.

- Rents must be adjusted for tenants whose incomes rise above 80% of the area median income to either 30% of tenant income or fair market rent.
- If the income of a tenant occupying a Low rent unit increases, but does not exceed 80% of the area median income, that unit becomes a High rent unit and the Low rent unit must be the next available unit (if floating units) or HOME assisted unit (for fixed units) to a very low income tenant that meets the 50% median income requirement. Subject to the terms of the lease, the rent of the initial tenants whose income has increased may be increased to the High rent limit for the unit. This process should not increase the number of assisted units.
- If a tenant's income increases above 80% of the area median income, the unit this tenant occupies is still considered to be a HOME unit, but the tenants rent must be adjusted. In projects where the HOME units float, the next available unit in the project of comparable size or larger must be rented to a HOME eligible household. The unit occupied by the over-income tenant is no longer considered HOME assisted, and the rent of that unit can be adjusted as appropriate.

LEASE REQUIREMENTS

Term: Written leases are required for all HOME units. The term between the tenant and the owner must be at least one year.

The lease may NOT contain the following provisions:

1. *Agreement to be sued.* Agreement by tenant to be sued, to admit guilt, or to a judgment in favor of owner in a lawsuit brought in connection with the lease;
2. *Treatment of property.* Agreement by tenant that owner may take, hold, or sell personal property of household members without notice to tenant and a court decision on the rights of the parties. This prohibition, does not apply to an agreement by tenant concerning

disposition of personal property remaining in the housing unit after tenant has moved out of the unit. Owner may dispose of personal property in accordance with state law;
3. *Excusing owner from responsibility*. Agreement by tenant not to hold owner or owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
4. *Waiver of notice.* Agreement of tenant that owner may institute a lawsuit without notice to tenant;
5. *Waiver of legal proceedings.* Agreement by tenant that owner may evict tenant or household members without instituting a civil court proceeding in which tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
6. *Waiver of a jury trial.* Agreement by tenant to waive any right to a trial by jury;
7. *Waiver of right to appeal court decision.* Agreement by tenant to waive tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;
8. *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by tenant to pay attorney's fees or other legal costs even if tenant wins in a court proceeding by owner against tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
9. *Agreement by the tenant to participate in mandatory supportive services.*

Termination: Termination of the lease requires a 30 day notice of refusal to renew or terminate tenancy. Termination is only allowed for good cause. Good cause is defined as: repeated violation of lease terms; violations of federal, State or local law; or for completion of the tenancy period for transitional housing. An increase in the tenant's income does **not** constitute good cause for termination or refusal to renew a lease.

TROUBLED HOME PROJECTS

Rental projects are monitored annually for their financial viability. HOME projects are considered troubled when they are determined to be no longer financially viable, generally when operating costs significantly exceed operating revenue.

For troubled projects, Clark County will work with the project owner and consider if there is local money or other opportunities available to make the project viable and save the affordable housing. Only if there are no other options to help the project will Clark County consider additional HOME funding or reduction in the number of HOME units. Any proposed changes with regard to HOME must be approved by HUD Headquarters in writing. HUD's approval will be based on its assessment of the market needs, available resources, and the likelihood of the project's return to financial viability.

Investing Additional HOME Funds. §92.210(b) allows Clark County to invest additional HOME funds in financially troubled projects, making an exception to the restriction on investing additional HOME funds in a project after the first 12 months following project completion. Additional funds can be used to rehabilitate the HOME-assisted units or to recapitalize project reserves for the HOME units. The total HOME funding for the project (initial investment amount plus the additional funds) may not exceed the maximum per unit subsidy, established at §92.250(a). This determination is made using the maximum per unit subsidy that is in effect at the time the additional funds are invested. HUD's approval for this action must be in the form of a written memorandum of agreement.

In granting approval for an additional investment of funds, HUD may require an extension of the affordability period and/or an increase in the number of HOME-assisted units.

Reduction in the Number of HOME-assisted Units. §92.210(c) permits a reduction in the number of HOME-assisted units in the project, but only if the project contains more than the minimum number of units required to be designated as HOME-assisted units under §92.205(d).

LOAN DEFAULT

For project owners that default on one or more loan payments, but are not necessarily considered to have a troubled project nor in danger of foreclosure, Clark County will work with the project owner and may consider one of the following options:

Renegotiate loan terms. Staff will work with the property owner and review financial and cash flow information to determine if the original loan terms need to change. If any changes are agreed to, a modified Deed of Trust and Promissory Note will be recorded against the property. The affordability period may or may not need to be extended.

Payment deferral. If the property has a one-time expense or issue that creates a negative cash flow one year, the annual loan payment may be waived for that year. Clark County will work with the property owner to recoup this payment before the end of the existing loan term. Most loans are structured so that they are based on cash flow availability.

Loan forgiveness. In rare cases, a loan may be forgiven. However, all of the HOME reports, regulations and affordability requirements will remain in place for the duration of the affordability period. Needing and receiving a loan forgiveness will significantly impact the owner's ability to receive HOME funds in the future and will likely require enhanced monitoring and reporting requirements due to elevation of risk assessment for the property.

HOMEBUYER ACTIVITIES

Eligible homebuyer activities include the construction of new housing units, acquisition of single-family residences through a land trust model, or down payment assistance for low-income households.

Eligible Costs: In general, eligible costs under rental housing are eligible for homeowner/ homebuyer activities, including the following:

- Development hard costs for both new construction and rehabilitation*;
- Refinancing costs to improve affordability for the owner of a home being rehabilitated (although this is eligible in HOME regulations, Clark County does not offer this type of assistance);
- Acquisition costs;
- Costs relating to loans;
- Related soft costs
    - Architectural, engineering or related professional services required;
    - Costs to process and settle the financing for a project;
    - Costs of a project audit required by Clark County with respect to the development;
    - Operating costs directly related to carrying out the project, such as work specifications preparation, and loan processing inspections;
    - Costs of impact fees charged for all developments within a jurisdiction; and
    - Costs of environmental review and release of funds in accordance with 24 CFR part 58 directly related to the project.

*Although homeowner rehabilitation is an eligible activity for repair of housing that is owned and occupied by low-income households, Clark County operates its homeowner rehabilitation program with CDBG funding and does not use HOME funds for this program.

Eligible Properties: Single-family homes may only be constructed or purchased within Clark County, outside the city limits of Vancouver.

Eligible Homebuyers: Income eligibility is between 40 and 80% of AMI and the income of all persons residing in the HOME-assisted housing must be included when determining the income of a family applying for homebuyer assistance. This includes all household members, whether they are related or not. Clark County requires the Part 5 definition of income for homebuyer qualifications.

HUD-determined Homeownership Value Limit: The purchase price will be based on 95% of the median purchase price for the area using FHA single-family mortgage program data for either existing housing or newly constructed housing, depending on which is being purchased. The amount changes annually and Clark County can provide this information to homebuyer project subrecipients, or it can be found at: https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/

Prohibited Activities: Funds may not be used to pay for any cost that is not eligible under the HOME program at 92.206 and 209, including delinquent taxes, fees or charges on properties to be assisted. HOME funding may not be used to pay administration costs for a homebuyer assistance program.

Forms of Assistance: [24 CFR 92.205(b)] In general, assistance provided to homebuyers and homeowners will be in the form of a deferred loan. Typically, the assistance will be subject to resale or recapture provisions as outlined in the Consolidated Plan; however if the assistance is provided to individual homebuyers through a CHDO as a developer, the property will be subject to resale requirements. Additional funds may be allocated to the subrecipient to pay directly-related soft costs. These funds may be provided as a grant to the subrecipient to make the program feasible.

Housing Counseling: All homebuyers must receive housing counseling prior to purchasing a home assisted with HOME funding. HOME funds cannot be used to pay for the counseling program however, an individual homebuyers cost for counseling can be charged as an eligible project cost if they move forward with the purchase. Homebuyer Education must meet the National Industry Standards for Homeownership Education and Counseling.
https://www.homeownershipstandards.org/Home/Standards.aspx

Other Program Requirements: All subrecipients funded for the development of for-sale units or to provide financial assistance for the purchase of owner-occupied housing are responsible for ensuring the assisted household is eligible, the property is qualified, appropriate documents are executed, and project processing steps outlined in the funding agreement are followed. Purchase offers must be contingent on completion and an approved environmental review, which will be completed by Clark County staff. Subrecipients must check the federal debarred list and complete and review required inspections. All of this information must be submitted with the HOME invoice or it will not be paid.

It is important that subrecipients administering homeownership programs make every effort to assist the homebuyer to understand the process of purchasing a home, the long-term commitment of purchasing a home, the implications of accepting a mortgage and under different terms, the recapture or resale option, and to consider the ability of the family to maintain a mortgage over time. Clark County's resale and recapture policies are approved by HUD and available online at https://www.clark.wa.gov/community-services/cdbg-and-home-documents.

Underwriting: Clark County will follow its underwriting policies detailed in Appendix D.

Conversion of Unsold Homeownership Units to Rental Housing: For new housing construction, Clark County will require that the project owner convert the homebuyer housing to rental housing if it does not have a ratified sales contract with an eligible homebuyer within 9 months of the completion of construction. If converted, this rental housing must comply with all provisions of §92.252. If an unsold homebuyer unit is not converted to rental housing, the property owner must repay the HOME funds.

Monitoring: Each homebuyer assisted with HOME funds will be reviewed for income determination and eligibility prior to invoice payment. Documentation of property eligibility, underwriting, written agreements, principal residency enforced by lien or mortgage, title documentation, copy of deed or other ownership documentation, lead-based paint notification, will also be reviewed with each invoice.

Refinancing: Rate and term refinancing with no cash out is generally allowable upon county review and approval. For properties that are owned in a land trust model, permission from the agency owning the land will also be required prior to refinancing.

Cash out refinancing will generally require repayment of the HOME fund assistance for downpayment assistance borrowers. Certain exceptions may be made on a case by case basis.

For homeowners with land trust properties, the homeowner must follow the partner agency's policy for refinancing. The refinance amount CANNOT exceed the value that the homeowner would be able to realize if the home were to be sold rather than refinanced, according to their land lease agreement and Clark County's HOME Resale and Recapture Provisions.. Homeowners should not "cash-out" all of their entitled equity, leaving some equity in the home in case the market drops or the house depreciates in value.

Clark County will review the new loan application and documents prior to approval of subordination.

COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

At least 15% of the annual HOME allocation must be set aside for specific activities to be undertaken by a special type of nonprofit called a Community Housing Development Organization (CHDO). A CHDO is a private nonprofit, community-based organization that has staff with the capacity to develop affordable housing for the community it serves. In order to qualify for designation as a CHDO, the organization must meet certain requirements. The definition of a CHDO, as well as other regulations regarding CHDOs, can be found in the Code of Federal Regulations Title 24 (Housing and Urban Development), Part 92.300. To be certified or re-certified as a CHDO, an organization must 1) submit a completed application to Clark County and 2) be developing or constructing an affordable housing project.

Prior to every CHDO funding commitment, the requesting agency must qualify or be recertified as a CHDO by Clark County. The CHDO must be certified as a developer, sponsor or owner of HOME-funded affordable housing. The qualifying criteria (24 CFR 92.300 and HUD Notice CPD 97-11) include legal status, organizational structure, capacity, experience, and financial standards:

CHDO Certification: An organization seeking CHDO certification or recertification must:

- Be organized under state/local laws;
- Have among its purposes the provision of decent housing that is affordable to low-and moderate- income persons;
- Assure that no part of its earnings (profits) benefit any members, founders, contributors or individuals;
- Have a clearly defined geographic service area and history of serving that community;
- Have proof of nonprofit tax exempt status from the IRS (a pending 501(c) status will not meet the requirements);
- Conform to HUD financial accountability standards;
- Demonstrate capacity for carrying out activities assisted with HOME funds;
- Maintain at least 1/3 of its governing board membership with low-income representatives; and
- Provide a formal process for low-income input in housing projects

CHDO GOVERNING BOARD

Low Income Representatives: At least 1/3 of the governing board must be:

- Residents of low-income neighborhoods (neighborhoods where 51% or more of the residents are low-income); or
- Other low-income residents of the community (low-income defined as having an annual income of less than 80% of the area median income). If the individual does not live in a low income neighborhood, the CHDO or the resident will need to certify that they qualify as low income; or
- Elected representatives of low-income neighborhood organizations whose primary purpose is to serve the interests of the neighborhood residents (i.e., block groups, civic groups, neighborhood associations)

Should the CHDO not have the full complement of low-income representatives on the board, the CHDO has 45 days in which to fill that position. The CHDO is considered out of compliance with the requirements for CHDO status when they do not have the full one-third low-income members on the board and decisions of the board cannot be finalized without the minimum required 1/3 low-income members.

Input from the low-income community is not accomplished only by having low-income representation on the board. The CHDO must also provide a copy of the formal, written process for low-income program beneficiaries to advise the CHDO on design, development and management of affordable housing. The process must be described clearly and it must be included in the organization's bylaws or through a board resolution. This requirement is especially important for CHDOs serving a large geographic area where it may not be possible for a CHDO to have low-income representatives on its board from every neighborhood in which it will develop, own or sponsor housing. CHDOs should establish systems for community involvement in parts of their service areas where housing development is planned but which are not represented on their boards, for example:

- Ad hoc or special committees of neighborhoods of a proposed development site; and/or
- Neighborhood advisory boards or similar groups; and/or
- One or more open neighborhood or town meetings; and/or
- Temporary expansion of the CHDO board to include neighbors during the period of housing planning and development activity; and/or
- Resident advisory committees/boards.

State or Local Government Appointments: No more than 1/3 of the governing board may be appointed by a state or local government. Those representatives who are appointed by public officials cannot select other members of the board. Other restrictions on the participation of public officials on the boards of nonprofit organizations seeking public funds apply and CHDOs must observe conflict-of-interest policies.

Public Sector Representatives: No more than 1/3 of the board may be public officials or representatives of the public sector (low-income residents/representatives who work for a public agency in any capacity must be considered public sector representatives).

The HOME program does not set any other limits on the composition of a CHDO's governing board and the remaining seats may be filled by a wide variety of individuals.

CHDO CAPACITY/EXPERIENCE

A CHDO seeking recertification or an agency seeking certification as a CHDO must demonstrate capacity to carry out HOME-assisted activities with either:

- experienced staff who have successfully completed similar projects, which draws a distinction between development, management of rental housing and development, sale of housing for first-time homebuyers, OR

- key staff with limited or no experience who will utilize experienced consultants (if consultants are in charge of development, there must be a written plan submitted yearly indicating how the consultant will train key staff during that funded year).

Note that there are differences in required experience and capacity required to carry out the variety of housing development activities eligible under the HOME program. Also, the purpose of the CHDO capacity requirement is for the CHDO to build its own professional staff so the staff cannot be municipal, county or state employees or consultants (paid or volunteer) not planning to train the CHDO's key staff. Should CHDOs wish to share staffs with other nonprofits, a written formal agreement outlining the work to be undertaken and the service period must be in place.

CHDO Eligible Set-Aside Project: Clark County must invest at least 15% of its total annual HUD HOME allocation to projects that are owned, developed or sponsored by CHDOs and which will result in the development of homeownership or rental units. The CHDO can act in one of the three capacity roles as listed below:

- **Owner:** The CHDO is an owner when it holds valid legal title to or has a long-term (99-year minimum) leasehold interest in rental property. The CHDO may be an owner with one or more individuals, corporation, partnership or other legal entities, so long as the CHDO has effective control of the project.
- **Developer:** A CHDO is a developer when it either owns a property and develops a project, or has a contractual obligation to a property owner to develop a project.
- **Sponsor:** A CHDO is a sponsor if it develops a project that it solely or partially owns and agrees to convey ownership to a second non-profit organization at a predetermined time or it is a sponsor for HOME-assisted homebuyer's program when it owns the property, then shifts responsibility for the project to another nonprofit at some specified time in the development process and the second non-profit in turn transfers title, along with the HOME loan/grant obligations and resale requirements, to a HOME-qualified homebuyer within a specified timeframe.

Based on the type of CHDO project being requested, staff will use the CHDO checklist to determine CHDO status and capacity prior to any and every contract execution. The CHDO checklist will be kept in the project file or electronically in a CHDO file folder stored on the shared network drive.

Pre-Development Loans: Up to 10% of the CHDO set-aside amount may be provided to CHDOs only in the form of pre-development loans which are intended to assure that CHDOs have access to funds for up-front, eligible project expenditures. These pre-development loans may be repaid to Clark County from construction loan proceeds or other project income or incorporated into additional project financing. The costs must be reasonable and customary and related to a specific project which, if deemed feasible, would receive HOME funds for development. This assistance can take the form of technical assistance or site control loans used to establish preliminary feasibility prior to site control and seed money loans, which may be used to cover pre-construction costs. The total amount of funds used for pre-development cannot exceed 10% of the total amount of HOME funds reserved for CHDOs by Clark County in any given grant year for CHDO set-aside eligible activities.

TENANT BASED RENTAL ASSISTANCE PROGRAMS

HOME Tenant Based Rental Assistance (TBRA) provides a subsidy that provides rental assistance to households having a hard time affording housing costs such as rent, utilities and/or security deposits. The program enables eligible households to receive assistance in rental units of their own choosing, provided the units meet basic program requirements. TBRA provides households with a stable place to live while they increase their ability to be self-sufficient. TBRA funds may not be used in a project based manner. A key component of the TBRA program is client choice, which includes being able to choose their rental unit and choose whether they will participate in the tenets of the program.

The Clark County Consolidated Plan identifies rental housing options for people who are low-income as a high priority. Consolidated Plan strategies met through TBRA programs include:

- Increase housing stability for individuals and families at risk of homelessness by supporting and expanding programs that provide short-term rental assistance, eviction prevention services, incentives for landlords to rent to low-income households, and other supportive services.
- Preserve and expand the supply of transitional supportive housing for individuals and families.

Clark County HOME TBRA funding is limited to tenants with incomes at or below 60% AMI. TBRA assistance may be provided for up to 24 months, and potentially longer under agency-identified extenuating circumstances.

TBRA PROGRAM RESPONSIBILITIES

Agencies receiving HOME funds for TBRA programs must have written policies in place that are approved by Clark County. The policies must include the following information.

Tenant Selection Criteria: Programs must have written tenant selection policies and criteria that are based on local housing needs and priorities established in the Consolidated Plan. These should be provided to the Council for the Homeless (CFTH), Housing Solutions Center (HSC). The CFTH HSC will be the sole referral entry point for the Clark County TBRA programs. No other program entry points should exist. Selection criteria must specify the program is for income-eligible tenants and reasonably be related to program eligibility and the applicant's ability to meet the obligations of the lease. This refers to the applicant's ability to pay rent, to maintain the unit in reasonable condition, and not to interfere with the rights of other tenants. Programs must ensure they do not discriminate in housing by following state and federal fair housing laws and working with the HSC to ensure compliance. If a tenant who is on the Section 8 waiting list accepts HOME TBRA assistance, they must remain on the Section 8 waiting list with the same preference status. The HSC will maintain a written waiting list and give written notice to rejected tenants.

Income Eligibility: All eligibility requirements must be met prior to any financial assistance being provided. The program must serve very low- and low-income families (under 60% AMI). Programs must examine at least two months of source documentation (e.g., wage statements, interest statements or unemployment compensation documents) when determining household income for all potential HOME beneficiaries. Income determinations are valid for six months and income must be re-certified annually.

- The income of all adults (18+) in the household, including nonrelated individuals must be counted.
- Only HUD Section 8 program options shall be used in calculating income and tenant payment amounts. Current HUD income limits for Clark County may be found at http://www.clark.wa.gov/cdbg/documents.html.
- The Contractor must use the CPD Income Eligibility Calculator, available at https://www.onecpd.info/incomecalculator/, for determining income eligibility.
- For detailed guidance on determining annual gross income refer to the HUD Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition, January 2005: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/library/modelguides/2005/1780

Tenant Income Change or other Program Changes: If there is a change in the household's share of rent or any TBRA program changes, written notices must be provided to the landlord and household. Copies of those notices must be kept in the client file.

Residency Requirements: Households at risk of homelessness must reside in Clark County or the City of Woodland. Households who are literally homeless must have spent the night in Clark County or the City of Woodland, the night before assessment. Residency must be verified through documentation, third party verification or self-certification. The documentation is listed in order of preference. Programs may not serve households receiving rental assistance through another rental assistance program.

Rental Voucher Determination: Clark County providers will follow the Section 8 Certificate Program model.

Payment Standard: Clark County uses a payment standard based on the current Section 8 Housing Choice Voucher Program Fair Market Rent (FMR). The payment standard for each unit size may be no less than 80% of the published FMR, and no more than 100% of FMR. The HOME rents are published annually by HUD, at which point new rental leases must begin following the new FMR standard and existing rental leases must adopt the new FMR standard when renewed. Clark County may, on a unit-by-unit exception basis, use a payment standard that exceeds the applicable FMR by up to 10% for not more than 20% of the units assisted in any given contract period, contact staff for approval. A HOME rental assistance coupon must be completed and signed by the program representative and the tenant. Rent limits include both the rent and utilities for a unit.

Utility Allowance: A tenant's utility payment must be considered as part of the affordability and payment calculation. The Vancouver Housing Authority Allowance for Tenant-Furnished Utilities document is used for the utility allowance: http://vhausa.org/landlords/utility-allowances. Utility payments are only allowable if the tenant's rent payment calculation does not cover the utility allowance.

Eligible Costs: Monthly Invoices must be received along with a reconciled TBRA report showing tenant information and costs. Reimbursable costs include:

- Rental and utility payments (provided to a third party only, not directly to the tenant)
- Costs of HQS inspections and determining tenant eligibility
- Security deposit assistance may be provided in conjunction with ongoing HOME TBRA assistance. Security deposits must be provided as a grant to the household, but paid to the landlord and may not total more than two months of rent. Clark County may allow for rare exceptions to the security deposit restrictions. Contact staff for approval.
- Utility deposits are allowable but a program cannot propose to solely provide utility deposits without paying rental assistance, as this would not be eligible.

Unit Selection: Households should not choose units where the rent exceeds 100% of the appropriately sized unit FMR. An agency may refer households to appropriate units, but may not require the household to select the referral unit. If a tenant selects to rent a unit owned by the agency administering the TBRA assistance, it should be clearly documented that this is the tenant's choice.

Maximum Tenant Contribution and Subsidy: Tenants are required to pay the greater of 30% of their monthly adjusted income or 10% of monthly gross income to rent. The TBRA assistance makes up the gap between the tenant's payment and the actual rent plus utilities for the tenant's unit. If a tenant has no income their portion of rent may be zero.

Programs may pay up to 100% of the tenant's gross rent to third party recipients only.
The maximum household rental subsidy is the difference between 100% of the FMR for the appropriate sized unit and 30% of the household's monthly adjusted income.

Occupancy Standards: An appropriately sized apartment is one where there are two people per living/sleeping area. Individuals from different generations and children of opposite sexes are not required to share a room. TBRA may not support a household in an owner-occupied co-operative unit.

Lease: The tenant must have a written lease that complies with the requirements in §92.253 (a) and (b). The lease between a tenant and an owner of rental housing assisted with HOME funds must be for not less than one year, unless by mutual agreement between the tenant and the owner. The tenant lease addendum must give the program a copy of any notice to the tenant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the tenant.

Prohibited lease terms: The lease may not contain any of the following provisions:

1. *Agreement to be sued.* Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
2. *Treatment of property.* Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;

3. *Excusing owner from responsibility*. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
4. *Waiver of notice.* Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
5. *Waiver of legal proceedings.* Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
6. *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury;
7. *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;
8. *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
9. *Agreement by the tenant to participate in mandatory supportive services.*

Termination of Tenancy: A landlord may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing; or for other good cause. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 10 days before the termination of tenancy.

Landlords may refuse to renew a lease for any reason permissible through the Washington Residential Landlord Tenant Act. The TBRA agency must work with the landlord to try to alleviate concerns and continue the tenancy.

The standards specifying when tenancy can be terminated must be included in the agency TBRA policies and procedures and be included in the lease between the owner and the TBRA recipient and/or, if appropriate, the TBRA agreement between the agency and tenant. The agency should address the permissible grounds for termination or tenancy/refusal to renew and establish notification requirements for these actions. If a tenant is terminated from the program, a copy of Termination letter specifying the program grievance options shall be provided to the tenant and kept on file.

Data Entry: Data entry into the Homeless Management Information System (HMIS) is required for programs serving people who are homeless or at risk of homelessness. All adults in each household must be asked to sign the HMIS Release of Information (ROI). Domestic violence survivors are exempt from this requirement. Program participants have the right to refuse signature and still be served.

Once the ROI is signed, HMIS demographic information should be verified. Then, all assistance types must be entered into HMIS not less than once per month. Demographic information, including income, should be updated at least annually at re-assessment.

Monitoring: An agency's program policies and procedures will be reviewed during each TBRA contract period. A risk assessment and monitoring plan is completed for each agency prior to contract execution and on-site file review will be conducted based on the results of the monitoring plan developed, but not less than every three years. The HOME Program Guide for Review of Tenant Based Rental Assistance (TBRA) projects will be used to monitor TBRA files. All files must contain fully completed documents. Monitoring checklists can be found at:

www.hud.gov/sites/documents/20121_7A.PDF and
www.hud.gov/sites/documents/20121_7B.PDF

Inspections: Every housing unit must have a Housing Quality Standards (HQS) inspection prior to a TBRA household moving into the unit. The program must inspect the housing prior to the lease being signed and re-inspect it annually or after a code complaint.

A lead-based paint visual assessment must be completed prior to the lease being signed and annually thereafter for all units that meet the following three conditions:

- The household is being assisted with HOME financial assistance.
- The unit was constructed prior to 1978.
- A child under the age of six or someone who is pregnant will be living in the unit.

If a unit fails an HQS inspection or lead-based paint visual assessment, the landlord is given 72 hours to correct emergency conditions or 30 days for less serious conditions. If not corrected, the household has the choice to stay in the unit and end their TBRA assistance move with adequate notice.

Case Management: HOME funds cannot be used to provide case management. However, programs can require the family to participate in a self-sufficiency program as a condition of selection for assistance per the program policies and procedures. The family's failure to continue participation in the self-sufficiency program ***cannot*** be grounds for terminating the assistance, but ***renewal*** of the assistance can be conditioned on participation in the program. Programs may not require persons with disabilities to participate in medical or disability-related services as a part of a self-sufficiency program. Tenants living in a HOME-assisted rental project who receive tenant-based rental assistance as relocation assistance must not be required to participate in a self-sufficiency program as a condition of receiving assistance.

Length of Rent Assistance: The term of the rental assistance contract providing assistance with HOME funds may not exceed 24 month, but may be renewed. Renewal of TBRA assistance is subject to clear justification from the program staff in case notes and available TBRA funds. The term of the rental assistance contract must begin on the first day of the term of the lease. For a rental assistance contract between an agency and a landlord, the term of the contract must terminate on termination of the lease. For a rental assistance contract between an agency and a household, the term of the contract need not end on termination of the lease, but no payments may be made after termination of the lease until a household enters into a new lease.

Re-Assessment: During the period of assistance, the program must annually re-determine that the household continues to be low-income. This process should begin 60-90 days prior to the one-year anniversary date and re-assessment documentation should be placed in the household file. Interim re-determinations of income are not required.

Rent Increases: If a landlord increases the rent of a unit, the program must re-determine and document that the rent is reasonable. If the program increased the amount of rent the household is paying, the tenant and landlord must be notified in writing of the change. Copies of the notice must be kept on file.

Moves and Termination of Tenancy: Programs must require their clients to provide advance notice of termination of tenancy or intent to move to both the program and the landlord. If a tenant is evicted for cause, the tenant may move one additional time and continue to receive TBRA assistance. Once a second eviction for cause is issued, the client should be terminated from the program.

Leave of Absence: If a program participant (household of one) is unexpectedly placed into a system of care (i.e., jail, institution, treatment, hospital) the program may continue providing rent assistance and case management for up to 90 days. If the program knows in advance that the participant is going to be in a system of care for more than 90 days, then the participant should be terminated from the program. If the household is made up of more than one person, and a member is absent for up to 90 days, assistance may continue as normal. If the household is made up of more than one person and a household member is absent for more than 90 days, the household eligibility and portion of rent must be reassessed based on the people in the household prior to providing the following month's rent assistance. Any absence must be documented in the client file.

APPENDIX A - CHDO CHECKLIST

ORGANIZATIONAL REQUIREMENTS		
CHDO Requirements	Rule Citation	CHDO meets requirements & documentation is in file
1. Legal Structure		
1.1 The organization is organized under state or local law	§92.2 CHDO Definition ¶ (1)	
1.2 The organization has among its purposes the provision of low-income housing	§92.2 CHDO Definition ¶ (7)	
1.3 The organization has no part of its net earnings inuring to the benefit of individuals	§92.2 CHDO Definition ¶ (2)	
1.4 The organization is not under the control or direction of any individual or entity seeking to derive profit or gain	§92.2 CHDO Definition ¶ (3)	
1.5 The organization has one of the following IRS tax exempt statuses: 1.5.1 Exemption under 501(c)(3) or 501(c)(4); 1.5.2 Subordinate of a central nonprofit under IRC 905; or, 1.5.3 Wholly owned subsidiary of an organization that has 501(c)(3) or 501(c)(4) status and meets the CHDO definition	§92.2 CHDO Definition ¶ (4)	
1.6 The organization is not a governmental entity (including participating jurisdiction, other jurisdiction, Indian tribe, public housing agency, Indian housing authority, housing finance agency, redevelopment authority, zoning board or commission)	§92.2 CHDO Definition ¶ (5)	
2. Independence		
2.1 Public officials & employees of a governmental entity may comprise no more than 1/3 of the board	§92.2 CHDO Definition ¶ (5)	
2.2 Officers and employees of a governmental entity cannot be officers or employees of a CHDO	§92.2 CHDO Definition ¶ (5)	
2.3 If the organization was created by a governmental entity, then the governmental entity that created the organization may not appoint more than 1/3 board members, and public appointed members may not appoint remaining 2/3	§92.2 CHDO Definition ¶ (5)	☐ Applicable
2.4 If the organization was created by a for-profit entity, then 2..4.1 through 2.4.4 apply:		
2.4.1 The for-profit entity that created the organization may not be a housing builder, developer, or manager	§92.2 CHDO Definition ¶ (3)(i)	

CHDO Requirements	Rule Citation	CHDO meets requirement & documentation is in file
2.4.2 The for-profit entity that created the organization may not appoint more than 1/3 board members, and the for-profit appointed members may not appoint remaining 2/3 of board	§92.2 CHDO Definition ¶ (3)(ii)	
2.4.3 Officers and employees of the for-profit entity that created the organization cannot be officers or employees of the CHDO	§92.2 CHDO Definition ¶ (3)(iv)	
2.4.4 The organization must be free to contract for goods & services with others	§92.2 CHDO Definition ¶ (3)(iii)	
3. Accountability to the Low Income Community		
3.1 At least 1/3 of the board members are: 1)low-income; 2)residents of a low-income neighborhood; or, 3)elected representatives of a low-income neighborhood organization	§92.2 CHDO Definition ¶ (8)(i)	
3.2 The organization has a formally adopted process for low-income beneficiaries to advise on decisions regarding design, siting, development, and management of housing	§92.2 CHDO Definition ¶ (8)(ii)	
3.3 The organization has at least 1 year of serving the community, or, if newly formed, its parent organization meets this requirement	§92.2 CHDO Definition ¶ (10)	
4. Capacity		
4.1 The organization has paid employees with demonstrated experience relevant to the CHDO's role in undertaking the HOME activity to be funded. (Note: this does not include volunteers, board members, donated or shared staff, or consultants – except as described in 4.1.1 below)	§92.2 CHDO Definition ¶ (9)	
4.1.1 During the first year of an organization's participation as a CHDO only, capacity can be demonstrated through a contract with a consultant who has housing development experience to train appropriate key staff of the organization	§92.2 CHDO Definition ¶ (9)	
4.2 The organization has financial management systems that conform to 24 CFR 84.21	§92.2 CHDO Definition ¶ (6)	

CHDO ROLE		
CHDO Requirements	Rule Citation	CHDO meets requirements & documentation is in file
5. CHDO set-aside project CHDOs can undertake homebuyer or rental projects, as described below, with CHDO set-aside funds:		
5.1 Homebuyer project: To qualify under CHDO set-aside, must meet either 5.1.1 or 5.1.2, and 5.1.3:		
5.1.1 **Developer**: The organization is or will be the owner in fee simple and the developer of new or rehabilitated units for sale to low-income buyers, or	§92.300(a)(6)	
5.1.2 **Sponsor**: The project will be developed by an eligible CHDO affiliate, including: • A wholly owned subsidiary of the CHDO; or, • 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	HUD is seeking a technical correction	
5.1.3 The organization will control the development process including, at minimum, arranging financing for the project and being in sole charge of construction	§92.300(a)(6)(i)	
5.2 Rental project: To qualify under CHDO set-aside, must meet one of the following:		
5.2.1 **Own**: The organization is or will be owner in fee simple absolute (or will hold a ground lease) for at least the period of affordability. If project involves rehabilitation or construction organization will <u>oversee</u> all aspects of development	§92.300(a)(2)	
5.2.2 **Develop**: The organization is or will be owner in fee simple absolute (or will hold a ground lease) for at least the period of affordability, and will <u>be in sole charge</u> of all aspects of the development process	§92.300(a)(3)	
5.2.3 **Sponsor**: Must meet one of the following:		
5.2.3.1 The organization will own and develop project that it will convey at a predetermined time after completion to a designated nonprofit (that was not created by a governmental entity)	§92.300(a)(5)	
5.2.3.2 The project will be owned and/or developed by an eligible CHDO affiliate including: • A wholly owned subsidiary of the CHDO; or, • 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	§92.300(a)(4)	

6. **CHDO pre-development loan** If a project specific pre-development loan is being provided, in addition to meeting CHDO qualification listed in items 1-4 above and having a set-aside eligible project under item 5, the predevelopment loan must be designated as one of the following two loan types:		
6.1 TA/site control loan: The loan is for allowable costs specified in §92.301(a)(2) for planning an eligible set-aside project	§92.301(a)	
6.1.1 Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b)	§92.352	
6.2 Seed money loan: The loan is for allowable preconstruction costs specified in §92.301(b)(1) for planning an eligible set-aside project.	§92.301(b)	
6.2.1 Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b)	§92.352	
7. **CHDO operating expenses** If CHDO operating expenses are being provided, the organization must meet the CHDO qualification requirements listed in items 1-4 above, or the organization must meet requirements 1-3 above and be receiving the operating funds specifically to hire staff to meet the requirements in 4 above. In addition, the CHDO must meet the following requirements:	HUD is seeking a technical correction	
7.1 The organization is funded from the set-aside for a project under development or is reasonably expected to be funded within 24 months from the CHDO set-aside	§92.300(e)	
7.2 The operating expense funds will be used for eligible operating costs that are reasonable and necessary	§92.208(a)	
7.3 Operating expense funding (including from other PJs and any Pass-Through funding) in the fiscal year will not exceed the greater of $50,000 or 50% of the CHDO's total operating expenses in that year	§92.300(f)	

CHDO CERTIFICATION
8. **CHDO Certification** ☐ The organization meets **all** CHDO regulatory thresholds, AND, one or more of the following: ☐ The organization has a project that meets the project eligibility requirements of §92.300 for a reservation of CHDO set-aside funds. ☐ The organization has a project that qualifies for a pre-development loan under §92.301. ☐ The organization qualifies for operating expenses. Signature: ______________________________ Date: ______________ Name: ______________________________ Title: ______________________

APPENDIX B - AFFIRMATIVE FAIR HOUSING MARKETING PLAN

In accordance with HOME regulations, and in furtherance of Clark County's commitment to non-discrimination and equal opportunity in housing, the county established procedures to affirmatively market rental and homebuyer projects containing 5 or more HOME-assisted units. Affirmative marketing requirements and procedures also apply to HOME-funded programs such as tenant based rental assistance and downpayment assistance. These procedures are intended to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.

Clark County believes that individuals of similar economic levels in the same housing market area should have a like range of housing choices available to them regardless of race, color, religion, sex, familial status, disability or national origin.

Clark County is committed to the goals of affirmative marketing that will be implemented in the HOME Program through the following procedures:

Affirmative Marketing Procedures: Clark County's CDBG and HOME Program shall inform the public, potential tenants, and owners about this policy and fair housing laws through:

- placement of a public notice in the Columbian or other local newspapers, and dissemination of Fair Housing brochures; and
- providing written information about Fair Housing Laws to sponsors of public housing projects.

Housing Project Owner Procedures: Clark County will require owners of housing projects with 5 or more HOME assisted units to use affirmative fair housing marketing practices in soliciting renters or buyers, determining eligibility, and conducting all transactions. Owners must comply with the following procedures for the duration of the applicable compliance period:

- **Advertising:** The Equal Opportunity logo or slogan must be used in all ads, brochures, and written communications to owners and potential tenants. Advertising media may include The Columbian (or any other local newspaper), radio, television, housing organizations such as HousingConnections.org (http://www.housingconnections.org), brochures, leaflets, or may involve simply a sign in the window.
- **Fair Housing Poster:** Owners must display the HUD's fair housing poster in rental offices or other appropriate locations.
- **Special Outreach:** Owners must solicit applications for vacant units from persons in the housing market who are least likely to apply for HOME-assisted housing without the benefit of special outreach efforts. Clark County's HOME Program has established the following methods property owners may use in order to reach this objective:
    - Positioning of Informational Flyers in Minority Neighborhoods: Targeting specific neighborhoods for distribution of informational flyers may provide an acceptable level of information dissemination.
    - Use of Minority-Specific Media: HOME-assisted housing opportunities may be advertised in minority-specific newspapers (i.e. The Skanner, Portland Observer, Hispanic News, The Asian Reporter, etc.).
    - Human Services Council Assistance: Special outreach services will be provided through the Human Services Council Information and Referral Program.

- **Record Keeping:** Owners must maintain a file containing documentation of all marketing efforts (copies of newspaper ads, memos of phone calls, copies of letters, etc.). These records must be available for inspection by Clark County. Owners must also maintain a listing of all tenants residing in each unit.

Assessment and Corrective Action: Clark County shall complete a written assessment of Affirmative Marketing efforts in time to report results in the annual performance report to HUD. This assessment will cover marketing relative to the units first made available for occupancy during the CDBG/HOME Program Year. The assessment will be made for projects with 5 or more HOME-assisted units.

Clark County will also assess the affirmative marketing efforts of the owner by comparing predetermined occupancy goals (based upon the area from which potential tenants will come) with actual occupancy data that the owner is required to maintain. Outreach efforts on the part of the owner will also be evaluated by reviewing marketing efforts. Corrective action will be required from property owners if affirmative marketing requirements are not followed. If, after discussing with the owner ways to improve procedures, the owner continues to fail to meet Affirmative Marketing requirements, they will be prohibited from further participation in the HOME Program.

APPENDIX C - MONITORING PLAN

Objectives: The objective of the Clark County HOME Monitoring Plan is to establish standards for evaluating and reporting a subrecipient's compliance with program requirements. Clark County will conduct on-site reviews to verify accuracy of records/documents, review program policies and procedures, conduct housing inspections, and evaluate overall administrative compliance to HOME Regulations.

Monitoring Format: A written report will be prepared and provided to the subrecipient following the completion of each monitoring review. The report will include the following information:

- An explanation of the purpose and scope of the review;
- A list of findings, comments, recommendations, and corrective actions to be taken;
- A list of the client files reviewed;
- An evaluation of project performance to date; and
- A time frame for taking corrective action.

Monitoring Compliance: HOME activities will be evaluated on the basis of the following program areas:

- Adherence to HOME guidelines, procedures, and regulations;
- Subrecipient's administrative plan, Scope of Work, and program policies and procedures;
- Overall administration and management;
- Fair Housing;
- Housing Quality Standard Inspections;
- Davis-Bacon and Lead Based Paint, if applicable; and
- Environmental Review

Pre-Monitoring Preparation: Prior to an on-site monitoring visit, the County will provide written notification of the visit to the subrecipient. The notice will provide the following information:

- The date(s) and time of the visit;
- A copy of the monitoring checklist;
- A list of the properties to be inspected and client files to be reviewed;
- The subrecipient may be asked to provide the County with the following:
    - Disbursement and expenditure reports;
    - Agreements/contracts;
    - Policy guidelines and procedures, administrative plans, and operation manuals;
    - Beneficiary and HMIS data

Monitoring and Inspection Schedule: Clark County staff will provide program monitoring over three phases, consistent with the monitoring plan developed prior to contract:

1. Contract Development Phase
    - Agency risk assessment
    - Ensuring that projects are consistent with the Consolidated Plan
    - Ensuring that all Environmental Review requirements have been met
    - Ensuring clients are income-eligible
2. Development Phase
    - Ensuring that project costs, budgets, and timelines are adhered to
    - Ensuring conformance to HOME standards through periodic property inspections
3. Post-Development Phase (Long-Term)

- The duration and frequency of on-sight subrecipient monitoring and inspections is based on the length of the affordability period and the total number of HOME units.

Primary Monitoring Forms and Checklists

- HUD Checklist Exhibit 7-5: Guide for Review of Homebuyer Projects
- HUD Checklist Exhibit 7-7: Guide for Review of Rental Projects
- HUD Checklist Exhibit 7-9: Guide for Review of TBRA Projects

APPENDIX D - UNDERWRITING AND RESPONSIBLE LENDING FOR HOMEBUYER PROJECTS

Overview: Homebuyer Assistance projects expand homeownership opportunities for low- income homebuyers through the acquisition or new construction of single-family units. Funds may be used to help low-income buyers qualify for conventional financing by (a) subsidies to stimulate the construction of new housing to be sold to low-income homebuyers, (b) acquisition of property to be sold to low-income homebuyers, (c) by providing down payment assistance for units offered for sale in the local market, or (d) purchasing the land to make an existing single-family home affordable using a land-trust model.

HUD and Clark County require subsidy evaluation and underwriting of all HOME projects to ensure HOME funds invested are reasonable and necessary to ensure project viability for at least the affordability period. Responsible lending and evaluation of the reasonableness of re-subordinating HOME debt in the event of private debt refinancing are also required.

According to 24 CFR 92.254(f), underwriting standards and policies must address:

- housing debt and overall household debt,
- the appropriateness of the assistance amount,
- recurring household expenses,
- assets available to acquire the housing,
- monthly expenses, and
- financial resources available to the household to sustain homeownership.

These underwriting requirements represent Clark County's obligation to evaluate the financial soundness of the HOME investment. Clark County must review and approve the underwriting of each HOME-assisted project to ensure it meets these standards.

Homebuyer Underwriting Policy: This policy describes Clark County's homebuyer underwriting requirements. Homebuyer assistance expands homeownership opportunities for income-eligible buyers. To be eligible for homebuyer assistance, a buyer must meet the criteria below.

Income Limits: Eligible buyers must have adjusted gross annual household income between 40% and 80% AMI. Income limits are determined annually by HUD for each metropolitan area and are adjusted for household size. See https://www.hudexchange.info/manage-a-program/home-income-limits/

Eligible Properties: Eligible properties for purchase include attached or detached single-family homes, townhomes and condominium units. Property purchased must be located in Clark County, or the City of Woodland, outside the city limits of Vancouver.

Property Value Limit: The housing purchase price and after rehab value may not exceed 95% of the area median purchase price per §92.254(a)(2)(iii). See https://www.hudexchange.info/resource/2312/home- maximum-purchase-price-after-rehab-value/

Occupancy Requirements: Eligible buyer(s) must occupy the property within 90 days of closing and maintain the property as their principal place of residence for a 5, 10 or 15 year affordability period.

Affordability Period: The affordability period length is based on the amount of assistance provide to the homebuyer.

\$1,000 to \$14,999	5 year affordability period
\$15,000 to \$40,000	10 year affordability period
\$40,001+	15 year affordability period

Financial Stability: Eligible buyers are expected to be able to maintain financial stability for the affordability period. At time of underwriting, the sub-recipient should evaluate and document: 1) buyers' savings/reserves, 2) monthly household expenses in addition to consumer debt included in back end (total debt) ratio, 3) home utility costs, 4) property maintenance costs, and 5) eventual replacement costs. Subrecipients shall identify the evaluation methods in their Program Guidelines.

Housing Counseling: Potential homebuyers must successfully complete homebuyer education before closing on their new home. A certificate of completion is required and must be signed by a HUD approved Homeownership Certified Counselor or alternative approved course at the County's discretion. Homebuyer education can be billed to HOME as a Project Delivery Cost.

Buyer's Investment: Eligible buyer(s) must contribute a minimum cash investment of 1% of the home's sales price, or an agreed upon level of sweat equity, at or before the closing.

Assets: If a homebuyer has liquid assets in excess of \$20,000, then the buyer will be required to invest the excess into the home purchase before receiving HOME assistance.

Liabilities: The household can have no other liabilities or judgments that might jeopardize ownership of the home.

Credit: The homebuyers or co-borrowers cannot have collections, unpaid accounts, judgments or defaulted federal debt (student loans and old FHA loans) on their credit.

Legal Documents and Written Agreements: HOME assistance will be secured with a recorded Deed of Trust and Promissory Note. The recorded Deed of Trust may be second only to an eligible first mortgage described herein. In addition, there will be a written agreement between Clark County, the homebuyer, and the subrecipient that will be in effect throughout the affordability period.

Amount: The maximum assistance allowable is the minimum necessary for the homebuyer to afford the home long-term. Buyers are expected to take the largest first mortgage they can reasonably and sustainably afford. The Deed of Trust and Promissory Note is the amount equal to the home's sale price plus the buyer's closing costs and prepaid escrows minus the buyer's first mortgage minus the buyer's cash investment (minimum \$500, unless sweat equity is utilized).

Loan Terms: The Homebuyer Assistance Program Deed of Trust and Promissory Note will set forth the terms and conditions.

Repayment: The affordability period will remain in effect for the full affordability period, even if the lien is discharged due to repayment.

Combined LTV: Generally, the HOME assistance will be in second lien position to the first mortgage lender. The combined loan to value may not exceed 105%.

Debt to Income Ratio: When the first mortgage amount is limited by the buyer's income and ratios, acceptable first mortgage front end (housing) ratio is 25 - 35% of buyer's monthly income. When the first mortgage amount is limited by the property (based on lender's LTV), then the front end (housing) ratio can be under 25%. Acceptable first mortgage back end (total debt) ratio is 30 – 45% of the buyer's monthly income.

Exceptions to Ratios: Exception requests shall be submitted and approved by Clark County when the request is to use less than 25% (when the first mortgage amount is determined by the buyer's income and ratios) or more than 35% for the front end ratio and more than 45% for the back end ratio.

Allowable Closing Costs and Fees: The first mortgage lender may charge a maximum 1% (of first mortgage amount) loan origination fee, unless prohibited by HUD. Typical and customary third party closing costs which are in line with industry practice are permitted by the applicable loan program, prepaid/escrow expenses, and the minimum down payment required by the loan program. Delinquent credit obligations and "junk" fees cannot be included in closing costs.

Cash Back at Closing: Cash back to buyer(s) at closing is not permitted.

Hazard Insurance: Hazard insurance coverage for at least the amount of all liens on the property, must be carried and kept current for the full length of the Deed of Trust and Promissory Note term. Clark County must be listed as a loss payee on the hazard insurance policy for the affordability period duration. Any policy terminations and/or lapses resulting in additional costs must be paid by homeowner.

Ownership: Ownership in the property including the real estate after assistance must be individual fee simple ownership with a recorded deed.

Transferability: No transfer of title, either voluntary or involuntary, is permitted without the approval of Clark County.

Refinance/Subordination: Subordination of the HOME loan will only be considered for better rate and/or term with no cash back or debt consolidation and only if approved by Clark County.

First Mortgage Requirements: Eligible buyer(s) must qualify for a responsible first mortgage with interest rates and lending terms that are competitive with those offered to buyers with good credit in the local market.

Clark County can only provide HOME assistance in conjunction with first mortgage loans that meet the following criteria:

1. Loans should be fully amortizing and have a minimum fixed-rate term of at least 20 years. No adjustable rate mortgages (ARMs), balloon loans, or interest only loans for first mortgage loans. In some cases, with prior permission, 15 year mortgages will be considered with documented buyer long-term affordability.

2. Closing costs must be competitive and reasonable. Clark County will allow a 1% point origination fee and up to a maximum $350 underwriting fee in addition to actual third-party closing costs. In accordance with HUD regulations (24 CFR 92.254 (e), when the homebuyer assistance is provided through an organization that is providing the first mortgage, no origination fees or points may be charged to a family. Additional fees paid to, or collected by, the lender or broker such as application, processing, commitment, and similar fees are generally not acceptable. Single-premium credit life insurance is not allowed under any circumstances as a closing cost. HOME funds cannot pay points to buy down the interest rate, however the buyer may pay in addition to their required 1% minimum cash contribution. Fees that are in line with standard industry practice and which are not prohibited by HUD or Clark County Policy, are allowable. If in doubt about the acceptability of any fees, please contact staff for additional information.

3. Loan to Value (LTV) limits should be consistent with conventional lending terms, with a maximum back-end (total debt) ratio of 43% of buyer's monthly income. While there may be individual cases where these requirements may be waived, subrecipients should request specific exceptions in writing prior to making any commitments to prospective buyers who cannot qualify for loans meeting these criteria. Subrecipients will be responsible for representations and/or commitments made to prospective buyers without prior approval.

Note that some lenders charge an application fee which is "refundable" at closing. In effect, the application fee covers the cost of an appraisal so that if the loan never closes the buyer, rather than the bank, has paid for the appraisal.

Provided it is refundable at closing, usually shown as a credit on the Settlement Statement and reflected on the proforma as part of the buyer's "cash at closing," an application fee is acceptable in addition to the otherwise allowable lender closing costs.