

City of Lawrence HOME Investment Partnerships  
Program (HOME) Policies and Procedures  
and HOME Guidance Manual



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*The mission of the City of Lawrence Housing Initiatives Division is to create a community where all enjoy life and feel at home by ending chronic homelessness, ensuring that everyone has a safe and affordable home, and revitalizing neighborhoods for inclusive and equitable community development.*

Revision History

HOME Policies and Procedures and HOME Guidance Manual

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## Introduction

The Home Investment Partnerships Program was established by Title II of the Cranston-Gonzales National Affordable Housing Act signed into law in 1990 (NAHA). Implementing regulations can be found at [Title 24 Code of Regulations, Part 92, as amended](#). The HOME Investment Partnerships Program (HOME) provides formula grants to states and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. It is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. The program was designed to reinforce several important values and principles of community development:

- HOME's flexibility empowers people and communities to design and implement strategies tailored to their own needs and priorities.
- HOME's emphasis on consolidated planning expands and strengthens partnerships among all levels of government and the private sector in the development of affordable housing.
- HOME's technical assistance activities and set-aside for qualified community-based nonprofit housing groups builds the capacity of these partners.
- HOME's requirement that Participating Jurisdictions (PJs) match 25 cents of every dollar in program funds mobilizes community resources in support of affordable housing.

The primary purpose of this manual is to serve as the City of Lawrence's administrative policies and procedures for the HOME Program. This Policies and Procedures Manual addresses the following purposes:

- To provide uniform guidance on the administration of the City's HOME Program. While it conforms to federal rules and guidelines, it focuses primarily on locally crafted procedures.
- To ensure that all stakeholders, including applicants for funding, local jurisdictions, and other interested residents, have access to information about program administration.
- To demonstrate to HUD that the HOME Program is administered in a way that is consistent with federal regulations and guidelines.

The manual is not intended to be a substitute for HOME regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of HOME funds. The City of Lawrence reserves the right to add, remove, or change policies, procedures, or forms in this manual. Notwithstanding any information contained herein, where a conflict of language or omission of requirements occurs, the requirements of the Federal Notice and HUD Guidance on the HOME Program, as may be amended, shall prevail.

## Definitions

**The Act:** HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, [42 U.S.C. 12701](#) *et seq.*

**Action Plan:** The annual Action Plan provides a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.

**Adjusted income:** See [§ 92.203](#) Income determinations.

- (a) The HOME program has income targeting requirements for the HOME program and for HOME projects. Therefore, the participating jurisdiction must determine each family is income eligible by determining the family's annual income.
  - (1) For families who are tenants in HOME-assisted housing and not receiving HOME tenant-based rental assistance, the participating jurisdiction must initially determine annual income using the method in [paragraph \(a\)\(1\)\(i\)](#) of this section. For subsequent income determinations during the period of affordability, the participating jurisdiction may use any one of the following methods in accordance with [§ 92.252\(h\)](#):
    - (i) Examine at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.
    - (ii) Obtain from the family a written statement of the amount of the family's 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.
    - (iii) 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 tenant's family size and state 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.
  - (2) For all other families (i.e., homeowners receiving rehabilitation assistance, homebuyers, and recipients of HOME tenant-based rental assistance), the participating jurisdiction must determine annual income by examining at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.
- (b) When determining whether a family is income eligible, the participating jurisdiction must use one of the following two definitions of "annual income":
  - (1) Annual income as defined at [24 CFR 5.609](#) (except when determining the income of a homeowner for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net Family Assets, as defined in [24 CFR 5.603](#)); or

- (2) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 series for individual Federal annual income tax purposes.
- (c) Although the participating jurisdiction may use either of the definitions of “annual income” permitted in [paragraph \(b\)](#) of this section to calculate adjusted income, it must apply exclusions from income established at [24 CFR 5.611](#). The HOME rents for very low-income families established under [§ 92.252\(b\)\(2\)](#) are based on adjusted income. In addition, the participating jurisdiction may base the amount of tenant-based rental assistance on the adjusted income of the family. The participating jurisdiction may use only one definition for each HOME-assisted program (e.g., down payment assistance program) that it administers and for each rental housing project.
- (d)
  - (1) The participating jurisdiction must calculate the annual income of the family by projecting the prevailing rate of income of the family at the time the participating jurisdiction determines that the family is income eligible. Annual income shall include income from all persons in the household. Income or asset enhancement derived from the HOME-assisted project shall not be considered in calculating annual income.
  - (2) The participating jurisdiction is not required to re-examine the family's income at the time the HOME assistance is provided, unless more than six months has elapsed since the participating jurisdiction determined that the family qualified as income eligible.
  - (3) The participating jurisdiction must follow the requirements in [§ 5.617](#) when making subsequent income determinations of persons with disabilities who are tenants in HOME-assisted rental housing or who receive tenant-based rental assistance.

**Annual income:** See Adjusted Income above and [§ 92.203](#) Income determinations.

**CDBG program:** Community Development Block Grant program under [24 CFR part 570](#).

**Certification:** Shall have the meaning provided in section 104(21) of the Cranston-Gonzalez National Affordable Housing Act, as amended, [42 U.S.C. 12704](#).

**Citizen:** A person living within the city limits of Lawrence. Unless otherwise distinguished by HUD or applicable statute, citizen and resident are used interchangeably.

**Citizen Participation Plan:** A plan prepared by the City of Lawrence in accordance with 24 CFR 570.486 which describes how the City will include and encourage citizen participation, especially by low- and moderate-income citizens. See Appendix A for the City of Lawrence Citizen Participation Plan.

**Code of Federal Regulations (CFR):** The Code of Federal Regulations is the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States.

**Commitment:** Means:

- (1) The participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) that meets the minimum requirements for a written agreement in [§ 92.504\(c\)](#). An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating



jurisdiction (*e.g.*, an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment. Funds for administrative and planning costs of the HOME program are committed based on the amount in the program disbursement and information system for administration and planning. The written agreement must be:

- (i) With a State recipient or a subrecipient to use a specific amount of HOME funds to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance;
- (ii) With a community housing development organization to provide operating expenses;
- (iii) With a community housing development organization to provide project-specific technical assistance and site control loans or project-specific seed money loans, in accordance with [§ 92.301](#);
- (iv) To develop the capacity of community housing development organizations in the jurisdiction, in accordance with [§ 92.300\(b\)](#); or
- (v) To commit to a specific local project, as defined in paragraph (2) of this definition.

(2) Commit to a specific local project means:

- (i) If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date. If the project is owned by the participating jurisdiction or State recipient, the project has been set up in the disbursement and information system established by HUD, and construction can reasonably be expected to start within twelve months of the project set-up date.
- (ii)
  - (A) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is acquiring the property with HOME funds, the participating jurisdiction (or State recipient or subrecipient) and the property owner have executed a legally binding contract for sale of an identifiable property and the property title will be transferred to the participating jurisdiction (or State recipient or subrecipient) within six months of the date of the contract.
  - (B) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is providing HOME funds to a family to acquire single family housing for homeownership or to a purchaser to acquire rental housing, the participating jurisdiction (or State recipient or subrecipient) and the family or purchaser have executed a written agreement under which HOME assistance will be provided for the purchase of the single family housing or rental housing and the property title will be transferred to the family or purchaser within six months of the agreement date.

- (iii) If the project consists of tenant-based rental assistance, the participating jurisdiction (or State recipient, or subrecipient) has entered into a rental assistance contract with the owner or the tenant in accordance with the provisions of [§ 92.209](#).

**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 pertaining to their legal status, organizational structure, and capacity and experience.

**Consolidated Annual Performance and Evaluation Report (CAPER):** An annual report prepared by the City of Lawrence and submitted to HUD in accordance with 24 CFR Part 91, on accomplishments and progress toward Consolidated Plan goals.

**Consolidated Plan:** The Consolidated Plan is a five-year strategic plan prepared by the City of Lawrence in accordance with 24 CFR Part 91, and describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD's Office of Community Planning and Development (CPD) formula programs, including CDBG and HOME. The Consolidated Plan is designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the CPD formula block grant programs.

**Contractor:** A contractor is an entity paid with CDBG or HOME funds in return for a specific service (e.g., construction). Some characteristics of a contractor include providing the goods and services within normal business operations; providing similar goods or services to many different purchasers; normally operating in a competitive environment; providing goods or services that are ancillary to the operation of the Federal program; not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

**Displaced Homemaker:** means an individual who:

- (1) Is an adult;
- (2) Has not worked full-time full year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and
- (3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

**Developer:** Owns the property and develops a project or has a contractual obligation to a property owner to develop a project.

**Entitlement Community:** A city in a metropolitan area with a population of 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000 (excluding the population of metropolitan cities located therein) that receives an annual allocation of grant funds directly from HUD. An Entitlement Community is sometimes referred to by HUD as a grantee or recipient.

**Entitlement Grant:** Federal funds received by an entitlement community in a program year.

**Environmental Review Record (ERR):** An assessment report of the effects a federally funded project will have on the environment and must be completed before any funds are expended on a project. The assessment is completed in HEROS and follows the requirements of 24 CFR Parts 50 and 58.

**Family:** Family refers to the definition of “family” in 24 CFR 5.403. Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
  - a. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - b. An elderly family;
  - c. A near-elderly family;
  - d. A disabled family;
  - e. A displaced family; and
  - f. The remaining member of a tenant family.

**Final Rule:** The Final HOME Rule was published at 24 CFR Part 92 on July 24, 2013 and became effective on August 24, 2013.

**HOME-Assisted Units:** A term that refers to the specific 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 subsidies that may be provided to a project.

**Homeownership:** Means ownership in fee simple title in a 1- to 4-unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.

- (1) The land may be owned in fee simple, or the homeowner may have a 99-year ground lease.
  - (i) For housing located in the insular areas, the ground lease must be 40 years or more.
  - (ii) For housing located on Indian trust or restricted Indian lands or a Community Land Trust, the ground lease must be 50 years or more.
  - (iii) For manufactured housing, the ground lease must be for a period at least equal to the applicable period of affordability in [§ 92.254](#).
- (2) Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not an equivalent form of ownership.
- (3) The ownership interest may be subject only to the restrictions on resale required under [§ 92.254\(a\)](#); mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the participating jurisdiction; or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

- (4) The participating jurisdiction must determine whether or not ownership or membership in a cooperative or mutual housing project constitutes homeownership under State law; however, if the cooperative or mutual housing project receives Low Income Housing Tax Credits, the ownership or membership does not constitute homeownership.

**Household:** Means one or more persons occupying a housing unit.

**Housing:** Includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings. Housing does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

**Housing Initiatives Division (HID):** The mission of the City of Lawrence Housing Initiatives Division is to create a community where all enjoy life and feel at home by ending chronic homelessness, ensuring that everyone has a safe and affordable home, and revitalizing neighborhoods for inclusive and equitable community development. Community development housing programs provides neighborhood support and housing assistance programs through the Community Development Block Grant, HOME Investment Partnership Program, Emergency Solutions Grant, and Neighborhood Stabilization Program.

**Housing counseling:** Independent, expert advice customized to the need of the consumer to address the consumer's housing barriers and to help achieve their housing goals and must include the following processes: Intake; financial and housing affordability analysis; an action plan, except for reverse mortgage counseling; and a reasonable effort to have follow-up communication with the client when possible. The content and process of housing counseling must meet the standards outlined in [24 CFR part 214](#). Homeownership counseling and rental counseling are types of housing counseling.

**HUD:** U.S. Department of Housing and Urban Development. HUD established the regulations and requirements for the grant programs and has oversight responsibilities for the use of CDBG and HOME funds.

**HUD'S Environmental Review Online System (HEROS):** An online system for developing, documenting, and managing ERRs. Access to this system is requested from the HUD's Region Environmental Officer.

**HUD Guidelines:** All tools, guidebooks, trainings, notices, and other guiding materials and correspondence provided by HUD or CPD regarding the laws and regulations of the CDBG and HOME Programs.

**Integrated Disbursement and Information System (IDIS):** An online federal database that provides HUD with current information regarding program activities and funding data. The City of Lawrence uses IDIS to fund and report on its CDBG and HOME Programs. User identifications and passwords are issued by HUD.

**Jurisdiction:** A state or unit of local government.

**Low-income families:** Means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under [24 CFR 5.612](#).

**Metropolitan city:** has the meaning given the term in [24 CFR 570.3](#).

**Neighborhood:** means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

**Participating Jurisdiction (PJ):** The term given to any 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.

**Person with disabilities:** Means a household composed of one or more persons, at least one of whom is an adult, who has a disability.

- (1) A person is considered to have a disability if the person has a physical, mental, or emotional impairment that:
  - (i) Is expected to be of long continued and indefinite duration;
  - (ii) Substantially impedes his or her ability to live independently; and
  - (iii) Is of such a nature that such ability could be improved by more suitable housing conditions.
- (2) A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that:
  - (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - (ii) Is manifested before the person attains age 22;
  - (iii) Is likely to continue indefinitely;
  - (iv) Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and
  - (v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated. Notwithstanding the preceding provisions of this definition, the term "person with disabilities" includes two or more

persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this definition who were living, in a unit assisted with HOME funds, with the deceased member of the household at the time of his or her death.

**Personally Identifiable Information (PII):** Defined in OMB M-07-16 as "...information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc." See Appendix B for the City of Lawrence Personally Identifiable Information Policy and Guidance.

**Program income:** Means gross income received by the participating jurisdiction, State recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions. When program income is generated by housing that is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

- (1) Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;
- (2) Gross income from the use or rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income (*Program income* does not include gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the participating jurisdiction, subrecipient or State recipient);
- (3) Payments of principal and interest on loans made using HOME funds or matching contributions;
- (4) Proceeds from the sale of loans made with HOME funds or matching contributions;
- (5) Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
- (6) Interest earned on program income pending its disposition; and
- (7) Any other interest or return on the investment permitted under [§ 92.205\(b\)](#) of HOME funds or matching contributions.

**Program Year:** The City of Lawrence's program year begins August 1 and ends July 31 of the following year.

**Project:** Means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking under this part. 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:** Means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part (including the property standards under [§ 92.251](#)); the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of [§ 92.502\(d\) of this part](#), project completion occurs upon completion of construction and before occupancy. For tenant-based rental assistance, project completion means the final drawdown has been disbursed for the project.

**Reconstruction:** Means the rebuilding, on the same lot, of 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. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing. Reconstruction is rehabilitation for purposes of this part.

**Section 3:** Section 3 of the Housing and Urban Development Act of 1968 established the Section 3 Program, which requires recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other opportunities for low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

**Single family housing:** Means a one-to four-family residence, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot.

**Single parent:** Means an individual who:

- (1) Is unmarried or legally separated from a spouse; and
- (2) Has one or more minor children of whom the individual has custody or joint custody or is pregnant.

**Single room occupancy (SRO) housing:** Means housing (consisting of single- room dwelling units) that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both) if the project consists of new construction, conversion of nonresidential space, or reconstruction. For acquisition or rehabilitation of an existing residential structure or hotel, neither food preparation nor sanitary facilities are required to be in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. A project's designation as an SRO cannot be inconsistent with the building's zoning and building code classification.

**Subrecipient:** Means a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME programs to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of a housing project is not a subrecipient. The participating jurisdiction's selection of a subrecipient is not subject to the procurement procedures and requirements.

**Subrecipient Agreement:** A written agreement between the City of Lawrence and the subrecipient that is required before CDBG or HOME funds are disbursed.

**Substantial Amendment:** Substantial Amendments will be necessary whenever any of the criteria listed below is proposed. Substantial amendments to any of the Plans will be subject to Citizen Participation Plan requirements. The City will consider all substantial amendments at a public meeting. Notice of all public meetings and information regarding the proposed substantial amendment will be made by publishing a notice prior to the meeting, which will begin the 30-day public comment period. The City will consider any comments or views of residents of the community received in writing, or orally at public hearings, if any, in preparing any substantial amendment. The recommendation regarding a substantial amendment will be forwarded to the City Commission for discussion and consideration of approval at a regularly scheduled meeting. If approved, the substantial amendment shall be attached to the plan, and submitted along with all public comments or views, to the local HUD office. Implementation of the amendment shall not occur before the expiration of the public comment period.

- a. Consolidated Plan and Annual Action Plan Amendment Considerations: A Substantial Amendment will be made to the Consolidated Plan or Annual Action Plan whenever one of the following decisions is made:
  - i. To change the allocation priorities or a change in the method of distribution of funds.
  - ii. To carry out an activity, using funds from any program covered by the Consolidated Plan (including program income), not previously described in the plan.
  - iii. To change the purpose of a previously approved activity. The following categories of purpose are established:
    - A. Acquisition and/or Disposition of Real Property;
    - B. Public Facilities and Improvements;
    - C. Clearance;
    - D. Public Services;
    - E. Rehabilitation;
    - F. Economic Development;
    - G. Homeownership Assistance;
    - H. Planning; and
    - I. Program Administration
  - iv. To change the scope of a previously approved activity. A change in scope will occur when the cost of the activity is reduced or increased by 50% or more, or when the quantity of the activity is reduced or increased by 50% or more.



- v. To change the location of a previously approved activity, when the change of location will cause the targeted group of beneficiaries to lose the benefit.
- vi. To change the beneficiaries of a previously approved activity, when the targeted groups of beneficiaries will no longer benefit, or when the percentage of low- and moderate-income beneficiaries will be less than the minimum required by federal law or regulation.

**Tenant-based rental assistance:** A form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance under this part also includes security deposits for rental of dwelling units.

**Transitional housing:** Means housing that:

- (1) Is designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children; and
- (2) Has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the participating jurisdiction or project owner before occupancy.

**Uniform Physical Condition Standards (UPCS):** Means uniform national standards established by HUD pursuant to [24 CFR 5.703](#) for housing that is decent, safe, sanitary, and in good repair. Standards are established for inspectable items for each of the following areas: site, building exterior, building systems, dwelling units, and common areas.

**Very low-income families:** Means low- income families whose annual incomes do not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under [24 CFR 5.612](#).

## **Chapter 1: General HOME Program Policies & Procedures**

### **Distribution of Funding [92.201(a)]**

The City of Lawrence distributes HOME funds geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in its approved Consolidated Plan. The City of Lawrence only invests HOME funds in eligible projects within its boundaries.

HOME funds are awarded annually, as described in the CDBG/HOME Allocation and Recommendation Procedures attached in Appendix E.

### **Eligible Activities [92.205(a)]**

#### **(a) Eligible activities:**

- (1) HOME funds may be used by a participating jurisdiction to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations. The housing must be permanent or transitional housing. The specific eligible costs for these activities are set forth in [§§ 92.206](#) through [92.209](#). The activities and costs are eligible only if the housing meets the property standards in [§ 92.251](#) upon project completion.
- (2) Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing within the time frames established in paragraph (2) of the definition of "commitment" in [§ 92.2](#).
- (3) Conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding one or more units beyond the existing walls, in which case, the project is new construction for purposes of this part.
- (4) Manufactured housing. HOME funds may be used to purchase and/or rehabilitate a manufactured housing unit or purchase the land upon which a manufactured housing unit is located. Except for existing, owner-occupied manufactured housing that is rehabilitated with HOME funds, the manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

### **Eligible Applicants**

Public agencies, nonprofit organizations, and for-profit entities are all eligible to apply to City of Lawrence for HOME funds. Fund recipients are classified into one of three categories:

- Subrecipients: A subrecipient is a public agency or nonprofit housing service provider selected by the City of Lawrence to administer HOME-assisted projects or programs.
- Developers, Owners, Sponsors: For-profit entities, housing authorities, nonprofit organizations, and CHDOs can receive HOME funds in the roles of developers, owners, and sponsors of eligible activities.
- Community Housing Development Organizations (CHDO): A CHDO is a private nonprofit organization which meets certain specific criteria, including having 1) IRS tax exempt status, 2) a mission/purpose related to housing and service to a low-income community, and 3) a board composition which includes one-third low-income residents or their representatives.

### **Eligible Properties**

- 1-4 Single family unit homes
- Condominiums/Cooperatives
- Acquisition, rehabilitation, or new construction of affordable multi-family rental housing.
- Group Homes
- Transitional Housing & Single Room Occupancy Units
- Permanent Supportive Housing
- May be one or more buildings on a single site, but project must be assisted with HOME funds as a single undertaking.

### **HOME Funds and Public Housing [92.213]**

- General rule.** HOME funds may not be used for public housing units. HOME-assisted housing units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME period of affordability.
- Exception.** HOME funds may be used for the development of public housing units, if the units are developed under section 24 of the 1937 Act (HOPE VI) and no Capital Fund assistance under section 9(d) of the Act is used for the development of the unit. Units developed with both HOME and HOPE VI may receive operating assistance under section 9 of the 1937 Act. Units developed with HOME and HOPE VI funds under this paragraph may subsequently receive Capital Funds for rehabilitation or modernization.
- Using HOME funds in public housing projects.** Consistent with [§ 92.205\(d\)](#), HOME funds may be used for affordable housing units in a project that also contains public housing units, provided that the HOME funds are not used for the public housing units (except as provided in [paragraph \(b\)](#) of this section) and HOME funds are used only for eligible costs in accordance with this part.
- The HOME funds must be used in accordance with the requirements of this part and the project must meet the requirements of this part, including rent requirements in [§ 92.252](#).

### **Prohibited Activities and Fees [92.214]**

- HOME funds may not be used to:

- (1) Provide project reserve accounts, except as provided in [§ 92.206\(d\)\(5\)](#), or operating subsidies;
- (2) Provide tenant-based rental assistance for the special purposes of the existing section 8 program, in accordance with section 212(d) of the Act;
- (3) Provide non-federal matching contributions required under any other Federal program;
- (4) Provide assistance for uses authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds);
- (5) Provide assistance to eligible low-income housing under [24 CFR part 248](#) (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in [24 CFR 248.101](#);
- (6) Provide assistance (other than tenant-based rental assistance, assistance to a homebuyer to acquire housing previously assisted with HOME funds, or assistance to preserve affordability of homeownership housing in accordance with [§ 92.254\(a\)\(9\)](#)) to a project previously assisted with HOME funds during the period of affordability established by the particular jurisdiction in the written agreement under [§ 92.504](#). However, additional HOME funds may be committed to a project for up to one year after project completion (see [§ 92.502](#)), but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under [§ 92.250](#).
- (7) Pay for the acquisition of property owned by the participating jurisdiction, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project; or
- (8) Pay delinquent taxes, fees, or charges on properties to be assisted with HOME funds.
- (9) Pay for any cost that is not eligible under [§§ 92.206](#) through [92.209](#).

(b)

- (1) Participating jurisdictions may not charge (and must prohibit State recipients, subrecipients, and community housing development organizations from charging) servicing, origination, or other fees for the purpose of covering costs of administering the HOME program (e.g., fees on low-income families for construction management or for inspections for compliance with property standards) (see [§ 92.206\(d\)\(6\)](#) and [§ 92.207](#)), except that:
  - (i) Participating jurisdictions and State recipients may charge owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability. The fees must be based upon the average actual cost of performing the monitoring of HOME-assisted rental projects. The basis for determining the amount of for the fee amount must be documented and the fee must be included in the costs of the project as part of the project underwriting;
  - (ii) Participating jurisdictions, subrecipients and State recipients may charge nominal application fees (although these fees are not an eligible HOME cost) to project owners to discourage frivolous applications. The amount of application fees must be appropriate to the type of application and may not create an undue impediment to a low-income family's, subrecipient's, State recipients, or other entity's participation in the participating jurisdiction's program; and

- (iii) Participating jurisdictions, subrecipients and State recipients may charge homebuyers a fee for housing counseling.
- (2) All fees charged under [paragraph \(b\)\(1\)](#) of this section are applicable credits under [2 CFR 200.406](#).
- (3) The participating jurisdiction must prohibit project owners from charging fees that are not customarily charged in rental housing (e.g., laundry room access fees), except that rental project owners may charge:
  - (i) Reasonable application fees to prospective tenants;
  - (ii) Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and
  - (iii) Fees for services such as bus transportation or meals, as long as the services are voluntary, and fees are charged for services provided.

### **Income Targeting: Tenant-Based Rental Assistance and Rental Units [92.216]**

- (a) Not less than 90 percent of:
  - (1) The families receiving such rental assistance are families whose annual incomes do not exceed 60 percent of the median family income for the area, as determined and made available by HUD with adjustments for smaller and larger families (except that HUD may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later; or
  - (2) The dwelling units assisted with such funds are occupied by families having such incomes; and
- (b) The remainder of:
  - (1) The families receiving such rental assistance are households that qualify as low-income families (other than families described in [paragraph \(a\)\(1\)](#) of this section) at the time of occupancy or at the time funds are invested, whichever is later; or
  - (2) The dwelling units assisted with such funds are occupied by such households.

### **Income Targeting: Homeownership [92.217]**

Each participating jurisdiction must invest HOME funds made available during a fiscal year so that with respect to homeownership assistance, 100 percent of these funds are invested in dwelling units that are occupied by households that qualify as low-income families.

### **Match Contribution Requirement [92.218]**

The City is required to match at least 25% of the HOME funds that are spent on projects/programs. "Match" can be provided through cash, assets, services, labor, and other contributions of value to the HOME program. Federal resources (i.e., CDBG funds) are not an eligible source of match.

Match does not have to be provided on a project-by-project basis. The match requirement applies to the expenditure of HOME funds on projects/programs in a given federal fiscal year (October 1 - September 30). This information is monitored and maintained by the City. The City will only commit HOME funds up to the percent that banked match will allow.

Eligible sources of matching funds include:

- Cash from a non-federal source
- Value of waived taxes, fees, or charges
- Value of donated land
- Cost of infrastructure improvements
- 25% to 50% (depending on the type of bonds) of the proceeds of government issued housing bonds provided as a loan to a project
- Value of donated materials, equipment, labor, or professional services
- Sweat equity
- Costs of supportive services for residents of HOME projects

## **Property Standards [92.251]**

### **(a) *New construction projects.***

- (1) ***State and local codes, ordinances, and zoning requirements.*** Housing that is newly constructed with HOME funds must meet all applicable State and local codes, ordinances, and zoning requirements. HOME-assisted new construction projects must meet State or local residential and building codes, as applicable or, in the absence of a State or local building code, the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council. The housing must meet the applicable requirements upon project completion.
- (2) ***HUD requirements.*** All new construction projects must also meet the requirements described in this paragraph:
  - (i) ***Accessibility.*** The housing must meet the accessibility requirements of [24 CFR part 8](#), which implements Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](#)), and Titles II and III of the Americans with Disabilities Act ([42 U.S.C. 12131-12189](#)) implemented at [28 CFR parts 35](#) and [36](#), as applicable. Covered multifamily dwellings, as defined at [24 CFR 100.201](#), must also meet the design and construction requirements at [24 CFR 100.205](#), which implements the Fair Housing Act ([42 U.S.C. 3601-3619](#)).
  - (ii) [Reserved]
  - (iii) ***Disaster mitigation.*** Where relevant, the housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.
  - (iv) ***Written cost estimates, construction contracts and construction documents.*** The participating jurisdiction must ensure the construction

contract(s) and construction documents describe the work to be undertaken in adequate detail so that inspections can be conducted. The participating jurisdiction must review and approve written cost estimates for construction and determining that costs are reasonable.

- (v) **Construction progress inspections.** The participating jurisdiction must conduct progress and final inspections of construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents.
- (vi) **Broadband infrastructure.** For new commitments made after January 19, 2017 for a new construction housing project of a building with more than 4 rental units, the construction must include installation of broadband infrastructure, as this term is defined in [24 CFR 5.100](#), except where the participating jurisdiction determines and, in accordance with [§ 92.508\(a\)\(3\)\(iv\)](#), documents the determination that:
  - (A) The location of the new construction makes installation of broadband infrastructure infeasible; or
  - (B) The cost of installing the infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden.
- (b) **Rehabilitation projects.** All rehabilitation that is performed using HOME funds must meet the requirements of this [paragraph \(b\)](#).
- (1) **Rehabilitation standards.** The participating jurisdiction must establish rehabilitation standards for all HOME- assisted housing rehabilitation activities that set forth the requirements that the housing must meet upon project completion. The participating jurisdiction's description of its standards must be in sufficient detail to determine the required rehabilitation work including methods and materials. The standards may refer to applicable codes or they may establish requirements that exceed the minimum requirements of the codes. The rehabilitation standards must address each of the following:
  - (i) **Health and safety.** The participating jurisdiction's standards must identify life-threatening deficiencies that must be addressed immediately if the housing is occupied.
  - (ii) **Major systems.** Major systems are: structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning. For rental housing, the participating jurisdiction's standards must require the participating jurisdiction to estimate (based on age and condition) the remaining useful life of these systems, upon project completion of each major systems. For multifamily housing projects of 26 units or more, the participating jurisdiction's standards must require the participating jurisdiction to determine the useful life of major systems through a capital needs assessment of the project. For rental housing, if the remaining useful life of one or more major system is less than the applicable period of affordability, the participating jurisdiction's standards must require the participating jurisdiction

to ensure that a replacement reserve is established, and monthly payments are made to the reserve that are adequate to repair or replace the systems as needed. For homeownership housing, the participating jurisdiction's standards must require, upon project completion, each of the major systems to have a remaining useful life for a minimum of 5 years or for such longer period specified by the participating jurisdiction, or the major systems must be rehabilitated or replaced as part of the rehabilitation work.

- (iii) **Lead-based paint.** The participating jurisdiction's standards must require the housing to meet the lead-based paint requirements at [24 CFR part 35](#).
- (iv) **Accessibility.** The participating jurisdiction's standards must require the housing to meet the accessibility requirements in [24 CFR part 8](#), which implements Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](#)), and Titles II and III of the Americans with Disabilities Act ([42 U.S.C. 12131-12189](#)) implemented at [28 CFR parts 35](#) and [36](#), as applicable. Covered multifamily dwellings, as defined at [24 CFR 100.201](#), must also meet the design and construction requirements at [24 CFR 100.205](#), which implements the Fair Housing Act ([42 U.S.C. 3601-3619](#)). Rehabilitation may include improvements that are not required by regulation or statute that permit use by a person with disabilities.
- (v) [Reserved]
- (vi) **Disaster mitigation.** Where relevant, the participating jurisdiction's standards must require the housing to be improved to mitigate the impact of potential disasters (e.g., earthquake, hurricanes, flooding, and wildfires) in accordance with State and local codes, ordinances, and requirements.
- (vii) **State and local codes, ordinances, and zoning requirements.** The participating jurisdiction's standards must require the housing to meet all applicable State and local codes, ordinances, and requirements or, in the absence of a State or local building code, the International Existing Building Code of the International Code Council.
- (viii) **Uniform Physical Condition Standards.** The standards of the participating jurisdiction must be such that, upon completion, the HOME-assisted project and units will be decent, safe, sanitary, and in good repair as described in [24 CFR 5.703](#). HUD will establish the minimum deficiencies that must be corrected under the participating jurisdiction's rehabilitation standards based on inspectable items and inspected areas from HUD-prescribed physical inspection procedures (Uniform Physical Conditions Standards) pursuant to [24 CFR 5.705](#).
- (ix) **Capital Needs Assessments.** For multifamily rental housing projects of 26 or more total units, the participating jurisdiction must determine all work that will be performed in the rehabilitation of the housing and the long-term physical needs of the project through a capital needs assessment of the project.
- (x) **Broadband infrastructure.** For new commitments made after January 19, 2017 for a substantial rehabilitation project of a building with more than 4 rental units,



any substantial rehabilitation, as defined in [24 CFR 5.100](#), must provide for installation of broadband infrastructure, as this term is also defined in [24 CFR 5.100](#), except where the participating jurisdiction determines and, in accordance with [§ 92.508\(a\)\(3\)\(iv\)](#), documents the determination that:

- (A) The location of the substantial rehabilitation makes installation of broadband infrastructure infeasible;
- (B) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- (C) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

(2) **Construction documents and cost estimates.** The participating jurisdiction must ensure that the work to be undertaken will meet the participating jurisdiction's rehabilitation standards. The construction documents (i.e., written scope of work to be performed) must be in sufficient detail to establish the basis for a uniform inspection of the housing to determine compliance with the participating jurisdiction's standards. The participating jurisdiction must review and approve a written cost estimate for rehabilitation after determining that costs are reasonable.

(3) **Frequency of inspections.** The participating jurisdiction must conduct an initial property inspection to identify the deficiencies that must be addressed. The participating jurisdiction must conduct progress and final inspections to determine that work was done in accordance with work write-ups.

(c) **Acquisition of standard housing.**

(1) Existing housing that is acquired with HOME assistance for rental housing, and that was newly constructed or rehabilitated less than 12 months before the date of commitment of HOME funds, must meet the property standards of paragraph (a) or [paragraph \(b\)](#) of this section, as applicable, of this section for new construction and rehabilitation projects. The participating jurisdiction must document this compliance based upon a review of approved building plans and Certificates of Occupancy, and an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance.

(2) All other existing housing that is acquired with HOME assistance for rental housing must meet the rehabilitation property standards requirements of [paragraph \(b\)](#) of this section. The participating jurisdiction must document this compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the property does not meet these standards, HOME funds cannot be used to acquire the property unless it is rehabilitated to meet the standards of [paragraph \(b\)](#) of this section.

(3) Existing housing that is acquired for homeownership (e.g., down payment assistance) must be decent, safe, sanitary, and in good repair. The participating jurisdiction must establish standards to determine that the housing is decent, safe, sanitary, and in

good repair. At minimum, the standards must provide that the housing meets all applicable State and local housing quality standards and code requirements and the housing does not contain the specific deficiencies proscribed by HUD based on the applicable inspectable items and inspected areas in HUD-prescribed physical inspection procedures (Uniform Physical Condition Standards) issued pursuant to [24 CFR 5.705](#). The participating jurisdiction must inspect the housing and document this compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the housing does not meet these standards, the housing must be rehabilitated to meet the standards of this [paragraph \(c\)\(3\)](#) or it cannot be acquired with HOME funds.

(d) ***Occupied housing by tenants receiving HOME tenant-based rental assistance.***

All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the standards in [24 CFR 982.401](#), or the successor requirements as established by HUD.

(e) ***Manufactured housing.***

Construction of all manufactured housing including manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must meet the Manufactured Home Construction and Safety Standards codified at [24 CFR part 3280](#). These standards preempt State and local codes which are not identical to the federal standards for the new construction of manufactured housing. Participating jurisdictions providing HOME funds to assist manufactured housing units must comply with applicable State and local laws or codes. In the absence of such laws or codes, the installation must comply with the manufacturer's written instructions for installation of manufactured housing units. All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must be on a permanent foundation that meets the requirements for foundation systems as set forth in [24 CFR 203.43f\(c\)\(i\)](#). All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability. In HOME-funded rehabilitation of existing manufactured housing the foundation and anchoring must meet all applicable State and local codes, ordinances, and requirements or in the absence of local or state codes, the Model Manufactured Home Installation Standards at [24 CFR part 3285](#). Manufactured housing that is rehabilitated using HOME funds must meet the property standards requirements in [paragraph \(b\)](#) of this section, as applicable. The participating jurisdiction must document this compliance in accordance with inspection procedures that the participating jurisdiction has established pursuant to [§ 92.251](#), as applicable.

(f) ***Ongoing property condition standards: Rental housing.***

(1) Ongoing property standards. The participating jurisdiction must establish property standards for rental housing (including manufactured housing) that apply throughout the affordability period. The standards must ensure that owners maintain the housing as decent, safe, and sanitary housing in good repair. The participating jurisdiction's

description of its property standards must be in sufficient detail to establish the basis for a uniform inspection of HOME rental projects. The participating jurisdiction's ongoing property standards must address each of the following:

- (i) ***Compliance with State and local codes, ordinances, and requirements.*** The participating jurisdiction's standards must require the housing to meet all applicable State and local code requirements and ordinances. In the absence of existing applicable State or local code requirements and ordinances, at a minimum, the participating jurisdiction's ongoing property standards must include all inspectable items and inspectable areas specified by HUD based on the HUD physical inspection procedures (Uniform Physical Condition Standards (UPCS)) prescribed by HUD pursuant to [24 CFR 5.705](#). The participating jurisdiction's property standards are not required to use any scoring, item weight, or level of criticality used in UPCS.
  - (ii) ***Health and safety.*** The participating jurisdiction's standards must require the housing to be free of all health and safety defects. The standards must identify life-threatening deficiencies that the owner must immediately correct and the time frames for addressing these deficiencies.
  - (iii) ***Lead-based paint.*** The participating jurisdiction's standards must require the housing to meet the lead-based paint requirements in [24 CFR part 35](#).
- (2) Projects to which HOME funds were committed before January 24, 2015 must meet all applicable State or local housing quality standards or code requirements, and if there are no such standard or code requirements, the housing must meet the housing quality standards in [24 CFR 982.401](#).
  - (3) ***Inspections.*** The participating jurisdiction must undertake ongoing property inspections, in accordance with [§ 92.504\(d\)](#).
  - (4) ***Corrective and remedial actions.*** The participating jurisdiction must have procedures for ensuring that timely corrective and remedial actions are taken by the project owner to address identified deficiencies.
  - (5) ***Inspection procedures.*** The participating jurisdiction must establish written inspection procedures inspections. The procedures must include detailed inspection checklists, description of how and by whom inspections will be carried out, and procedures for training and certifying qualified inspectors. The procedures must also describe how frequently the property will be inspected, consistent with this section, [§ 92.209](#), and [§ 92.504\(d\)](#).

### **Affirmative Marketing & Minority Outreach [92.351]**

All Subrecipients must undertake outreach efforts in accordance with state and federal fair lending regulations to assure nondiscriminatory treatment, outreach, and access to the Program. Subrecipients must inform potential applicants of the program via flyers, public notices, local media articles, or meetings with Subrecipients staff. The marketing information will include basic eligibility requirements, a general description of the Program, and the appropriate Fair Housing logo.

The Subrecipient's marketing approach must address: (1) how the program will be announced (i.e., which media and other sources); (2) where applications will be taken (i.e., at one site or more); (3) when applications will be accepted (i.e., daily, during normal working hours, or extended hours for a specified period); and (4) the method for taking applications (i.e., in person, by mail).

The Subrecipients must maintain a file that contains all marketing efforts (i.e., copies of newspaper ads, memos of phone calls, copies of letter, etc.) The records, which help assess the results of these actions, must be available for inspection by the City.

The Subrecipients also has an obligation to assure that information about the program reaches the broadest possible range of potentially qualified applicants. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible without regard to race, color, national origin, sex, religion, familial status, or disability.

To further fair housing objectives, the Subrecipients should identify those households that have been determined to be "least likely to apply," and determine what special outreach activities, including placing advertising in minority-specific media, will ensure that this population is fully informed about the program. The Subrecipients should work with the City to assure that all marketing initiatives and materials adequately reflect the available assistance types.

### **Conflict of Interest [92.356]**

- (a) **Applicability.** In the procurement of property and services by participating jurisdictions, State recipients, and subrecipients, the conflict of interest provisions in [2 CFR 200.317](#) and [2 CFR 200.318](#), apply. In all cases not governed by [2 CFR 200.317](#) and [2 CFR 200.318](#), the provisions of this section apply.
- (b) **Conflicts prohibited.** No persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.
- (c) **Persons covered.** The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the participating jurisdiction, State recipient, or subrecipient which are receiving HOME funds.
- (d) **Exceptions.** Threshold requirements. Upon the written request of the participating jurisdiction, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of the participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
  - (2) An opinion of the participating jurisdiction's or State recipient's attorney that the interest for which the exception is sought would not violate State or local law.
- (e) ***Factors to be considered for exceptions.*** In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements of paragraph (d) of this section, HUD will consider the cumulative effect of the following factors, where applicable:
- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
  - (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
  - (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
  - (5) Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
  - (6) Any other relevant considerations.
- (f) ***Owners and developers.***
- (1) No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor) whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer, or sponsor) may occupy a HOME-assisted affordable housing unit in a project during the required period of affordability specified in [§ 92.252\(e\)](#) or [§ 92.254\(a\)\(4\)](#). This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.
  - (2) ***Exceptions.*** Upon written request of a housing owner or developer, the participating jurisdiction (or State recipient, if authorized by the State participating jurisdiction) may grant an exception to the provisions of paragraph (f)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the owner's or

developer's HOME-assisted project. In determining whether to grant a requested exception, the participating jurisdiction shall consider the following factors:

- (i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted housing in question;
- (iii) Whether the tenant protection requirements of [§ 92.253](#) are being observed;
- (iv) Whether the affirmative marketing requirements of [§ 92.351](#) are being observed and followed; and
- (v) Any other factor relevant to the participating jurisdiction's determination, including the timing of the requested exception.

### **Consultant Activities [92.358]**

No person providing consultant services in an employer-employee type relationship shall receive more than a reasonable rate of compensation for personal services paid with HOME funds. In no event shall such compensation exceed the limits in effect under the provisions of any applicable statute. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

### **Non-Discrimination**

No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity funded in whole or in part with HOME funds on the basis of religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status, physical or mental disability, gender identity or expression of a person, national origin, ancestry, military status, or other arbitrary cause.

### **Minority, Women & Disadvantaged Business Enterprises**

The City of Lawrence encourages participation by business enterprises owned by minorities and women, and disadvantaged business enterprises (M/W/D-BE). Contracts for the procurement of services should be awarded to the maximum extent possible to M/W/D-BE. 2 CFR Part 200 of the Uniform Administrative Requirements outlines recommended steps for achieving participation goals.

### **Procurement Policies and Procedures**

Procurement is the process through which an agency obtains goods and services. The federal government has established a set of procurement rules that apply to ESG, CDBG and HOME-funded projects. These rules are in place to ensure that federal dollars are spent fairly and encourage competition for the best level of service and price.

The City of Lawrence and its subrecipients will follow all applicable federal and local procurement rules to assure that all purchases are handled fairly and in a manner that encourages full and open competition.

## Applicable Laws and Regulations

Both the City of Lawrence and its subrecipients must follow federal procurement standards and local policies when purchasing services, supplies, materials, or equipment, with the exception of currently certified CHDOs undertaking CHDO-eligible projects (as stated in HUD CPD Notice 97-11).

## Federal Procurement Standards

The applicable federal regulations are found in 200.318-200.326 of 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

- **Procurement Procedures:** The City and its subrecipients will use their own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in 2 CFR 200.
- **Oversight:** The City and its subrecipients will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- **Conflict of Interest:** The City of Lawrence and its subrecipients will maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
- **Acquisition of Unnecessary or Duplicative Items:** Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- **Shared Services:** To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the City and its subrecipients are encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- **Excess and Surplus Property:** The City and its subrecipients are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- **Value Engineering:** The City and its subrecipients are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and

creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

- **Awarding Contracts:** The City and its subrecipients will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The City and its subrecipients will take the required steps to determine that the contractor was not debarred, suspended, or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities.
- **Records:** The City and its subrecipients will maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- **Time-and-Materials Type Contract:** The City and its subrecipients may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the City and its subrecipients awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- **Settlement of Issues:** The City and its subrecipients will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the City and its subrecipients of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the City unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.
- **Competition:** All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
  1. Placing unreasonable requirements on firms in order for them to qualify to do business;



2. Requiring unnecessary experience and excessive bonding;
  3. Noncompetitive pricing practices between firms or between affiliated companies;
  4. Noncompetitive contracts to consultants that are on retainer contracts;
  5. Organizational conflicts of interest;
  6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
  7. Any arbitrary action in the procurement process.
- **Geographical Preferences:** The City and its subrecipients will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
  - **Solicitations:** The City and its subrecipients will have written procedures for procurement transactions. These procedures must ensure that all solicitations:
    1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
    2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
  - **Prequalified Lists:** The City and its subrecipients will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City and its subrecipients must not preclude potential bidders from qualifying during the solicitation period.

- **Methods of Procurement:** The City and its subrecipients must use one of the following methods of procurement:

1. Procurement by micro-purchase

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. To the extent practicable, the City and its subrecipients must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the City and its subrecipients consider the price to be reasonable. The micro-purchase threshold is currently \$10,000, as established by a June 20, 2018 Office of Management Budget memorandum ([OMB M-18-18](#)).

2. Procurement by small purchase procedures

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. The simplified acquisition threshold is currently \$250,000, as established by a June 20, 2018 Office of Management Budget memorandum ([OMB M-18-18](#)).

3. Sealed Bids

Bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction. In order for sealed bidding to be feasible, the following conditions should be present:

- a. A complete, adequate, and realistic specification or purchase description is available;
- b. Two or more responsible bidders are willing and able to compete effectively for the business; and
- c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- a. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- b. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- c. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

- d. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- e. Any or all bids may be rejected if there is a sound documented reason.

4. Competitive Proposals

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- b. Proposals must be solicited from an adequate number of qualified sources;
- c. The City must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- d. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- e. The City may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

5. Noncompetitive Proposals

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City; or
- d. After solicitation of a number of sources, competition is determined inadequate.

- **Contract Provisions for Contracts under Federal Awards:** In addition to other provisions required by the Federal agency or City, all contracts made by the City under the Federal award must contain provisions covering the following, as applicable.
  1. Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
  2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the City including the manner by which it will be affected and the basis for settlement.
  3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
  4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The City must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The City must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise

entitled. The City must report all suspected or reported violations to the Federal awarding agency.

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the City in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties

declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

### **Local Purchasing Policy**

The City of Lawrence has a [Purchasing Policy](#) as prepared by the Purchasing Department. This policy applies to all City purchases unless Federal or State grant requirements supersede.

- **Ethics in City Purchasing:** [Resolution 7269](#) establishes a Code of Ethics for all City employees. This Code of Ethics reflects the City's values and is further defined in the Employee Handbook. General Employee Conduct, Section VI of the Employee Handbook applies, including disciplinary action.

City employees, elected, appointed officials, and City employees are bound by the City's values, Code of Ethics, and Personnel Policies/Procedures. An employee who has, or obtains any benefit from, any City contract with a business in which the employee has a financial interest shall report such benefit to the Finance Director; provided, however, these Sections shall not apply to a contract with a business where the employee's interest in the business has been placed in an independent trust. Any employee who knows or should have known of such benefit and fails to report such benefit to the Finance Director, is in breach of ethical standards. Procurement with State and/or Federal grants or funds is subject to the respective entity's rules regarding conduct, conflicts of interest, improper business practices or related standards.

City personnel at all levels deal with vendors, contractors, suppliers as they transact business on behalf of the City. It is vital that clear communication between the supplier and City with the objective of understanding, agreeing, and codifying, when possible, the interactions between the vendor and the City. City personnel should consider more than just how much money is spent with a vendor, rather they should have a clear understanding of which suppliers are the most strategically important to the organization and which are less important.

Vendors shall not discriminate in the performance of the contract on account of actual or perceived race, ethnicity, color, religion, national origin, gender, disability, age, military status, sexual orientation, gender identity, gender expression, or marital or familial status. This requirement applies to all of the vendor's subcontractors.

Vendor Ethics: Any efforts to influence any City employees to breach the standards of ethical conduct set forth in this policy is also a breach of ethical standards. Vendors found to be conspiring with employees in this manner, may be debarred from future purchasing with the City.

### **Environmental Review [92.352]**

Prior to entering into a contract with a Subrecipients, a federal Environmental Review will be completed in compliance with the National Environmental Policy Act (NEPA) and other related federal and state environmental laws. No choice-limiting activities may be undertaken by the applicant for HOME funds during the time between the submission of the application and the completion of the Environmental Review (receipt of Authority to Use Grant Funds from HUD).

The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58. The applicability of the provisions of 24 CFR part 50 or part 58 is based on the HOME project (new construction, rehabilitation, acquisition) or activity (tenant-based rental assistance) as a whole, not on the type of the cost paid with HOME funds.

The City of Lawrence as the Responsible Entity assumes responsibility for environmental review, decision making, and action for each activity that it carries out with HOME funds, in accordance with the requirements imposed on a recipient under 24 CFR part 58. No funds may be committed to a HOME activity or project before the completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR part 58.

The City of Lawrence as the Responsible Entity, per the National Environmental Policy Act (NEPA) (40 CFR 1500-1508) and Part 58, is required to ensure that environmental information is available before decisions are made and before actions are taken. The City of Lawrence may not commit or expend resources, either public or private funds, or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair, or construction pertaining to a specific site until environmental clearance has been achieved. The City of Lawrence must avoid any and all actions that would preclude the selection of alternative choices or could have an adverse impact before a final decision based upon an understanding of the environmental review is made. Part 58 also prohibits the commitment and expenditure of HOME and non-HOME funds by the project owner/participants until the environmental review process has been completed if such actions could have adverse impacts or limit choices of reasonable alternatives.

### **Recordkeeping & Retention of Records [92.508]**

(a) **General.** Each participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of this part. At a minimum, the following records are needed:

(1) ***Records concerning designation as a participating jurisdiction.***

- (i) For a consortium, the consortium agreement among the participating member units of general local government as required by [§ 92.101](#).
- (ii) For a unit of general local government receiving a formula allocation of less than \$750,000 (or less than \$500,000 in fiscal years in which Congress appropriates less than \$1.5 billion for this part), records demonstrating that funds have been

made available (either by the State or the unit of general local government, or both) equal to or greater than the difference between its formula allocation and \$750,000 (or \$500,000 in fiscal years in which Congress appropriates less than \$1.5 billion) as required by [§ 92.102\(b\)](#).

(2) **Program records.**

- (i) Records of the efforts to maximize participation by the private sector as required by [§ 92.200](#).
- (ii) The forms of HOME assistance used in the program, including any forms of investment described in the Consolidated Plan under [24 CFR part 91](#) that are not identified in [§ 92.205\(b\)](#), and which are specifically approved by HUD.
- (iii) The underwriting and subsidy layering guidelines adopted in accordance with [§ 92.250](#) that support the participating jurisdiction's Consolidated Plan certification.
- (iv) If existing debt is refinanced for multi-family rehabilitation projects, the refinancing guidelines established in accordance with [§ 92.206\(b\)](#), described in the Consolidated Plan.
- (v) If HOME funds are used for tenant-based rental assistance, records supporting the participating jurisdiction's Consolidated Plan certification in accordance with [§ 92.209\(b\)](#), including documentation of the local market conditions that led to the choice of this option; written selection policies and criteria; supporting documentation for preferences for specific categories of individuals with disabilities; and records supporting the rent standard and minimum tenant contribution established in accordance with [§ 92.209\(h\)](#).
- (vi) If HOME funds are used for tenant-based rental assistance or rental housing, records evidencing that not less than 90 percent of the families receiving such rental assistance meet the income requirements of [§ 92.216](#).
- (vii) If HOME funds are used for homeownership housing, the procedures used for establishing 95 percent of the median purchase price for the area in accordance with [§ 92.254\(a\)\(2\)](#), in the Consolidated Plan.
- (viii) If HOME funds are used for acquisition of housing for homeownership, the resale or recapture guidelines established in accordance with [§ 92.254\(a\)\(5\)](#), as set forth in the Consolidated Plan.
- (ix) Records demonstrating compliance with the matching requirements of [§ 92.218](#) through [§ 92.222](#) including a running log and project records documenting the type and amount of match contributions by project.
- (x) Records documenting compliance with the 24 month commitment deadline of [§ 92.500\(d\)](#).
- (xi) Records demonstrating compliance with the fifteen percent CHDO set-aside requirement of [§ 92.300\(a\)](#).
- (xii) Records documenting compliance with the ten percent limitation on administrative and planning costs in accordance with [§ 92.207](#).



(3) **Project records.**

- (i) A full description of each project assisted with HOME funds, including the location (address of each unit), form of HOME assistance, and the units or tenants assisted with HOME funds.
- (ii) The source and application of funds for each project, including supporting documentation in accordance with [2 CFR 200.302](#); and records to document the eligibility and permissibility of the project costs, including the documentation of the actual HOME-eligible development costs of each HOME-assisted unit (through allocation of costs, if permissible under [§ 92.205\(d\)](#)) where HOME funds are used to assist less than all of the units in a multi-unit project.
- (iii) Records demonstrating that each rental housing or homeownership project meets the minimum per-unit subsidy amount of [§ 92.205\(c\)](#), the maximum per-unit subsidy amount of [§ 92.250\(a\)](#), and the subsidy layering and underwriting evaluation adopted in accordance with [§ 92.250\(b\)](#).
- (iv) Records (e.g., inspection reports) demonstrating that each project meets the property standards of [§ 92.251](#) at project completion. In addition, during the period of affordability, records for rental projects demonstrating compliance with the property standards and financial reviews and actions pursuant to [§ 92.504\(d\)](#).
- (v) Records demonstrating that each family is income eligible in accordance with [§ 92.203](#).
- (vi) Records demonstrating that each tenant-based rental assistance project meets the written tenant selection policies and criteria of [§ 92.209\(c\)](#), including any targeting requirements, the rent reasonableness requirements of [§ 92.209\(f\)](#), the maximum subsidy provisions of [§ 92.209\(h\)](#), property inspection reports, and calculation of the HOME subsidy.
- (vii) Records demonstrating that each rental housing project meets the affordability and income targeting requirements of [§ 92.252](#) for the required period. Records must be kept for each family assisted.
- (viii) Records demonstrating that each multifamily rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with [§ 92.206\(b\)](#).
- (ix) Records demonstrating that each lease for a tenant receiving tenant-based rental assistance and for an assisted rental housing unit complies with the tenant and participant protections of [§ 92.253](#). Records must be kept for each family.
- (x) Records demonstrating that the purchase price or estimated value after rehabilitation for each homeownership housing project does not exceed 95 percent of the median purchase price for the area in accordance with [§ 92.254\(a\)\(2\)](#). The records must demonstrate how the estimated value was determined.
- (xi) Records demonstrating that each homeownership project meets the affordability requirements of [§ 92.254](#) for the required period.
- (xii) Records demonstrating that any pre-award costs charged to the HOME allocation meet the requirements of [§ 92.212](#).

- (xiii) Records demonstrating that a site and neighborhood standards review was conducted for each project which includes new construction of rental housing assisted under this part to determine that the site meets the requirements of [24 CFR 983.57\(e\)\(2\)](#) and [\(e\)\(3\)](#), in accordance with [§ 92.202](#).
  - (xiv) Records (written agreements) demonstrating compliance with the written agreement requirements in [§ 92.504](#).
- (4) ***Community Housing Development Organizations (CHDOs) Records.***
- (i) Written agreements committing HOME funds to CHDO projects in accordance with [§ 92.300\(a\)](#).
  - (ii) Records setting forth the efforts made to identify and encourage CHDOs, as required by [§ 92.300\(b\)](#).
  - (iii) The name and qualifications of each CHDO and amount of HOME CHDO set-aside funds committed.
  - (iv) Records demonstrating that each CHDO complies with the written agreements required by [§ 92.504](#).
  - (v) Records concerning the use of CHDO set-aside funds, including funds used to develop CHDO capacity pursuant to [§ 92.300\(b\)](#).
  - (vi) Records concerning the use of funds for CHDO operating expenses and demonstrating compliance with the requirements of [§§ 92.208](#), [92.300\(e\)](#) and [92.300\(f\)](#).
  - (vii) Records concerning the tenant participation plan required by [§ 92.303](#).
  - (viii) Records concerning project-specific assistance to CHDOs pursuant to [§ 92.301](#), including the impediments to repayment, if repayment is waived.
- (5) ***Financial records.***
- (i) Records, in accordance with [2 CFR 200.302](#), identifying the source and application of funds for each fiscal year, including the formula allocation, any reallocation (identified by federal fiscal year appropriation), and any State or local funds provided under [§ 92.102\(b\)](#).
  - (ii) Records concerning the HOME Investment Trust Fund Treasury account and local account required to be established and maintained by [§ 92.500](#), including deposits, disbursements, balances, supporting documentation and any other information required by the program disbursement and information system established by HUD.
  - (iii) Records identifying the source and application of program income, repayments and recaptured funds.
  - (iv) Records demonstrating adequate budget control and other records required by [2 CFR 200.302](#), including evidence of periodic account reconciliations.

(6) ***Program administration records.***

- (i) Written policies, procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring entities consistent with this section, to ensure that the requirements of this part are met.
- (ii) Records demonstrating compliance with the written agreements required by [§ 92.504](#).
- (iii) Records demonstrating compliance with the applicable uniform administrative requirements required by [§ 92.505](#).
- (iv) Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.

(7) ***Records concerning other Federal requirements -***

(i) ***Equal opportunity and fair housing records.***

- (A) Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME funds.
- (B) Documentation of the actions the participating jurisdiction has taken to affirmatively further fair housing pursuant to [§§ 5.151, 5.152, 91.225, 91.325, and 91.425 of this title](#).
- (ii) Affirmative marketing and MBE/WBE records.
  - (A) Records demonstrating compliance with the affirmative marketing procedures and requirements of [§ 92.351](#).
  - (B) Documentation and data on the steps taken to implement the jurisdiction's outreach programs to minority-owned (MBE) and female-owned (WBE) businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with HOME funds; the amount of the contract or subcontract, and documentation of participating jurisdiction's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services.
  - (iii) Records demonstrating compliance with the environmental review requirements of [§ 92.352](#) and [24 CFR part 58](#), including flood insurance requirements.
  - (iv) Records demonstrating compliance with the requirements of [§ 92.353](#) regarding displacement, relocation, and real property acquisition, including project occupancy lists identifying the name and address of all persons occupying the real property on the date described in [§ 92.353\(c\)\(2\)\(i\)\(A\)](#), moving into the property on or after the date described in [§ 92.353\(c\)\(2\)\(i\)\(A\)](#), and occupying the property upon completion of the project.

- (v) Records demonstrating compliance with the labor requirements of [§ 92.354](#), including contract provisions and payroll records.
  - (vi) Records demonstrating compliance with the lead-based paint requirements of part 35, subparts A, B, J, K, M and R of this title.
  - (vii) Records supporting exceptions to the conflict of interest prohibition pursuant to [§ 92.356](#).
  - (viii) Records demonstrating compliance with debarment and suspension requirements in [2 CFR part 2424](#).
  - (ix) Records concerning intergovernmental review, as required by [§ 92.357](#).
  - (x) Records of emergency transfers requested under [24 CFR 5.2005\(e\)](#) and [92.359](#) pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of those requests.
  - (xi) Documentation of actions undertaken to meet the requirements of [24 CFR part 75](#) which implements section 3 of the Housing Development Act of 1968, as amended ([12 U.S.C. 1701u](#)).
- (b) **States with State Recipients.** A State that distributes HOME funds to State recipients must require State recipients to keep the records required by [paragraphs \(a\)\(2\), \(a\)\(3\), \(a\)\(5\), \(a\)\(6\)](#) and [\(a\)\(7\)](#) of this section, and such other records as the State determines to be necessary to enable the State to carry out its responsibilities under this part. The State need not duplicate the records kept by the State recipients. The State must keep records concerning its review of State recipients required under [§ 92.201\(b\)\(3\)](#).
- (c) **Period of record retention.** All records pertaining to each fiscal year of HOME funds must be retained for the most recent five year period, except as provided below.
- (1) For rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five year period, until five years after the affordability period terminates.
  - (2) For homeownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.
  - (3) For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates.
  - (4) Written agreements must be retained for five years after the agreement terminates.
  - (5) Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with [§ 92.353](#).
  - (6) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

(d) ***Access to records.***

- (1) The participating jurisdiction must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.
- (2) HUD and the Comptroller General of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the participating jurisdiction, state recipients, and subrecipients, in order to make audits, examinations, excerpts, and transcripts.

**Forms of Assistance [92.205(b)]**

- (1) A participating jurisdiction may invest HOME funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with the purposes of this part and specifically approves in writing. Each participating jurisdiction has the right to establish the terms of assistance, subject to the requirements of this part.
- (2) A participating jurisdiction may invest HOME funds to guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The HOME funds may be used to guarantee the timely payment of principal and interest or payment of the outstanding principal and interest upon foreclosure of the loan. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans, but under no circumstances may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed; except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not.

**Minimum Amount of Assistance [92.205(c)]**

The minimum amount of HOME funds that must be invested in a project involving rental housing or homeownership is \$1,000 times the number of HOME-assisted units in the project.

**Multi-Unit Projects [92.205(d)]**

- (1) Only the actual HOME eligible development costs of the assisted units may be charged to the HOME program. If the assisted and nonassisted units are not comparable, the actual costs may be determined based on a method of cost allocation. If the assisted and non-assisted units are comparable in terms of size, features, and number of bedrooms, the actual cost of the HOME- assisted units can be determined by prorating the total HOME eligible development costs of the project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME-assisted units in the project.
- (2) After project completion, the number of units designated as HOME- assisted may be reduced only in accordance with [§ 92.210](#), except that in a project consisting of all HOME-assisted units, one unit may be subsequently converted to an on-site manager's unit if the participating jurisdiction determines that the conversion will contribute to the stability or

effectiveness of the housing and that, notwithstanding the loss of one HOME-assisted unit, the costs charged to the HOME program do not exceed the actual costs of the HOME-assisted units and do not exceed the subsidy limit in [§ 92.250\(b\)](#).

### **Terminated Projects [92.205(e)]**

A HOME assisted project that is terminated before completion, either voluntarily or involuntarily, constitutes an ineligible activity, and the participating jurisdiction must repay any HOME funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with [§ 92.503\(b\)](#) (except for project-specific assistance to community housing development organizations as provided in [§ 92.301\(a\)\(3\)](#) and [\(b\)\(3\)](#)).

- (1) A project that does not meet the requirements for affordable housing must be terminated and the participating jurisdiction must repay all HOME funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with [§ 92.503\(b\)](#).
- (2) If a participating jurisdiction does not complete a project within 4 years of the date of commitment of funds, the project is considered to be terminated and the participating jurisdiction must repay all funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with [§ 92.503\(b\)](#). The participating jurisdiction may request a one-year extension of this deadline in writing, by submitting information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project for HUD's review and approval.

### **Participating Jurisdiction Responsibilities; Written Agreements; On-Site Inspection [92.504]**

- (a) **Responsibilities.** The participating jurisdiction is responsible for managing the day-to-day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the participating jurisdiction of this responsibility. The performance and compliance of each contractor, State recipient, and subrecipient must be reviewed at least annually. The participating jurisdiction must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring entities consistent with this section, to ensure that the requirements of this part are met.
- (b) **Executing a written agreement.** Before disbursing any HOME funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a State recipient, subrecipient, or contractor which is administering all or a part of the HOME program on behalf of the participating jurisdiction, must also enter into a written agreement with that entity. The written agreement must ensure compliance with the requirements of this part.
- (c) **Provisions in written agreements.** The contents of the agreement may vary depending upon the role the entity is asked to assume, or the type of project undertaken. This section

details basic requirements by role and the minimum provisions that must be included in a written agreement.

(1) State Recipient

(2) Subrecipient: A subrecipient is a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME programs to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance. The agreement must set forth and require the subrecipient to follow the participating jurisdiction's requirements, including requirements for income determinations, underwriting and subsidy layering guidelines, rehabilitation standards, refinancing guidelines, homebuyer program policies, and affordability requirements. The agreement between the participating jurisdiction and the subrecipient must include:

- (i) **Use of the HOME funds.** The agreement must describe the amount and use of the HOME funds for one or more programs, including the type and number of housing projects to be funded (e.g., the number of single-family homeowners loans to be made or the number of homebuyers to receive down payment assistance), tasks to be performed, a schedule for completing the tasks (including a schedule for committing funds to projects in accordance with deadlines established by this part), 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 the participating jurisdiction to effectively monitor performance under the agreement.
- (ii) **Program income.** The agreement must state if program income is to be remitted to the participating jurisdiction or to be retained by the subrecipient for additional eligible activities.
- (iii) **Uniform administrative requirements.** The agreement must require the subrecipient to comply with applicable uniform administrative requirements, as described in [§ 92.505](#).
- (iv) **Other program requirements.** The agreement must require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in [subpart H of this part](#), except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under [§ 92.352](#) and the intergovernmental review process in [§ 92.357](#) does not apply. The agreement must set forth the requirements the subrecipient must follow to enable the participating jurisdiction to carry environmental review responsibilities before HOME funds are committed to a project. If HOME funds are being provided to develop rental housing or provide tenant-based rental assistance, the agreement must set forth all obligations the participating jurisdiction imposes on the subrecipient in order to meet the VAWA requirements under [§ 92.359](#), including notice obligations and obligations under the emergency transfer plan.
- (v) **Affirmative marketing.** The agreement must specify the subrecipient's affirmative marketing responsibilities in accordance with [§ 92.351](#).

- (vi) **Requests for disbursement of funds.** The agreement must specify that the subrecipient may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the participating jurisdiction.
  - (vii) **Reversion of assets.** The agreement must specify that upon expiration of the agreement, the subrecipient must transfer to the participating jurisdiction any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.
  - (viii) **Records and reports.** The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.
  - (ix) **Enforcement of the agreement.** The agreement must specify remedies for breach of the provisions of the agreement. The agreement must specify that, in accordance with [2 CFR 200.338](#), suspension or termination may occur if the subrecipient materially fails to comply with any term of the agreement. The participating jurisdiction may permit the agreement to be terminated in whole or in part in accordance with [2 CFR 200.339](#).
  - (x) **Written agreement.** Before the subrecipient provides HOME funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, homeowners, homebuyers, tenants (or landlords) receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement that meets the requirements of this section. The agreement must state if repayment of HOME funds or recaptured HOME funds must be remitted to the participating jurisdiction or retained by the subrecipient for additional eligible activities.
  - (xi) **Fees.** The agreement must prohibit the subrecipient and any community housing development organizations from charging servicing, origination, or other fees for the costs of administering the HOME program, except as permitted by [§ 92.214\(b\)\(1\)](#).
- (3) **For-profit or nonprofit housing owner, sponsor, or developer (other than single-family owner-occupant).** The participating jurisdiction may preliminarily award HOME funds for a proposed project, contingent on conditions such as obtaining other financing for the project. This preliminary award is not a commitment to a project. The written agreement committing the HOME funds to the project must meet the requirements of “commit to a specific local project” in the definition of “commitment” in [§ 92.2](#) and contain the following:
- (i) **Use of the HOME funds.** The agreement between the participating jurisdiction and a for-profit or nonprofit housing owner, sponsor, or developer must describe the address of the project or the legal description of the property if a street address has not been assigned to the property, the use of the HOME funds and other funds for the project, including the tasks to be performed for the project, a schedule for



completing the tasks and the project, and a complete budget. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement to achieve project completion and compliance with the HOME requirements.

- (ii) **Affordability.** The agreement must require housing assisted with HOME funds to meet the affordability requirements of [§ 92.252](#) or [§ 92.254](#), as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. The affordability requirements in [§ 92.252](#) must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD under which the participating jurisdiction has the right to require specific performance.
  - (A) If the owner or developer is undertaking rental projects, the agreement must establish the initial rents, the procedures for rent increases pursuant to [§ 92.252\(f\)\(2\)](#), the number of HOME units, the size of the HOME units, and the designation of the HOME units as fixed or floating, and include the requirement that the owner or developer provide the address (e.g., street address and apartment number) of each HOME unit no later than the time of initial occupancy.
  - (B) If the owner or developer is undertaking a homeownership project for sale to homebuyers in accordance with [§ 92.254\(a\)](#), the agreement must set forth the resale or recapture requirements that must be imposed on the housing, the sales price or the basis upon which the sales price will be determined, and the disposition of the sales proceeds. Recaptured funds must be returned to the participating jurisdiction.
- (iii) **Project requirements.** The agreement must require compliance with project requirements in [subpart F of this part](#), as applicable in accordance with the type of project assisted. The agreement may permit the owner to limit eligibility or give a preference to a particular segment of the population in accordance with [§ 92.253\(d\)](#).
- (iv) **Property standards.** The agreement must require the housing to meet the property standards in [§ 92.251](#), upon project completion. The agreement must also require owners of rental housing assisted with HOME funds to maintain the housing compliance with [§ 92.251](#) for the duration of the affordability period.
- (v) **Other program requirements.** The agreement must require the owner, developer or sponsor to carry out each project in compliance with the following requirements of [subpart H of this part](#):
  - (A) The agreement must specify the owner or developer's affirmative marketing responsibilities as enumerated by the participating jurisdiction in accordance with [§ 92.351](#).
  - (B) The federal requirements and nondiscrimination established in [§ 92.350](#).

- (C) Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with [§ 92.353](#).
  - (D) The labor requirements in [§ 92.354](#).
  - (E) The conflict of interest provisions prescribed in [§ 92.356\(f\)](#).
  - (F) If HOME funds are being provided to develop rental housing, the agreement must set forth all obligations the participating jurisdiction imposes on the owner in order to meet the VAWA requirements under [§ 92.359](#), including the owner's notice obligations and owner obligations under the emergency transfer plan.
- (vi) **Records and reports:** The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements. The owner of rental housing must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with [§ 92.252](#). If the rental housing project has floating HOME units, the owner must provide the participating jurisdiction with information regarding unit substitution and filling vacancies so that the project remains in compliance with HOME rental occupancy requirements. The agreement must specify the reporting requirements (including copies of financial statements) to enable the participating jurisdiction to determine the financial condition (and continued financial viability) of the rental project.
- (vii) **Enforcement of the agreement:** The agreement must provide for a means of enforcement of the affordable housing requirements by the participating jurisdiction and the intended beneficiaries. This means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements in [§ 92.252](#) must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD under which the participating jurisdiction has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.
- (viii) **Requests for disbursement of funds.** The agreement must specify that the developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.
- (ix) **Duration of the agreement.** The agreement must specify the duration of the agreement. If the housing assisted under this agreement is rental housing, the agreement must be in effect through the affordability period required by the participating jurisdiction under [§ 92.252](#). If the housing assisted under this agreement is homeownership housing, the agreement must be in effect at least until completion of the project and ownership by the low-income family.

- (x) **Community housing development organization provisions.** If the nonprofit owner or developer is a community housing development organization and is using set-aside funds under [§ 92.300](#), the agreement must include the appropriate provisions under [§§ 92.300, 92.301, and 92.303](#). If the community development organization is receiving HOME funds as a developer of homeownership housing, the agreement must specify if the organization may retain proceeds from the sale of the housing and whether the proceeds are to be used for HOME-eligible or other housing activities to benefit low-income families. Recaptured funds are subject to the requirements of [§ 92.503](#). If the community housing development organization is receiving assistance for operating expenses, see paragraph (c)(6) of this section.
- (xi) **Fees.** The agreement must prohibit project owners from charging fees that are not customarily charged in rental housing such as laundry room access fees, and other fees. However, rental project owners may charge reasonable application fees to prospective tenants may charge parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and may charge fees for services such as bus transportation or meals, as long as such services are voluntary. The agreement must also prohibit the developer that is undertaking a homeownership project from charging servicing, origination, processing, inspection, or other fees for the costs of providing homeownership assistance.
- (4) **Contractor.** The participating jurisdiction selects a contractor through applicable procurement procedures and requirements. The contractor provides goods or services in accordance with a written agreement (the contract). For contractors who are administering all or some of the participating jurisdiction's HOME programs or specific services for one or more programs, the contract must include at a minimum the following provisions:
- (i) **Use of the HOME funds.** The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the length of the agreement.
- (ii) **Program requirements.** The agreement must provide that the contractor is subject to the requirements in part 92 that are applicable to the participating jurisdiction, except [§§ 92.505 and 92.506](#) do not apply, and the contractor cannot assume the participating jurisdiction responsibilities for environmental review, decision making, and action under [§ 92.352](#). Where the contractor is administering only a portion of the program, the agreement must list the requirements applicable to the activities the contractor is administering. If applicable to the work under the contract, the agreement must set forth all obligations the participating jurisdiction imposes on the contractor in order to meet the VAWA requirements under [§ 92.359](#), including any notice obligations and any obligations under the emergency transfer plan.
- (iii) **Duration of agreement.** The agreement must specify the duration of the contract. Generally, the duration of a contract should not exceed two years.

- (5) **Homebuyer, homeowner or tenant receiving tenant-based rental or security deposit assistance.** When a participating jurisdiction provides assistance to a homebuyer, homeowner or tenant the written agreement may take many forms depending upon the nature of assistance. As appropriate, it must include as a minimum:
- (i) For homebuyers, the agreement must conform to the requirements in [§ 92.254\(a\)](#), the value of the property, principal residence, lease-purchase, if applicable, and the resale or recapture provisions. The agreement must specify the amount of HOME funds, the form of assistance, e.g., grant, amortizing loan, deferred payment loan, the use of the funds (e.g., down-payment, closing costs, rehabilitation) and the time by which the housing must be acquired.
  - (ii) For homeowners, the agreement must conform to the requirements in [§ 92.254\(b\)](#) and specify the amount and form of HOME assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met.
  - (iii) For tenants, the rental assistance contract or the security deposit contract must conform to [§§ 92.209](#) and [92.253](#).
- (6) **Community housing development organization receiving assistance for operating expenses.** The agreement must describe the use of HOME funds for operating expenses; e.g., salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; and materials and supplies. If the community housing development organization is not also receiving funds for a housing project to be developed, sponsored, or owned by the community housing development organization, the agreement must provide that the community housing development organization is expected to receive funds for a project within 24 months of the date of receiving the funds for operating expenses, and must specify the terms and conditions upon which this expectation is based and the consequences of failure to receive funding for a project.
- (7) **Community housing development organization receiving assistance for project-specific technical assistance and site control loans or project-specific seed money loans.** The agreement must identify the specific site or sites and describe the amount and use of the HOME funds (in accordance with [§ 92.301](#)), including a budget for work, a period of performance, and a schedule for completion. The agreement must also set forth the basis upon which the participating jurisdiction may waive repayment of the loans, consistent with [§ 92.301](#), if applicable.
- (8) **Technical assistance provider to develop the capacity of community housing development organizations in the jurisdiction.** The agreement must identify the specific nonprofit organization(s) to receive capacity building assistance. The agreement must describe the amount and use (scope of work) of the HOME funds, including a budget, a period of performance, and a schedule for completion.

(d) ***On-site inspections and financial oversight***

- (1) ***Inspections.*** The participating jurisdiction must inspect each project at project completion and during the period of affordability to determine that the project meets the property standards of [§ 92.251](#).
  - (i) ***Completion inspections.*** Before completing the project in the disbursement and information system established by HUD, the participating jurisdiction must perform an on-site inspection of HOME-assisted housing to determine that all contracted work has been completed and that the project complies with the property standards of [§ 92.251](#).
  - (ii) ***Ongoing periodic inspections of HOME-assisted rental housing.*** During the period of affordability, the participating jurisdiction must perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of [§ 92.251](#) and to verify the information submitted by the owners in accordance with the requirements of [§ 92.252](#). The inspections must be in accordance with the inspection procedures that the participating jurisdiction establishes to meet the inspection requirements of [§ 92.251](#).
    - (A) The on-site inspections must occur within 12 months after project completion and at least once every 3 years thereafter during the period of affordability.
    - (B) If there are observed deficiencies for any of the inspectable items in the property standards established by the participating jurisdiction, in accordance with the inspection requirements of [§ 92.251](#), a follow-up on-site inspection to verify that deficiencies are corrected must occur within 12 months. The participating jurisdiction may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re-inspection. Health and safety deficiencies must be corrected immediately, in accordance with [§ 92.251](#). The participating jurisdiction must adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies.
    - (C) The property owner must annually certify to the participating jurisdiction that each building and all HOME- assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the participating jurisdiction to meet the requirements of [§ 92.251](#).
    - (D) Inspections must be based on a statistically valid sample of units appropriate for the size of the HOME-assisted project, as set forth by HUD through notice. For projects with one-to-four HOME-assisted units, participating jurisdiction must inspect 100 percent of the HOME-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-assisted units.

- (iii) **Annual inspections.** Tenant- based rental assistance (TBRA). All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the standards in [24 CFR 982.401](#) or the successor requirements as established by HUD. The participating jurisdiction must perform annual on-site inspections of rental housing occupied by tenants receiving HOME-assisted TBRA to determine compliance with these standards.
- (2) **Financial oversight.** During the period of affordability, the participating jurisdiction must examine at least annually the financial condition of HOME-assisted rental projects with 10 units or more to determine the continued financial viability of the housing and must take actions to correct problems, to the extent feasible.

### **Applicability of Uniform Administrative Requirements [92.505]**

The requirements of [2 CFR part 200](#) apply to participating jurisdictions, State recipients, and subrecipients receiving HOME funds, except for the following provisions: [§§ 200.306, 200.307, 200.308](#) (not applicable to participating jurisdictions), 200.311 (except as provided in [§ 92.257](#)), 200.312, 200.329, 200.333, and 200.334. The provisions of [2 CFR 200.305](#) apply as modified by [§ 92.502\(c\)](#). If there is a conflict between definitions in [2 CFR part 200](#) and [24 CFR part 92](#), the definitions in [24 CFR part 92](#) govern.

### **Audits**

Audits of the City will be conducted in accordance with 2 CFR part 200, subpart F. The City and/or its Subrecipients are required to have a single or program-specific audit conducted for a fiscal year if the City and/or Subrecipients expends \$750,000 or more during the Federal fiscal year in accordance with the provisions of this part. If the City expends \$750,000 or more during the City's fiscal year in Federal awards, it must have a single audit conducted in accordance with 200.514 except when it elects to have a program-specific audit. If the City expends less than \$750,000 during its fiscal year in Federal awards, it is exempt from Federal audit requirements for that year, except as noted in 200.503; records must be available for review or audit by appropriate officials of HUD and the Government Accountability Office.

Payments received for goods or services provided as a contractor are not Federal awards. Section 200.330 sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

### **Program Income, Repayments & Recapturing Funds [92.503]**

Program income is reported to the City of Lawrence when draw requests are made. Program income must be used in accordance with the requirements of part 92. Program income must be deposited in the City's HOME Investment Fund local account unless the City permits the Subrecipients to retain the program income for additional HOME projects pursuant to the written agreement required by 92.504.

Any HOME funds invested in housing that does not meet the affordability requirements for the period specified in or 92.254 must be repaid by the City. Any HOME funds invested in a project that is terminated before completion, either voluntarily or otherwise, must be repaid by the City, except for repayments of project-specific community housing development organization loans that are waived, in accordance with 92.301(a)(3) and (b)(3). HUD will instruct the City to either repay the funds to the HOME Investment Trust Fund Treasury account or the local account. If

the City is not a participating jurisdiction at the time the repayment is made, the funds must be remitted to HUD and reallocated in accordance with 92.454.

HOME funds recaptured in accordance with 92.254(a)(5)(ii) must be used in accordance with the requirements of part 92. Recaptured funds must be deposited in the City's HOME Investment Trust Fund local account unless the City permits the Subrecipients or CHDO to retain the recaptured funds for additional HOME projects pursuant to the written agreement required by 92.504. If the City is not a participating jurisdiction when the recaptured funds are received, the funds must be remitted to HUD and reallocated in accordance with 92.454.

Beginning with the Fiscal Year 2017 action plan, as provided in 24 CFR 1.220(l)(2) and 91.320(k)(2), program income, repayments, and recaptured funds in the City's HOME Investment Trust Fund local account must be used in accordance with the requirements of this part, and the amount of program income, repayments, and recaptured funds in the City's HOME Investment Trust Fund United States Treasury account at the beginning of the program year must be committed before HOME funds in the HOME Investment Trust Fund United States Treasury account, except for the HOME funds in the United States Treasury account that are required to be reserved, under 92.300(a), for investment only in housing to be owned, developed, or sponsored by community housing development organizations. The deadline for committing program income, repayments, and recaptured funds received during a program year is the date of the City's commitment deadline for the subsequent year's grant allocation.

The City of Lawrence will consult with HUD in the event that repayments and recaptured funds will need to be paid back to HUD.

## **Chapter 2: Policies & Procedures for Development Projects**

The provisions in this chapter apply to HOME-funded rental housing development, rental housing acquisition (no rehabilitation), and homebuyer development projects.

### **Subrecipient/Recipient Standards**

Subrecipients for HOME Funds will need to demonstrate, with a reasonable level of assurance, that the agency/organization is fiscally sound and has reliable systems to manage and account for public funds. The following documents will be submitted at the City's request:

- Complete audit reports for each of the past two years for the Subrecipient, including any audit findings, corrective action plan, management letter and agency response.
- If the Subrecipient organization has not been audited, financial statements for each of the past two fiscal years and a year-to-date statement certified by the Subrecipients 's Chief Financial Officer. Financial statements will include balance sheets and cash flow, revenue, and long-term debt statements.
- Nonprofit organizations will need to submit an IRS Form 990 for the prior two years.
- Outstanding HOME Annual, Close-out, or Monitoring Reports.

Subrecipients must demonstrate that the skills and experience of the development team and the property management team, and the capacity of the organization are appropriate to the size and complexity of the project. If the Subrecipients does not have prior experience in affordable housing development or has not had experience within the past ten (10) years, they must partner with a development consultant experienced in affordable housing development.

### **Eligible Development Costs**

HOME funds may be used for, but are not limited to:

- Site preparation or improvement, including demolition if construction begins within 12 months
- Securing buildings
- Construction materials and labor
- Onsite improvements in keeping with surrounding projects, including sidewalks, utility laterals, etc. Offsite infrastructure is not eligible as a HOME expense
- Relocation costs, including moving costs, replacement housing costs, advisory services, staff costs related to relocation assistance
- Financing fees
- Credit reports
- Title binders and insurance
- Recording fees and transaction taxes
- Legal and accounting fees, including project audit costs
- Appraisals



- Architectural and engineering fees
- Environmental reviews
- Developer fees (subject to a limit)
- Permit fees
- Homebuyer counseling to purchasers of HOME-assisted housing units only

### **Appraisal and Real Property Acquisition**

If the Subrecipients is proposing the purchase of real property and/or building(s), a full appraisal must support the purchase price. Appraisals and acquisition must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended. The URA generally applies to federally funded projects involving acquisition, rehabilitation, or demolition, and requires compliance with the following real property acquisition process, unless the project meets the requirements of 49 CFR 24.101(b)(1)-(5).

Subrecipients must follow the procedures for a Voluntary Acquisition under the URA. Prior to making an offer for the property, the Subrecipient must, in writing, advise the owner of the property that federal funds may be involved in the purchase of the property, let the owner know that the Subrecipient does not have the power of eminent domain and that it will be unable to acquire the property if negotiations fail to result in agreement, and provide the owner with what it currently believes to be the market value of the property. If the Subrecipient has not yet completed an appraisal of the property at the time of the offer, the statement of market value provided to the seller must have a reasonable basis (e.g., assessed value).

### **Prevailing Wage & Labor Requirements [92.354]**

Federal Davis-Bacon prevailing wages apply to all projects with 12 or more HOME-assisted units regardless of whether HOME funds were used for construction or other projects costs. When triggered, Davis-Bacon wages apply to the entire project. In cases where Davis-Bacon wages are triggered, Davis-Bacon monitoring procedures are followed.

Every contract for construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions of the Contract Work Hours and Safety Standards Act.

The contract for construction must contain these wage provisions if HOME funds are used for any project costs in, including construction or non-construction costs, of housing with 12 or more HOME-assisted units. When HOME funds are only used to assist homebuyers to acquire single family housing, and not any other project costs, the wage provisions apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more housing units to be purchased with HOME assistance. The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units, whether one or more than one project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions

other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.

The City, contractors, subcontractors, and other participants must comply with regulations issued under these acts and with other Federal laws and regulations pertaining to labor standards. The assigned City of Lawrence Project Specialist shall be responsible for ensuring compliance by contractors and subcontractors with labor standards described in this section. The City shall:

- Ensure that bid and contract documents contain required labor standards provisions and the appropriate Department of Labor wage determinations;
- Conduct on-site inspections and employee interviews;
- Collect and review certified weekly payroll reports;
- Correct all labor standards violations promptly;
- Maintain documentation of administrative and enforcement activities;
- Require certification as to compliance with the provisions of this section before making any payment under such contracts.

The prevailing wage provisions do not apply to an individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

The prevailing wage provisions do not apply to members of an eligible family who provide labor in exchange for acquisition of a property for homeownership or provide labor in lieu of, or as a supplement to, rent payments.

The following labor requirements apply to HOME activities:

- Davis-Bacon and Related Acts (40 USC 276(A)-277): Ensures that mechanics and laborers employed in construction work under Federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This Act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs. Every contract for the construction of housing (rehabilitation or new) that contains 12 or more units assisted with HOME funds triggers the requirements.
- Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333): Provides that mechanics and laborers employed on Federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week and provides for the payment of liquidated damages where violations occur. This Act also addresses safe and healthy working conditions.
- Copeland (Anti-Kickback) Act (40 USC 276c): Governs the deductions from paychecks that are allowable. Makes it a criminal offense to induce anyone employed on a Federally assisted project to relinquish any compensation to which he/she is entitled and requires all contractors to submit weekly payrolls and statements of compliance.
- Fair Labor Standards Act of 1938, as amended (29 USC 201, et. Seq.): Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.

Volunteers are defined at 24 CFR Part 70 and additional guidance concerning the use of bona-fide volunteers is there. Generally, volunteers are defined as individuals who: perform services for a public or private entity for a civic, charitable, or humanitarian reason, without promise, expectation, or receipt of compensation for services rendered; may be paid expenses, reasonable benefits, or a nominal fee for such services for which the individual volunteered; and are not otherwise employed at any time in the construction work.

HOME provides for a sweat equity program (NAHA Section 255) that permits members of an eligible family to provide labor in exchange for acquisition of property for homeownership or to provide labor in lieu of, or as a supplement to, rent payments. Such sweat equity participants are exempt from Davis-Bacon prevailing wage requirements.

HOME funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or Subrecipient during any period of debarment, suspension, or placement of ineligibility status. The City checks all contractors, and Subrecipients against the excluded parties list maintained on the Federal System of Award Management.

### **Debarred Contractors**

Prior to entering into a contract with contractor or subcontractor, the Subrecipient must verify that they are not listed in the Federal publication of debarred, suspended, and ineligible contractors. HOME funds may not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of a contractor during a period of debarment, suspension, or ineligibility.

### **Section 3 of the Housing and Urban Development Act of 1968, as amended**

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds \$200,000 of housing and community development financial assistance. Office of Lead Hazard Control and Health Homes (OLHCHH) assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold. The project is defined as the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

If applicable, the parties to a contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). As evidenced by their execution of the covered contract, the parties to the contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations. To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located. Where feasible, priority for opportunities and training described in this section should be given to Section 3 workers residing within the service area or the neighborhood of the project, and participants in YouthBuild programs.

If applicable, the Subrecipient agrees to comply with these Section 3 requirements and to include the following language in all subcontracts executed under this Agreement:

“The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.”

### **Affordability Period**

The minimum length of an affordability period depends on the amount of the HOME investment in the property and the nature of the activity:

<b>HOME Investment per Unit</b>	<b>Affordability Period</b>
Less than \$15,000	5 years
\$15,000-\$40,000	10 years
More than \$40,000	15 years
New Construction of <b>rental</b> housing	20 years
Refinancing of <b>rental</b> housing	15 years

### **Site Control**

Site control is typically required at the time of application for development projects. Site control documentation includes the following: a deed of trust, current option, current purchase and sale agreement, a current title report showing the entity holding fee simple title, an executed lease agreement for the length of the commitment to serve low-income households, or an executed disposition or development agreement.

### **Displacement, Relocation & Acquisition [92.353]**

- (a) **Minimizing displacement.** Consistent with the other goals and objectives of this part, the participating jurisdiction must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with HOME funds. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.
- (b) **Temporary relocation.** The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:
  - (1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.
  - (2) Appropriate advisory services, including reasonable advance written notice of:
    - (i) The date and approximate duration of the temporary relocation;

- (ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
- (iii) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project; and
- (iv) The provisions of paragraph (b)(1) of this section.

(c) ***Relocation assistance for displaced persons.***

- (1) ***General.*** A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) ([42 U.S.C. 4201-4655](#)) and [49 CFR part 24](#). A "displaced person" must be advised of his or her rights under the Fair Housing Act and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, the minority person also must be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(2) ***Displaced Person.***

- (i) For purposes of paragraph (c) of this section, the term *displaced person* means a person (family individual, business, nonprofit organization, or farm, including any corporation, partnership or association) that moves from real property or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with HOME funds. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property that is made:
  - (A) After notice by the owner to move permanently from the property, if the move occurs on or after:
    - (1) The date of the submission of an application to the participating jurisdiction or HUD, if the applicant has site control and the application is later approved; or
    - (2) The date the jurisdiction approves the applicable site, if the applicant does not have site control at the time of the application; or
  - (B) Before the date described in paragraph (c)(2)(i)(A) of this section, if the jurisdiction or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or
  - (C) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:
    - (1) The tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition and the move occurs before the tenant is provided written notice offering the tenant the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms

and conditions. Such reasonable terms and conditions must include a term of at least one year at a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

- (i) The tenant's monthly rent before such agreement and estimated average monthly utility costs; or
- (ii) The total tenant payment, as determined under [24 CFR 5.628](#), if the tenant is low-income, or 30 percent of gross household income, if the tenant is not low-income;

(2) The tenant is required to relocate temporarily, does not return to the building/complex, and either

- (i) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; or
- (ii) Other conditions of the temporary relocation are not reasonable; or

(3) The tenant is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(ii) Notwithstanding paragraph (c)(2)(i) of this section, a person does not qualify as a *displaced person* if:

(A) The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State or local law, or other good cause, and the participating jurisdiction determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance. The effective date of any termination or refusal to renew must be preceded by at least 30 days advance written notice to the tenant specifying the grounds for the action.

(B) The person moved into the property after the submission of the application but, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, incur a rent increase), and the fact that the person would not qualify as a "displaced person" (or for any assistance under this section) as a result of the project;

(C) The person is ineligible under [49 CFR 24.2\(g\)\(2\)](#); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The jurisdiction may, at any time, ask HUD to determine whether a displacement is or would be covered by this rule.

(3) **Initiation of negotiations.** For purposes of determining the formula for computing replacement housing assistance to be provided under paragraph (c) of this section to a tenant displaced from a dwelling as a direct result of private-owner rehabilitation,

demolition or acquisition of the real property, the term *initiation of negotiations* means the execution of the agreement covering the acquisition, rehabilitation, or demolition.

- (d) **Optional relocation assistance.** The participating jurisdiction may provide relocation payments and other relocation assistance to families, individuals, businesses, nonprofit organizations, and farms displaced by a project assisted with HOME funds where the displacement is not subject to paragraph (c) of this section. The jurisdiction may also provide relocation assistance to persons covered under paragraph (c) of this section beyond that required. For any such assistance that is not required by State or local law, the jurisdiction must adopt a written policy available to the public that describes the optional relocation assistance that it has elected to furnish and provides for equal relocation assistance within each class of displaced persons.
- (e) **Residential antidisplacement and relocation assistance plan.** The participating jurisdiction shall comply with the requirements of [24 CFR part 42, subpart C](#).
- (f) **Real property acquisition requirements.** The acquisition of real property for a project is subject to the URA and the requirements of [49 CFR part 24, subpart B](#).
- (g) **Appeals.** A person who disagrees with the participating jurisdiction's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the jurisdiction. A low-income person who is dissatisfied with the jurisdiction's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

## Chapter 3: CHDO Specific Guidelines

### Community Housing Development Organization (CHDO) [92.2]

Means a private nonprofit organization that:

- (1) Is organized under State or local laws;
- (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:
  - (i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
  - (ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;
  - (iii) The community housing development organization must be free to contract for goods and services from vendors of its own choosing; and
  - (iv) The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization.
- (4) Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 ([26 CFR 1.501\(c\)\(3\)-1](#) or [1.501\(c\)\(4\)-1](#)), is classified as a subordinate of a central organization non-profit under section 905 of the Internal Revenue Code of 1986, or if the private nonprofit organization is an wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of "community housing development organization;"
- (5) Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a community housing development organization; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two-thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization;
- (6) Has standards of financial accountability that conform to [2 CFR 200.302](#), 'Financial Management' and [2 CFR 200.303](#), 'Internal Controls;'



- (7) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions, or by-laws;
- (8) Maintains accountability to low-income community residents by:
  - (i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
  - (ii) Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
- (9) Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a community housing development organization, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of [§ 92.300\(a\)\(2\)](#). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
- (10) Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

**Set-Aside for Community Housing Development Organizations (CHDOs)**  
**[§92.300]**

- (a) Within 24 months after the date that HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnerships Agreement, the participating jurisdiction must reserve not less than 15 percent of the HOME allocation for investment only in housing to be owned, developed or sponsored by community housing development organizations. For a State, the HOME allocation includes funds reallocated under [§ 92.451\(c\)\(2\)\(i\)](#) and, for a unit of general local government, includes funds transferred from a State under [§ 92.102\(b\)](#). The participating jurisdiction must certify the organization as meeting the definition of "community housing development organization" and must document that the organization has capacity to own, develop, or sponsor housing each time it commits funds to the organization. For purposes of this paragraph:

- (1) Funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization (or project owner as described in [paragraph \(a\)\(4\)](#) of this section) committing the funds to a specific local project in accordance with paragraph (2) of the definition of "commitment" in [§ 92.2](#).
- (2) Rental housing is "owned" by the community housing development organization if the community housing development organization is the owner in fee simple absolute of multifamily or single family housing (or has a long term ground lease) for rental to low-income families in accordance with [§ 92.252](#). If the housing is to be rehabilitated or constructed, the community housing development organization hires and oversees the developer that rehabilitates or constructs the housing. At minimum, the community housing development organization must hire or contract with an experienced project manager to oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of costs. The community housing development organization must own the rental housing during development and for a period at least equal to the period of affordability in [§ 92.252](#). If the CHDO acquires housing that meets the property standards in [§ 92.251](#), the CHDO must own the rental housing for a period at least equal to the period of affordability in [§ 92.252](#).
- (3) Rental housing is "developed" by the community development housing organization if the community housing development organization is the owner of multifamily or single family housing in fee simple absolute (or has a long term ground lease) and the developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for rent to low-income families in accordance with [§ 92.252](#). To be the "developer," the community development housing organization must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work and determining the reasonableness of costs. At a minimum, the community housing development organization must own the housing during development and for a period at least equal to the period of affordability in [§ 92.252](#).
- (4) Rental housing is "sponsored" by the community development housing organization if it is rental housing "owned" or "developed" by a subsidiary of a community housing development organization, a limited partnership of which the community housing development organization or its subsidiary is the sole general partner, or a limited liability company of which the community housing development organization or its subsidiary is the sole managing member.
  - (i) The subsidiary of the community housing development organization may be a for-profit or nonprofit organization and must be wholly owned by the community housing development organization. If the limited partnership or limited liability company agreement permits the community housing development organization to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the community housing

development organization must be replaced with another community housing development organization.

- (ii) The HOME funds must be provided to the entity that owns the project.
- (5) HOME-assisted rental housing is also “sponsored” by a community housing development organization if the community housing development organization “developed” the rental housing project that it agrees to convey to an identified private nonprofit organization at a predetermined time after completion of the development of the project. Sponsored rental housing, as provided in this [paragraph \(a\)\(5\)](#), is subject to the following requirements:
- (i) The private nonprofit organization may not be created by a governmental entity.
  - (ii) The HOME funds must be invested in the project that is owned by the community housing development organization.
  - (iii) Before commitment of HOME funds, the community housing development organization sponsor must select the nonprofit organization that will obtain ownership of the property.
    - (A) The nonprofit organization assumes the community housing development organization's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.
    - (B) If the housing is not transferred to the nonprofit organization, the community housing development organization sponsor remains responsible for the HOME assistance and the HOME project.
- (6) Housing for homeownership is “developed” by the community development housing organization if the community housing development organization is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for sale to low-income families in accordance with [§ 92.254](#).
- (i) To be the “developer” the community development housing organization must arrange financing of the project and be in sole charge of construction. The community housing development organization may provide direct homeownership assistance (e.g., down payment assistance) when it sells the housing to low-income families and the community housing development organization will not be considered a subrecipient. The HOME funds for down payment assistance shall not be greater than 10 percent of the amount of HOME funds for development of the housing.
  - (ii) The participating jurisdiction must determine and set forth in its written agreement with the community housing development organization the actual sales prices of the housing or the method by which the sales prices for the housing will be established and whether the proceeds must be returned to the participating jurisdiction or may be retained by the community housing development organization.

- (A) While proceeds that the participating jurisdiction permits the community housing development organization to retain are not subject to the requirements of this part, the participating jurisdiction must specify in the written agreement with the community housing development organization whether the proceeds are to be used for HOME-eligible activities or other housing activities to benefit low-income families.
  - (B) Funds that are recaptured because the housing no longer meets the affordability requirements under [§ 92.254\(a\)\(5\)\(ii\)](#) are subject to the requirements of this part in accordance with [§ 92.503](#).
- (7) The participating jurisdiction determines the form of assistance (e.g., grant or loan) that it will provide to the community housing development organization receives or, for rental housing projects under [paragraph \(a\)\(4\)](#) of this section, to the entity that owns the project.
- (b) Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved consolidated plan and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable community housing development organizations, up to 20 percent of the minimum community housing development organization set-aside of 15 percent specified in [paragraph \(a\)](#) of this section, above, (but not more than \$150,000 during the 24 month period) may be committed to develop the capacity of community housing development organizations in the jurisdiction.
  - (c) Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under [§ 92.301](#).
  - (d) HOME funds required to be reserved under this section are subject to reduction, as provided in [§ 92.500\(d\)](#).
  - (e) If funds for operating expenses are provided under [§ 92.208](#) to a community housing development organization that is not also receiving funds under [paragraph \(a\)](#) of this section for housing to be owned, developed or sponsored by the community housing development organization, the participating jurisdiction's written agreement with the community housing development organization must provide that the community housing development organization is expected to receive funds under [paragraph \(a\)](#) of this section for a project within 24 months of the date of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.
  - (f) The participating jurisdiction must ensure that a community housing development organization does not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This also includes organizational support and housing education provided under section 233(b)(1), (2), and (6) of the Act, as well as funds for operating expenses provided under [§ 92.208](#).

## **Project-Specific Assistance to Community Housing Development Organizations [§92.301]**

### **(a) *Project-specific technical assistance and site control loans -***

- (1) **General.** Within the percentage specified in [§ 92.300\(c\)](#), HOME funds may be used by a participating jurisdiction to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. These loans may not exceed amounts that the participating jurisdiction determines to be customary and reasonable project preparation costs allowable under [paragraph \(a\)\(2\)](#) of this section. All costs must be related to a specific eligible project or projects.
- (2) **Allowable costs.** A loan may be provided to cover project costs necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, option to acquire property, site control and title clearance. General operational expenses of the community housing development organization are not allowable costs.
- (3) **Repayment.** The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

### **(b) *Project-specific seed money loans -***

- (1) **General.** Within the percentage specified in [§ 92.300\(c\)](#), HOME funds may be used to provide loans to community housing development organizations to cover preconstruction project costs that the participating jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees.
- (2) **Eligible sponsors.** A loan may be provided only to a community housing development organization that has, with respect to the project concerned, site control (evidenced by a deed, a sales contract, or an option contract to acquire the property), a preliminary financial commitment, and a capable development team.
- (3) **Repayment.** The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the community housing development organization.

## **Tenant participation plan [92.303]**

A community housing development organization that receives assistance under this part must adhere to a fair lease and grievance procedure approved by the participating jurisdiction and provide a plan for and follow a program of tenant participation in management decisions.

## **Eligible Community Housing development Organization (CHDO) Operating Expense and Capacity Building Costs [§92.208]**

- (a) Up to 5 percent of a participating jurisdiction's fiscal year HOME allocation may be used for the operating expenses of community housing development organizations (CHDOs). This amount is in addition to amounts set aside for housing projects that are owned, developed, or sponsored by CHDOs as described in [§ 92.300\(a\)](#). These funds may not be used to pay operating expenses incurred by a CHDO acting as a subrecipient or contractor under the HOME Program. Operating expenses means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials; and supplies. The requirements and limitations on the receipt of these funds by CHDOs are set forth in [§ 92.300\(e\)](#) and [\(f\)](#).
- (b) HOME funds may be used for capacity building costs under [§ 92.300\(b\)](#).

### **Requirements for CHDO Operating Expense Reimbursement**

Before City Staff will process a reimbursement request for CHDO Operating Expenses, the CHDO must submit documentation demonstrating the eligibility of the expense. City Staff will review the documentation and confirm the expense is eligible under 92.208. The eligible expense will be tracked using the Agency Allocation tracking form attached in Appendix F.

### **Requirements for CHDO Certification**

Before committing CHDO set-aside funds to an organization, the PJ must certify that the organization:

1. Meets the definition of a "community housing development organization" in §92.2;
2. Has a project eligible for the set-aside that the organization will own, develop, or sponsor in accordance with §92.300(a); and
3. Has paid staff with demonstrated experience appropriate to the role the organization will play for the project being funded.

Additionally, before committing funds for CHDO predevelopment loans under §92.301 or CHDO operating expenses under §92.208, the PJ must certify that the organization meets the definition of a "community housing development organization" in §92.2 and that other requirements, outlined in Sections 6 (predevelopment) and 7 (operating) below, have been satisfied.

The City of Lawrence will use the CHDO Requirements Checklist attached in Appendix C to certify a CHDO before committing set-aside funds to an organization.

### **CHDO Procurement**

As noted in [HUD CPD Notice 97-11](#), CHDO organizations are not subject to the requirements of 2 CFR, Part 200 with respect to the procurement of goods and services. This exemption is only applicable to procurement associated with CHDO-eligible projects.

## Chapter 4: Homeownership Specific Guidelines

### Eligible Activities

Eligible homebuyer activities include down payment and closing cost assistance, gap financing, sales price write-down, and/or assistance to developers to assist with the acquisition or new construction of affordable homes.

### Qualification as Affordable Housing: Homeownership [92.254]

- (a) **Acquisition with or without rehabilitation.** Housing that is for acquisition by a family must meet the affordability requirements of this [paragraph \(a\)](#).
- (1) The housing must be single family housing.
  - (2) The housing must be modest housing as follows:
    - (i) In the case of acquisition of newly constructed housing or standard housing, the housing has a purchase price for the type of single family housing that does not exceed 95 percent of the median purchase price for the area, as described in [paragraph \(a\)\(2\)\(iii\)](#) of this section.
    - (ii) In the case of acquisition with rehabilitation, the housing has an estimated value after rehabilitation that does not exceed 95 percent of the median purchase price for the area, described in [paragraph \(a\)\(2\)\(iii\)](#) of this section.
    - (iii) If a participating jurisdiction intends to use HOME funds for homebuyer assistance or for the rehabilitation of owner-occupied single- family properties, the participating jurisdiction must use the HOME affordable homeownership limits provided by HUD for newly constructed housing and for existing housing. HUD will provide limits for affordable newly constructed housing based on 95 percent of the median purchase price for the area using Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing, with a minimum limit based on 95 percent of the U.S. median purchase price for new construction for nonmetropolitan areas. HUD will provide limits for affordable existing housing based on 95 percent of the median purchase price for the area using Federal FHA single family mortgage program data for existing housing data and other appropriate data that are available nation-wide for sales of existing housing, with a minimum limit based on 95 percent of the state-wide nonmetropolitan area median purchase price using this data. In lieu of the limits provided by HUD, the participating jurisdiction may determine 95 percent of the median area purchase price for single family housing in the jurisdiction annually, as follows. The participating jurisdiction must set forth the price for different types of single family housing for the jurisdiction. The participating jurisdiction may determine separate limits for existing housing and newly constructed housing. For housing located outside of metropolitan areas, a State may aggregate sales data from more than one county, if the counties are contiguous and similarly situated. The following information must be included in the annual action plan of the Consolidated Plan submitted to HUD for review and updated in each action plan.

- (A) The 95 percent of median area purchase price must be established in accordance with a market analysis that ensured that a sufficient number of recent housing sales are included in the survey.
  - (B) Sales must cover the requisite number of months based on volume: For 500 or more sales per month, a one- month reporting period; for 250 through 499 sales per month, a 2-month reporting period; for less than 250 sales per month, at least a 3-month reporting period. The data must be listed in ascending order of sales price.
  - (C) The address of the listed properties must include the location within the participating jurisdiction. Lot, square, and subdivision data may be substituted for the street address.
  - (D) The housing sales data must reflect all, or nearly all, of the one- family house sales in the entire participating jurisdiction.
  - (E) To determine the median, take the middle sale on the list if an odd number of sales, and if an even number, take the higher of the middle numbers and consider it the median. After identifying the median sales price, the amount should be multiplied by 0.95 to determine the 95 percent of the median area purchase price.
- (3) The housing must be acquired by a homebuyer whose family qualifies as a low-income family, and the housing must be the principal residence of the family throughout the period described in [paragraph \(a\)\(4\)](#) of this section. If there is no ratified sales contract with an eligible homebuyer for the housing within 9 months of the date of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with [§ 92.252](#). In determining the income eligibility of the family, the participating jurisdiction must include the income of all persons living in the housing. The homebuyer must receive housing counseling.
- (4) **Periods of affordability.** The HOME-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The per unit amount of HOME funds and the affordability period that they trigger are described more fully in paragraphs (a)(5)(i) (resale) and (ii) (recapture) of this section.

<b>Homeownership assistance HOME amount per-unit</b>	<b>Minimum period of affordability in years</b>
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

- (5) **Resale and recapture.** The participating jurisdiction must establish the resale or recapture requirements that comply with the standards of this section and set forth the requirements in its consolidated plan. HUD must determine that they are appropriate and must specifically approve them in writing.



- (i) **Resale.** Resale requirements must ensure, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability that the housing is made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as the family's principal residence. The resale requirement must also ensure that the price at resale provides the original HOME-assisted owner a fair return on investment (including the homeowner's investment and any capital improvement) and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. The participating jurisdiction must specifically define "fair return on investment" and "affordability to a reasonable range of low-income homebuyers," and specifically address how it will make the housing affordable to a low-income homebuyer in the event that the resale price necessary to provide fair return is not affordable to the subsequent buyer. The period of affordability is based on the total amount of HOME funds invested in the housing.
- (A) Except as provided in [paragraph \(a\)\(5\)\(i\)\(B\)](#) of this section, deed restrictions, covenants running with the land, or other similar mechanisms must be used as the mechanism to impose the resale requirements. The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, obtains an ownership interest in the housing.
- (B) Certain housing may be presumed to meet the resale restrictions (i.e., the housing will be available and affordable to a reasonable range of low-income homebuyers; a low-income homebuyer will occupy the housing as the family's principal residence; and the original owner will be afforded a fair return on investment) during the period of affordability without the imposition of enforcement mechanisms by the participating jurisdiction. The presumption must be based upon a market analysis of the neighborhood in which the housing is located. The market analysis must include an evaluation of the location and characteristics of the housing and residents in the neighborhood (e.g., sale prices, age and amenities of the housing stock, incomes of residents, percentage of owner-occupants) in relation to housing and incomes in the housing market area. An analysis of the current and projected incomes of neighborhood residents for an average period of affordability for homebuyers in the neighborhood must support the conclusion that a reasonable range of low-income families will continue to qualify for mortgage financing. For example, an analysis shows that the housing is modestly priced within the housing market area and that families with incomes of 65% to 80% of area median can afford monthly payments under average FHA terms without other government assistance and housing will remain affordable at least during the next five to seven years compared to other housing in the market area; the size and amenities of the housing are modest and substantial rehabilitation will

not significantly increase the market value; the neighborhood has housing that is not currently owned by the occupants, but the participating jurisdiction is encouraging homeownership in the neighborhood by providing homeownership assistance and by making improvements to the streets, sidewalks, and other public facilities and services. If a participating jurisdiction in preparing a neighborhood revitalization strategy under [§ 91.215\(e\)\(2\)](#) of its consolidated plan or Empowerment Zone or Enterprise Community application under [24 CFR part 597](#) has incorporated the type of market data described above, that submission may serve as the required analysis under this section. If the participating jurisdiction continues to provide homeownership assistance for housing in the neighborhood, it must periodically update the market analysis to verify the original presumption of continued affordability.

- (ii) **Recapture.** Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the HOME assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability. The participating jurisdiction may structure its recapture provisions based on its program design and market conditions. The period of affordability is based upon the total amount of HOME funds subject to recapture described in paragraph (a)(5)(ii)(A)(5) of this section. Recapture provisions may permit the subsequent homebuyer to assume the HOME assistance (subject to the HOME requirements for the remainder of the period of affordability) if the subsequent homebuyer is low-income, and no additional HOME assistance is provided.
  - (A) The following options for recapture requirements are acceptable to HUD. The participating jurisdiction may adopt, modify or develop its own recapture requirements for HUD approval. In establishing its recapture requirements, the participating jurisdiction is subject to the limitation that when the recapture requirement is triggered by a sale (voluntary or involuntary) of the housing unit, the amount recaptured cannot exceed the net proceeds, if any. The net proceeds are the sales price minus superior loan repayment (other than HOME funds) and any closing costs.
    - (1) **Recapture entire amount.** The participating jurisdiction may recapture the entire amount of the HOME investment from the homeowner.
    - (2) **Reduction during affordability period.** The participating jurisdiction may reduce the HOME investment amount to be recaptured on a prorata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period.
    - (3) **Shared net proceeds.** If the net proceeds are not sufficient to recapture the full HOME investment (or a reduced amount as provided for in [paragraph \(a\)\(5\)\(ii\)\(A\)\(2\)](#) of this section) plus enable the homeowner to recover the amount of the homeowner's down payment and any capital improvement investment made by the owner since purchase, the participating jurisdiction may share the net proceeds. The net proceeds are the sales price minus loan repayment (other than HOME funds) and closing

costs. The net proceeds may be divided proportionally as set forth in the following mathematical formulas:

$$\frac{\text{HOME investment}}{\text{HOME investment} + \text{homeowner investment}} \times \text{Net proceeds} = \text{HOME amount to be recaptured}$$

$$\frac{\text{homeowner investment}}{\text{HOME investment} + \text{homeowner investment}} \times \text{Net proceeds} = \text{amount to homeowner}$$

- (4) **Owner investment returned first.** The participating jurisdiction may permit the homebuyer to recover the homebuyer's entire investment (down payment and capital improvements made by the owner since purchase) before recapturing the HOME investment.
- (5) **Amount subject to recapture.** The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy). The recaptured funds must be used to carry out HOME-eligible activities in accordance with the requirements of this part. If the HOME assistance is only used for the development subsidy and therefore not subject to recapture, the resale option must be used.
- (6) **Special considerations for single-family properties with more than one unit.** If the HOME funds are only used to assist a low-income homebuyer to acquire one unit in single-family housing containing more than one unit and the assisted unit will be the principal residence of the homebuyer, the affordability requirements of this section apply only to the assisted unit. If HOME funds are also used to assist the low-income homebuyer to acquire one or more of the rental units in the single-family housing, the affordability requirements of [§ 92.252](#) apply to assisted rental units, except that the participating jurisdiction may impose resale or recapture restrictions on all assisted units (owner-occupied and rental units) in the single family housing. If resale restrictions are used, the affordability requirements on all assisted units continue for the period of affordability. If recapture restrictions are used, the affordability requirements on the assisted rental units may be terminated, at the discretion of the participating jurisdiction, upon recapture of the HOME investment. (If HOME funds are used to assist only the rental units in such a property then the requirements of [§ 92.252](#) would apply and the owner-occupied unit would not be subject to the income targeting or affordability provisions of [§ 92.254](#).)
- (7) **Lease-purchase.** HOME funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-purchase agreement

is signed. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the HOME affordability requirements for rental housing in [§ 92.252](#) shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion.

(8) ***Contract to purchase.*** If HOME funds are used to assist a homebuyer who has entered into a contract to purchase housing to be constructed, the homebuyer must qualify as a low-income family at the time the contract is signed.

(9) ***Preserving affordability of housing that was previously assisted with HOME funds.***

(i) To preserve the affordability of HOME-assisted housing a participating jurisdiction may use additional HOME funds for the following costs:

(A) The cost to acquire the housing through a purchase option, right of first refusal, or other preemptive right before foreclosure, or at the foreclosure sale. (The foreclosure costs to acquire housing with a HOME loan in default are eligible. However, HOME funds may not be used to repay a loan made with HOME funds.)

(B) The cost to undertake any necessary rehabilitation for the housing acquired.

(C) The cost of owning/holding the housing pending resale to another homebuyer.

(D) The cost to assist another homebuyer in purchasing the housing.

(ii) When a participating jurisdiction uses HOME funds to preserve the affordability of such housing, the additional investment must be treated as an amendment to the original project. The housing must be sold to a new eligible homebuyer in accordance with the requirements of [§ 92.254\(a\)](#) within a reasonable period of time.

(iii) The total amount of the original and additional HOME assistance may not exceed the maximum per unit subsidy amount established under [§ 92.250](#). Alternatively to charging the cost to the HOME program under [§ 92.206](#), the participating jurisdiction may charge the cost to the HOME program under [§ 92.207](#) as a reasonable administrative cost of its HOME program, so that the additional HOME funds for the housing are not subject to the maximum per-unit subsidy amount. To the extent administrative funds are used, they may be reimbursed, in whole or in part, when the housing is sold to a new eligible homebuyer.

(b) ***Rehabilitation not involving acquisition.*** Housing that is currently owned by a family qualifies as affordable housing only if:

(1) The estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area, described in [paragraph \(a\)\(2\)\(iii\)](#) of this section; and

- (2) The housing is the principal residence of an owner whose family qualifies as a low-income family at the time HOME funds are committed to the housing. In determining the income eligibility of the family, the participating jurisdiction must include the income of all persons living in the housing.
- (c) **Ownership interest.** The ownership in the housing assisted under this section must meet the definition of “homeownership” in [§ 92.2](#), except that housing that is rehabilitated pursuant to [paragraph \(b\)](#) of this section may also include inherited property with multiple owners, life estates, living trusts and beneficiary deeds under the following conditions. The participating jurisdiction has the right to establish the terms of assistance.
- (1) **Inherited property.** Inherited property with multiple owners: Housing for which title has been passed to several individuals by inheritance, but not all heirs reside in the housing, sharing ownership with other nonresident heirs. (The occupant of the housing has a divided ownership interest.) The participating jurisdiction may assist the owner-occupant if the occupant is low-income, occupies the housing as his or her principal residence, and pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).
- (2) **Life estate.** The person who has the life estate has the right to live in the housing for the remainder of his or her life and does not pay rent. The participating jurisdiction may assist the person holding the life estate if the person is low-income and occupies the housing as his or her principal residence.
- (3) **Inter vivos trust, also known as a living trust.** A living trust is created during the lifetime of a person. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust holds legal title, and the beneficiary holds equitable title. The person may name him or herself as the beneficiary. The trustee is under a fiduciary responsibility to hold and manage the trust assets for the beneficiary. The participating jurisdiction may assist if all beneficiaries of the trust qualify as a low-income family and occupy the property as their principal residence (except that contingent beneficiaries, who receive no benefit from the trust nor have any control over the trust assets until the beneficiary is deceased, need not be low-income). The trust must be valid and enforceable and ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life.
- (4) **Beneficiary deed.** A beneficiary deed conveys an interest in real property, including any debt secured by a lien on real property, to a grantee beneficiary designated by the owner and that expressly states that the deed is effective on the death of the owner. Upon the death of the owner, the grantee beneficiary receives ownership in the property, subject to all conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, and other encumbrances made by the owner or to which the owner was subject during the owner's lifetime. The participating jurisdiction may assist if the owner qualifies as low-income and the owner occupies the property as his or her principal residence.
- (d) **New construction without acquisition.** Newly constructed housing that is built on property currently owned by a family which will occupy the housing upon completion,

qualifies as affordable housing if it meets the requirements under [paragraph \(a\)](#) of this section.

- (e) ***Providing homeownership assistance through lenders.*** Subject to the requirements of this [paragraph \(e\)](#), the participating jurisdiction may provide homeownership assistance through for-profit or nonprofit lending institutions that provide the first mortgage loan to a low-income family.
- (1) The homeownership assistance may be provided only as specified in a written agreement between the participating jurisdiction and the lender. The written agreement must specify the forms and amounts of homeownership assistance that the participating jurisdiction authorizes the lender to provide to families and any conditions that apply to the provision of such homeownership assistance.
  - (2) Before the lender provides any homeownership assistance to a family, the participating jurisdiction must verify that the family is low-income and must inspect the housing for compliance with the property standards in [§ 92.251](#).
  - (3) No fees (e.g., origination fees or points) may be charged to a family for the HOME homeownership assistance provided pursuant to this [paragraph \(e\)](#), and the participating jurisdiction must determine that the fees and other amounts charged to the family by the lender for the first mortgage financing are reasonable. Reasonable administrative costs may be charged to the HOME program as a project cost. If the participating jurisdiction requires lenders to pay a fee to participate in the HOME program, the fee is program income to the HOME program.
  - (4) If the nonprofit lender is a subrecipient or contractor that is receiving HOME assistance to determine that the family is eligible for homeownership assistance, but the participating jurisdiction or another entity is making the assistance to the homebuyer (e.g., signing the documents for the loan or the grant), the requirements of [paragraphs \(e\)\(2\)](#) and [\(3\)](#) of this section are applicable.
- (f) ***Homebuyer program policies.*** The participating jurisdiction must have and follow written policies for:
- (1) Underwriting standards for homeownership assistance that evaluate housing debt and overall debt of the family, the appropriateness of the amount of assistance, monthly expenses of the family, assets available to acquire the housing, and financial resources to sustain homeownership;
  - (2) Responsible lending, and
  - (3) Refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable.

### **Eligible Homeownership Property Types**

Homeownership means ownership in fee simple title in a 1- to 4-unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.

- (1) The land may be owned in fee simple, or the homeowner may have a 99-year ground lease.
  - (i) For housing located in the insular areas, the ground lease must be 40 years or more.

- (ii) For housing located on Indian trust or restricted Indian lands or a Community Land Trust, the ground lease must be 50 years or more.
- (iii) For manufactured housing, the ground lease must be for a period at least equal to the applicable period of affordability in [§ 92.254](#).
- (2) Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not an equivalent form of ownership.
- (3) The ownership interest may be subject only to the restrictions on resale required under [§ 92.254\(a\)](#); mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the participating jurisdiction; or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.
- (4) The participating jurisdiction must determine whether or not ownership or membership in a cooperative or mutual housing project constitutes homeownership under State law; however, if the cooperative or mutual housing project receives Low Income Housing Tax Credits, the ownership or membership does not constitute homeownership.

### **Maximum Per-Unit Subsidy Amount, Underwriting, and Subsidy Layering [92.250]**

- (a) **Maximum per-unit subsidy amount.** The total amount of HOME funds and ADDI funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limitations established under section 221(d)(3)(ii) of the National Housing Act ([12 U.S.C.17151\(d\)\(3\)\(ii\)](#)) for elevator- type projects that apply to the area in which the housing is located. HUD will allow the per-unit subsidy amount to be increased on a program-wide basis to an amount, up to 240 percent of the original per unit limits, to the extent that the costs of multifamily housing construction exceed the section 221(d)(3)(ii) limit.
- (b) **Underwriting and subsidy layering.** Before committing funds to a project, the participating jurisdiction must evaluate the project in accordance with guidelines that it has adopted for determining a reasonable level of profit or return on owner's or developer's investment in a project and must not invest any more HOME funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability in [§ 92.252](#) or [§ 92.254](#)) and that will not provide a profit or return on the owner's or developer's investment that exceeds the participating jurisdiction's established standards for the size, type, and complexity of the project. The participating jurisdiction's guidelines must require the participating jurisdiction to undertake:
  - (1) An examination of the sources and uses of funds for the project and a determination that the costs are reasonable; and
  - (2) An assessment, at minimum, of the current market demand in the neighborhood in which the project will be located, the experience of the developer, the financial capacity of the developer, and firm written financial commitments for the project.

(3) For projects involving rehabilitation of owner-occupied housing pursuant to [§ 92.254\(b\)](#):

- (i) An underwriting analysis is required only if the HOME-funded rehabilitation loan is an amortizing loan; and
- (ii) A market analysis or evaluation of developer capacity is not required.

(4) For projects involving HOME-funded down payment assistance pursuant to [§ 92.254\(a\)](#) and which do not include HOME-funded development activity, a market analysis or evaluation of developer capacity is not required.

## **HOME Homeownership Value Limits**

Section 215(b) of the National Affordable Housing Act (NAHA) requires that the initial purchase price or after-rehabilitation value of homeownership units assisted with HOME funds not exceed 95 percent of the area median purchase price for single family housing, as determined by HUD. Historically, HUD used the FHA Single Family Mortgage Limit (known as the 203(b) limits) as a surrogate for 95 percent of area median purchase price. However, statutory changes require the 203(b) limits to be set at 125 percent of area median purchase price. Consequently, PJs can no longer use the 203(b) limits as the HOME program homeownership value limits (i.e., initial purchase price or after rehabilitation value).

In Section 92.254(a)(2)(iii) of the Final Rule published on July 24, 2013, HUD established new homeownership value limits for HOME Participating Jurisdictions (PJs). This new Rule was effective August 23, 2013.

**Newly Constructed Housing.** The new HOME homeownership value limits for newly constructed HOME units is 95 percent of the median purchase price for the area based on Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing. Nationwide, HUD established a minimum limit, or floor, based on 95 percent of the U.S. median purchase price for new construction for nonmetropolitan areas. This figure is determined by the U.S. Census Bureau. HUD has used the greater of these two figures as their HOME homeownership value limits for newly constructed housing in each area.

**Existing Housing.** The new HOME homeownership value limits for existing HOME units is 95 percent of the median purchase price for the area based on Federal FHA single family mortgage program data for existing housing and other appropriate data that are available nationwide for sale of existing housing in standard condition. Nationwide, HUD has established a minimum limit, or floor, based on 95 percent of the state-wide nonmetropolitan area median purchase price using this data. HUD has used the greater of these two figures as their HOME homeownership value limits for existing housing in each area.

**PJ Determined Limits.** In lieu of the limits provided by HUD, a PJ may determine 95 percent of the median area purchase price for single family housing in the jurisdiction annually in accordance with procedures established at [§ 92.254\(a\)\(2\)\(iii\)](#). The PJ must submit these limits as part of its Consolidated Plan/Annual Action Plan.

Current HOME homeownership value limits are located on the [HUD Exchange](#).



## **Resale Policy and Enforcement of Resale Provisions**

As required by HOME regulations, to ensure affordability for the required period of time, the City of Lawrence has elected to impose resale requirements on all HOME funded homeownership housing. See the resale guidelines and enforcement of resale provisions attached in Appendix D.

## **Homebuyer Eligibility**

Households may not own another home (including mobile homes) or other real property at the time of purchasing a home through the program. If a home or other real property is owned by any household member at the time of application, the household may not apply to the program. The property must be sold before closing on a home through the program and this must be documented by a settlement statement and a warranty or quit claim deed for appropriate payment. To be eligible for HOME funds, the prospective household must:

- Be low-income; that is, all persons residing in the home combined must have an annual gross income that does not exceed the HUD low-income limit;
- Occupy the property as a principal residence;

## **Income Determinations**

When determining whether a family is income eligible, the City of Lawrence will use the definition of annual income as defined at [24 CFR 5.609](#) (Part 5/Section 8 annual gross income).

The City of Lawrence will determine gross annual income by examining at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family. This may differ from the gross household income used to determine HOME-eligibility when some of the total household income is from individuals who will not be party to the bank mortgage. For example, if an 18-year-old child is still living at home and has earned income that counts in total household income but only his parents will be on the title and "borrowers" on the mortgage loan, the City will just use the income attributable to the parents.

The City of Lawrence will calculate the annual income of the family by projecting the prevailing rate of income of the family at the time the participating jurisdiction determines that the family is income eligible. Income or asset enhancement derived from the HOME-assisted project shall not be considered in calculating annual income.

Under the Part 5 definition, assets are categorized as either:

- Total \$5,000 or Less- If the total cash value of all the family's assets is \$5,000 or less, the actual income the family receives from assets is the amount that is included in annual income as income from assets.
- Exceed \$5,000 - When net family assets are more than \$5,000, annual income includes the greater of the following:
  - Actual income from assets; or
  - A percentage of the value of family assets based upon the current passbook savings rate as established by HUD. This is called imputed income from assets. The passbook rate is currently set at .06%.

To begin this calculation, first add the cash value of all assets. Multiply the total cash value of all assets by .0006. The product is the "imputed income" from assets. Then, add the actual income

from all assets. The greater of the imputed income from assets or the actual income from assets is included in the calculation of annual income. The following are typical sources of assets: cash (e.g., checking, savings), equity, stocks, retirement accounts, pension funds, life insurance, personal property, lump sums, or deeds.

The HID Project Specialist will use the [HUD's CPD Income Eligibility Calculator](#) to determine and document the household's income.

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

## **Underwriting Standards**

The City of Lawrence will determine the appropriate amount of HOME assistance to provide to each homebuyer based on individual financial circumstances. Proper underwriting of the HOME-assisted homebuyer will ensure the City makes an informed decision about the amount of HOME assistance needed to make the unit affordable to each specific homebuyer; that the homebuyer is not being over subsidized or under subsidized. A PJ may not provide a uniform amount of assistance to each homebuyer irrespective of income, assets, or other circumstances. Such a program design does not take into account the individual financial circumstances of each homebuyer seeking HOME assistance and does not comply with the requirements of §92.254(f). In order to determine the specific amount of HOME assistance needed to ensure that the unit is affordable and sustainable over the long-term, PJs must examine the following for each homebuyer:

- housing and overall debt;
- monthly expenses;
- assets or cash reserves; and
- appropriateness of the amount of assistance.

The City of Lawrence will use a Homebuyer Qualifying and Underwriting proforma spreadsheet to determine the amount of HOME assistance needed for each individual project. These spreadsheets will help staff complete a preliminary and final buyer affordability analysis and to assess income needed to afford homes being developed for sale.

When a specific buyer is known, the Part A "Buyer Prequalification" worksheet can help determine how much mortgage that buyer could reasonably afford. Later, Part B "Final Buyer Underwriting" can be used to do the final underwriting when a buyer has identified a specific house to purchase. The assumptions made about the buyer's likely housing costs (interest rate, taxes, insurance, etc.) at the time of the pre-qualification must be tested against the actual costs for a specific home at the time of closing and revised as needed using Part C "Final Buyer Underwriting."

On the other hand, when a PJ or its partner is developing a for-sale home, the Part D "Project Affordability Range" worksheet can help determine the minimum buyer income needed to afford the house given a maximum budget for down payment and closing cost assistance and additional HOME direct financing.

The HID Project Specialist will use the proforma spreadsheets to determine and document a prospective homebuyer's income and monthly expenses for the purpose of calculating front- and back-end ratios. To be eligible for HOME funds, the prospective household must:

- Have a maximum front-end ratio of 38% of the buyer's gross monthly income (front-end ratio is housing debt including principal, interest, taxes, insurance, ground lease);
- Have a maximum back-end ratio of 50% of the buyer's gross monthly income (back-end ratio is total debt to income, including housing and other consumer debt; other consumer debt will include installment debt such as car or student loans and revolving debt like credit cards, merchant credit cards, and the like).
- Contribute at least 5% of the buyer's annual gross income as a down payment, of which a minimum of \$500 must come directly from the buyer (the rest can be a gift or other program down payment grant).
- Contribute a majority of cash assets if there are over \$100,000 in cash assets.

The HID Project Specialist will also use the proforma spreadsheets to determine and document the minimum buyer income needed to afford a proposed new construction unit's sales price, given a maximum budget for down payment, closing cost assistance, and additional HOME direct financing.

### **Responsible Lending Standards**

Responsible lending is the practice of ensuring that a homebuyer's mortgage is sustainable over the long term and does not contain risky loan features that could threaten the homeowner's ability to meet the obligations of the mortgage.

The City of Lawrence will ensure that the homebuyer's primary mortgage is affordable and sustainable and contains appropriate terms. A HOME-assisted homebuyer's primary mortgage cannot exceed a 30-year term and must require periodic fixed-rate payments without risky features and terms such as negative amortization, interest-only periods, prepayment penalties, or balloon payments. The maximum interest rate cannot exceed more than 2 points above the prime rate.

The HID Project Specialist will review the homebuyer's pre-approval and loan award from the participating third-party lender.

### **Refinancing and Subordination Standards**

The City of Lawrence will ensure, in the event of a refinancing, that the HOME investment is protected, and that the homebuyer's total housing debt remains affordable and sustainable.

The City of Lawrence provides HOME assistance in the form of a grant and does not utilize a subordinate HOME mortgage.

### **Housing Counseling [24 CFR 5.111]**

All homebuyers who will receive HOME assistance must complete housing counseling, as defined in [24 CFR 5.100](#). The housing counseling must be performed by a certified housing counselor who has passed the HUD certification examination and is employed by a HUD-approved housing counseling agency. The homebuyer must submit verification of the completed housing counseling prior to HOME assistance from the City of Lawrence.

## Chapter 5: Rental Specific Guidelines

### Eligible Activities

HOME funds may be used for rental activities and projects that support and provide incentives for the development of affordable rental housing that address the needs identified in the Consolidated Plan. These activities may include new construction, reconstruction, acquisition, or rehabilitation of non-luxury housing with rent restrictions that serve 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.

### Qualification as Affordable Housing: Rental Housing [92.252]

The HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of this section to qualify as affordable housing. If the housing is not occupied by eligible tenants within six months following the date of project completion, HUD will require the participating jurisdiction to submit marketing information and, if appropriate, submit a marketing plan. HUD will require the participating jurisdiction to repay HOME funds invested in any housing unit that has not been rented to eligible tenants 18 months after the date of project completion. The affordability requirements also apply to the HOME-assisted non-owner-occupied units in single-family housing purchased with HOME funds in accordance with [§ 92.254](#). The tenant must have a written lease that complies with [§ 92.253](#).

- (a) **Rent limitation.** HUD provides the following maximum HOME rent limits. The rent limits apply to the rent plus the utilities or the utility allowance. The maximum HOME rents (High HOME Rents) are the lesser of:
  - (1) The fair market rent for existing housing for comparable units in the area as established by HUD under [24 CFR 888.111](#); or
  - (2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.
- (b) **Additional rent limitations (Low HOME Rents).** The participating jurisdiction may designate (in its written agreement with the project owner) more than the minimum HOME units in a rental housing project, regardless of project size, to have Low HOME Rents that meet the requirements of this [paragraph \(b\)](#). In rental projects with five or more HOME-assisted rental units, at least 20 percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements:
  - (1) The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under [paragraph \(a\)](#) of this section, then the maximum rent for units under this paragraph is that calculated under [paragraph \(a\)](#) of this section.

- (2) The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

(c) ***Additional rent limitations for SRO projects.***

- (1) For SRO units that have both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent. The project must meet the requirements of [paragraphs \(a\)](#) and [\(b\)](#) of this section.
- (2) For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent of the zero-bedroom fair market rent. The project is not required to have low HOME rents in accordance with [paragraph \(b\)\(1\)](#) or [\(2\)](#) of this section, but must meet the occupancy requirements of [paragraph \(b\)](#) of this section.

(d) ***Initial rent schedule and utility allowances.***

- (1) The participating jurisdiction must establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. The participating jurisdiction must use the HUD Utility Schedule Model or otherwise determine the utility allowance for the project based on the type of utilities used at the project.
- (2) The participating jurisdiction must review and approve rents proposed by the owner for units, subject to the maximum rent limitations in [paragraphs \(a\)](#) or [\(b\)](#) of this section. For all units subject to the maximum rent limitations in [paragraphs \(a\)](#) or [\(b\)](#) of this section for which the tenant is paying utilities and services, the participating jurisdiction must ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.

(e) ***Periods of affordability.*** The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion.

- (1) The affordability requirements:
  - (i) Apply without regard to the term of any loan or mortgage, repayment of the HOME investment, or the transfer of ownership;
  - (ii) Must be imposed by a deed restriction, a covenant running with the land, an agreement restricting the use of the property, or other mechanisms approved by HUD and must give the participating jurisdiction the right to require specific performance (except that the participating jurisdiction may provide that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure); and
  - (iii) Must be recorded in accordance with State recordation laws.

- (2) The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure in order to preserve affordability.
- (3) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.
- (4) The termination of the restrictions on the project does not terminate the participating jurisdiction's repayment obligation under [§ 92.503\(b\)](#).

<b>Rental housing activity</b>	<b>Minimum period of affordability in years</b>
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15
New construction or acquisition of newly constructed housing	20

**(f) *Subsequent rents during the affordability period.***

- (1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.
- (2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in [paragraph \(f\)\(1\)](#) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with this section. The participating jurisdiction must review rents for compliance and approve or disapprove them every year.
- (3) Any increase in rents for HOME-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

**(g) *Adjustment of HOME rent limits for an existing project.***

- (1) Changes in fair market rents and in median income over time should be sufficient to maintain the financial viability of a project within the HOME rent limits in this section.

- (2) HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the continued financial viability of the project and only by an amount that HUD determines is necessary to maintain continued financial viability of the project. HUD expects that this authority will be used sparingly.
- (h) **Tenant income.** The income of each tenant must be determined initially in accordance with [§ 92.203\(a\)\(1\)\(i\)](#). In addition, each year during the period of affordability the project owner must re-examine each tenant's annual income in accordance with one of the options in [§ 92.203](#) selected by the participating jurisdiction. An owner of a multifamily project with an affordability period of 10 years or more who re-examines tenant's annual income through a statement and certification in accordance with [§ 92.203\(a\)\(1\)\(ii\)](#), must examine the income of each tenant, in accordance with [§ 92.203\(a\)\(1\)\(i\)](#), every sixth year of the affordability period. Otherwise, an owner who accepts the tenant's statement and certification in accordance with [§ 92.203\(a\)\(1\)\(ii\)](#) is not required to examine the income of tenants in multifamily or single-family projects unless there is evidence that the tenant's written statement failed to completely and accurately state information about the family's size or income.
- (i) **Over-income tenants.**
- (1) HOME-assisted units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.
- (2) Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 ([26 U.S.C. 42](#)) must pay rent governed by section 42. In addition, in projects in which the HOME units are designated as floating pursuant to [paragraph \(j\)](#) of this section, tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.
- (j) **Fixed and floating HOME units.** In a project containing HOME-assisted and other units, the participating jurisdiction may designate fixed or floating HOME units. This designation must be made at the time of project commitment in the written agreement between the participating jurisdiction and the owner, and the HOME units must be identified not later than the time of initial unit occupancy. Fixed units remain the same throughout the period of affordability. Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.
- (k) **Tenant selection.** The tenants must be selected in accordance with [§ 92.253\(d\)](#).
- (l) **Ongoing responsibilities.** The participating jurisdiction's responsibilities for on-site inspections and financial oversight of rental projects are set forth in [§ 92.504\(d\)](#).

## **Project Eligibility**

The HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of 92.252 to qualify as affordable housing. If the housing is not occupied by eligible tenants within six months following the date of project completion, HUD will require the City to submit marketing information and, if appropriate, submit a marketing plan. HUD will require the City to repay HOME funds invested in any housing unit that has not been rented to eligible tenants 18 months after the date of project completion.

## **Maximum Income & Rents for HOME-Assisted Units**

In projects of five or more HOME-assisted rental units, at least 20% of the HOME-assisted units must be occupied by households who have annual incomes that are 50% or less of median income. These very low-income tenants must occupy units with rents at or below the Low HOME Rent level. The balance of HOME-assisted units must be occupied by households who have annual incomes that are 60% or less of median income, and the rents must be at or below the High HOME Rent level. More than 20% of HOME-assisted may be designated as 50% or less of median income/Low HOME Rent units.

## **Income Certification & Recertification**

The income of each household must be determined at initial occupancy and every 6<sup>th</sup> year in accordance with 92.203(a)(1). In addition, each year during the period of affordability the project owner must re-examine each tenant's annual income in accordance with one of the options in 92.203.

## **Definition of Income [92.203(b)]**

Annual income is the gross amount of income anticipated by all adults (everyone 18 years and older) in a household projected for 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, the city may choose among two definitions of income:

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

The City of Lawrence uses Part 5, commonly referred to as Section 8 definition of income for rental housing units. Detailed information on calculating Part 5 income may be found at 24 CFR Part 5 Subpart F.

Subrecipients must use HUD's [HUD's CPD Income Eligibility Calculator](#) to determine an applicant's eligibility and document records.

## **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 step to maintain compliance with HOME rent and occupancy requirements. The project must maintain the correct number of units targeting the identified incomes based on the written agreement between the grantee and the city.

HOME-assisted units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the income of existing tenants if actions satisfactory to HUD are being



taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.

- Rents must be adjusted for tenants whose incomes rise above 80 percent 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 to 30% of the household's income. 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.

## **Maximum Rents**

HUD provides the following maximum HOME rent limits. The rent limits apply to the rent plus the utilities or the utility allowance. The maximum HOME rents (High HOME Rents) are the lesser of:

- The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
- A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit; the HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

The City may designate (in its written agreement with the project owner) more than the minimum HOME units in a rental housing project, regardless of project size, to have Low HOME Rents that meet the requirements of 92.252(b). In rental projects with five or more HOME-assisted rental units, at least 20 percent of the HOME-assisted units must be occupied by very low-income households and meet one of the following rent requirements:

- The rent does not exceed 30 percent of the annual income of a household whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger households; HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions; however, if the rent determined under this method is higher than the applicable rent under the High HOME Rents method, then the maximum rent for units under the Low HOME Rent limit is that calculated at the High HOME Rent limit.
- The rent does not exceed 30 percent of the household's adjusted income; if the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the household's adjusted income, then the maximum rent is the rent allowable under the Federal or State project-based rental subsidy program.

The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

The City will provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in the paragraph above) in accordance with the written agreement between the City of Lawrence and the owner. Owners must annually provide the City with information on rents and occupancy of HOME-assisted units to demonstrate compliance. The City will review rents and approve or disapprove them every year.

Any increase in rents for HOME-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents. Changes in fair market rents and in median income over time should be sufficient to maintain the financial viability of a project within the HOME rent limits.

### **Single Room Occupancy (SRO) Max Rents [92.252(c)]**

- (1) For SRO units that have both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent. The project must meet the requirements of [paragraphs \(a\) and \(b\)](#) of this section.
- (2) For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent of the zero-bedroom fair market rent. The project is not required to have low HOME rents in accordance with [paragraph \(b\)\(1\)](#) or [\(2\)](#) of this section, but must meet the occupancy requirements of [paragraph \(b\)](#) of this section.

### **Tenant Protections & Selection [92.253]**

- (a) **Lease.** There must be a written lease between the tenant and the owner of rental housing assisted with HOME funds that is for a period of not less than 1 year, unless by mutual agreement between the tenant and the owner a shorter period is specified. The lease must incorporate the VAWA lease term/addendum required under [§ 92.359\(e\)](#), except as otherwise provided by [§ 92.359\(b\)](#).
- (b) **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) **Mandatory supportive services.** Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.
- (c) **Termination of tenancy.** An owner 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 failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.
- (d) **Tenant selection.** An owner of rental housing assisted with HOME funds must comply with the affirmative marketing requirements established by the participating jurisdiction pursuant to [§ 92.351\(a\)](#). The owner must adopt and follow written tenant selection policies and criteria that:
- (1) Limit the housing to very low- income and low-income families;
  - (2) Are reasonably related to the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing; not to interfere with the rights and quiet enjoyment of other tenants);
  - (3) Limit eligibility or give a preference to a particular segment of the population if permitted in its written agreement with the participating jurisdiction (and only if the limitation or preference is described in the participating jurisdiction's consolidated plan).

- (i) Any limitation or preference must not violate nondiscrimination requirements in [§ 92.350](#). A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under [24 CFR part 574](#), the Shelter Plus Care program under [24 CFR part 582](#), the Supportive Housing program under [24 CFR part 583](#), supportive housing for the elderly or persons with disabilities under [24 CFR part 891](#)), and the limit or preference is tailored to serve that segment of the population.
- (ii) If a project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the project may have a limitation or preference for persons with disabilities who need services offered at a project only if:
  - (A) The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
  - (B) Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and
  - (C) Such services cannot be provided in a nonsegregated setting. The families must not be required to accept the services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.
- (4) Do not exclude an applicant with a certificate or voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program ([24 CFR part 982](#)) or an applicant participating in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.
- (5) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;
- (6) Give prompt written notification to any rejected applicant of the grounds for any rejection; and
- (7) Comply with the VAWA requirements prescribed in [§ 92.359](#).

### **VAWA Requirements [92.359]**

#### **(a) *General.***

- (1) The Violence Against Women Act (VAWA) requirements set forth in [24 CFR part 5, subpart L](#), apply to all HOME tenant-based rental assistance and rental housing assisted with HOME funds, as supplemented by this section.

- (2) For the HOME program, the “covered housing provider,” as this term is used in HUD’s regulations in [24 CFR part 5, subpart L](#), refers to:
- (i) The housing owner for the purposes of [24 CFR 5.2005\(d\)\(1\)](#), [\(d\)\(3\)](#), and [\(d\)\(4\)](#) and [§ 5.2009\(a\)](#); and
  - (ii) The participating jurisdiction and the owner for purposes of [24 CFR 5.2005\(d\)\(2\)](#), [5.2005\(e\)](#), and [5.2007](#), except as otherwise provided in [paragraph \(g\)](#) of this section.
- (b) **Effective date.** The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking became applicable upon enactment of VAWA 2013 on March 7, 2013. Compliance with the VAWA regulatory requirements under this section and [24 CFR part 5, subpart L](#), are required for any tenant-based rental assistance or rental housing project for which the date of the HOME funding commitment is on or after *December 16, 2016*.
- (c) **Notification requirements.** The participating jurisdiction must provide a notice and certification form that meet the requirements of [24 CFR 5.2005\(a\)](#) to the owner of HOME-assisted rental housing.
- (1) **For HOME-assisted units.** The owner of HOME-assisted rental housing must provide the notice and certification form described in [24 CFR 5.2005\(a\)](#) to the applicant for a HOME-assisted unit at the time the applicant is admitted to a HOME-assisted unit, or denied admission to a HOME-assisted unit based on the owner’s tenant selection policies and criteria. The owner of HOME-assisted rental housing must also provide the notice and certification form described in [24 CFR 5.2005](#) with any notification of eviction from a HOME-assisted unit.
  - (2) **For HOME tenant-based rental assistance.** The participating jurisdiction must provide the notice and certification form described in [24 CFR 5.2005\(a\)](#) to the applicant for HOME tenant-based rental assistance when the applicant’s HOME tenant-based rental assistance is approved or denied. The participating jurisdiction must also provide the notice and certification form described in [24 CFR 5.2005\(a\)](#) to a tenant receiving HOME tenant-based rental assistance when the participating jurisdiction provides the tenant with notification of termination of the HOME tenant-based rental assistance, and when the participating jurisdiction learns that the tenant’s housing owner intends to provide the tenant with notification of eviction.
- (d) **Bifurcation of lease requirements.** For the purposes of this part, the following requirements shall apply in place of the requirements at [24 CFR 5.2009\(b\)](#):
- (1) If a family living in a HOME-assisted rental unit separates under [24 CFR 5.2009\(a\)](#), the remaining tenant(s) may remain in the HOME-assisted unit.
  - (2) If a family who is receiving HOME tenant-based rental assistance separates under [24 CFR 5.2009\(a\)](#), the remaining tenant(s) will retain the HOME tenant-based rental assistance. The participating jurisdiction must determine whether the tenant that was removed from the unit will receive HOME tenant-based rental assistance.
- (e) **VAWA lease term/addendum.** The participating jurisdiction must develop a VAWA lease term/addendum to incorporate all requirements that apply to the owner or lease

under [24 CFR part 5, subpart L](#), and this section, including the prohibited bases for eviction and restrictions on construing lease terms under [24 CFR 5.2005\(b\)](#) and [\(c\)](#). This VAWA lease term/addendum must also provide that the tenant may terminate the lease without penalty if the participating jurisdiction determines that the tenant has met the conditions for an emergency transfer under [24 CFR 5.2005\(e\)](#). When HOME tenant-based rental assistance is provided, the lease term/addendum must require the owner to notify the participating jurisdiction before the owner bifurcates the lease or provides notification of eviction to the tenant. If HOME tenant-based rental assistance is the only assistance provided (*i.e.*, the unit is not receiving project-based assistance under a covered housing program, as defined in [24 CFR 5.2003](#)), the VAWA lease term/addendum may be written to expire at the end of the rental assistance period.

(f) ***Period of applicability.*** For HOME-assisted rental housing, the requirements of this section shall apply to the owner of the housing for the duration of the affordability period. For HOME tenant-based rental assistance, the requirements of this section shall apply to the owner of the tenant's housing for the period for which the rental assistance is provided.

(g) ***Emergency Transfer Plan.***

(1) The participating jurisdiction must develop and implement an emergency transfer plan and must make the determination of whether a tenant qualifies under the plan. The plan must meet the requirements in [24 CFR 5.2005\(e\)](#), as supplemented by this section.

(2) For the purposes of [§ 5.2005\(e\)\(7\)](#), the required policies must specify that for tenants who qualify for an emergency transfer and who wish to make an external emergency transfer when a safe unit is not immediately available, the participating jurisdiction must provide a list of properties in the jurisdiction that include HOME-assisted units. The list must include the following information for each property: The property's address, contact information, the unit sizes (number of bedrooms) for the HOME-assisted units, and, to the extent known, any tenant preferences or eligibility restrictions for the HOME-assisted units. In addition, the participating jurisdiction may:

(i) Establish a preference under the participating jurisdiction's HOME program for tenants who qualify for emergency transfers under [24 CFR 5.2005\(e\)](#);

(ii) Provide HOME tenant-based rental assistance to tenants who qualify for emergency transfers under [24 CFR 5.2005\(e\)](#); or

(iii) Coordinate with victim service providers and advocates to develop the emergency transfer plan, make referrals, and facilitate emergency transfers to safe and available units.

The City of Lawrence will require owners to have VAWA lease term/addendum to incorporate all requirements that apply to the owner or lease under 24 CFR part 5, subpart L, and this section, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). This VAWA lease term/addendum also provides that the tenant may terminate the lease without penalty if the City or Owner determines that the tenant has met the conditions for an emergency transfer under 24 CFR 5.2005(e).

For HOME-assisted rental housing, these VAWA requirements shall apply to the owner of the housing for the duration of the affordability period.

### **Recordkeeping**

One of the owner's responsibilities is to keep adequate records to be able to demonstrate compliance with HOME requirements. The owner should keep both project and tenant records.

- Project records should include documentation to back-up rent and utility allowance calculations. If the project's HOME-assisted units are "floating," the owner should also keep records to show how HOME occupancy targets were met (for example, rental logs to show that as units were vacated or tenants became over-income, HOME-assisted units were properly replaced). General rental housing records must be kept for five years after the conclusion of the City's period of affordability.
- Tenant files should include the documentation necessary to demonstrate that each HOME-assisted unit is properly occupied by an income-eligible tenant. Such documentation includes: the tenant's application, initial income verification documents, subsequent annual income recertification documents and the tenant's lease. Tenant income rent and inspection information must be kept for the most recent five years, until five years after the HOME affordability period.

### **Monitoring & Project Oversight [92.504(d)]**

The City of Lawrence is responsible for on-site inspections and financial oversight of rental projects. The objective of the HOME Monitoring Plan is to establish standards for evaluating and reporting a recipient's compliance with program requirements. The City will review the proper maintenance, marketing, occupancy, rents and utility allowances of housing funded with HOME funds by applying the procedures that are described in detail in this document.

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

- Adherence to HOME guidelines, procedures and regulations for programs as a whole and for individual projects
- Internal Procedures and policies and those of program partners
- Overall administration and management
- Fair Housing
- Construction quality, ongoing housing condition and maintenance
- Davis-Bacon, Lead Based Paint, and other Federal Requirements as applicable
- Cost reasonableness and financial accountability
- Environmental Review

The City of Lawrence may withhold, reduce, or terminate funding to a developer or subrecipient where deficiencies have not been sufficiently corrected to the City and/or HUD's satisfaction.

### **Approach & Project Selection for Monitoring**

Project oversight will be provided on all active development projects and will be similar to but generally more rigorous than ongoing monitoring.

- Desk Review: HID staff will conduct ongoing monitoring as part of desk reviews which will be based primarily on the analysis of quarterly and annual reports, inspections and documents submitted for review as projects are developed and managed through the affordability period. Annually, Owners and Managers will submit annual tenant reports to the HID staff.

The development process will be monitored by the City Project Specialist through the draw process, including reviewing draw for reimbursement requests. Prior to final payment and project closeout the Project Specialist will conduct a review of the project file and IDIS information to assure the project is in compliance prior to project close-out.

- Risk Assessment: The City will conduct an annual Risk Assessment. The results of this assessment will determine which HOME-assisted rental housing projects will be monitored within the program year. At minimum, all properties will be monitored on-site every three years. The following factors will be used to determine the level of risk noncompliance:
  - No previous experience developing, owning or managing a HOME-assisted property;
  - Previous monitoring resulted in areas of noncompliance; or
  - Property is experiencing high staff turnover.

HID and Code Compliance staff will inspect HOME-assisted units in a project, to ensure compliance with property standards. Staff will also ask to see a sample of the files of residents of HOME-assisted units to review income documentation, rent calculations, HOME lease provisions and compliance with other HOME regulations. Project owners must submit information on tenant incomes, rents, fees, and utility allowance annually.

### **On-Site Inspections**

The City of Lawrence will inspect each project at project completion and during the period of affordability to determine that the project meets the property standards of 92.251. Before completing the project in IDIS, the City will perform an on-site inspection of HOME-assisted housing to determine that all contracted work has been completed and that the project complies with the property standards of 92.251.

During the period of affordability, City staff will perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of 92.251 and to verify the information submitted by the owners in accordance with the requirements of 92.252. The inspections must be in accordance with the inspection procedures that the City establishes to meet the inspection requirements of 92.251:

- The on-site inspections must occur within 12 months of project completion and at least once every 3 years thereafter during the period of affordability.

If there are observed deficiencies for any of the inspectable items in the property standards established by the City, a follow-up on-site inspection will be conducted to verify that the deficiencies are corrected must occur within the timeframe established by the City. The City member may establish a list of non-hazardous deficiencies for which correction can be verified through third-party documentation rather than re-inspection. Health and safety deficiencies must be corrected immediately. The City will conduct



frequent inspections for properties that have been found to have health and safety deficiencies.

- The property owner must annually certify to the City that each building and all HOME-assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the City.
- Inspections are based on a statistically valid sample of units appropriate for the size of the HOME-assisted project, as set forth by HUD through notice. For projects with one-to four HOME-assisted units, the City inspects 100 percent of the HOME-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-assisted units.

### **Pre-Monitoring Preparation**

Prior to an on-site monitoring visit, City staff will conduct a desk review of the project and provide written notification of the visit to the Owner/Manager. 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 recipient will be asked to provide the compliance staff with the following:
  - Disbursement and expenditure reports.
  - Agreements/contracts.
  - Policy guidelines and procedures, administrative plans, and operation manuals

### **Monitoring Letter**

Within 30-days of the site visit, a monitoring letter will be prepared and provided to the recipient following the completion of the monitoring review. The letter will include the following information:

- An explanation of the purpose and scope of the review
- A list of the files reviewed
- A list of the houses/units inspected
- A summary of the project and funds expended to date
- An evaluation of project performance to date
- A list of findings, concerns, comments, recommendations, and corrective actions to be take
- A time frame for taking corrective action.

## **Converting Rental Units to Homeownership Units for Existing Tenants [92.255]**

- (a) The participating jurisdiction may permit the owner of HOME-assisted rental units to convert the rental units to homeownership units by selling, donating, or otherwise conveying the units to the existing tenants to enable the tenants to become homeowners in accordance with the requirements of [§ 92.254](#). However, refusal by the tenant to purchase the housing does not constitute grounds for eviction or for failure to renew the lease.
- (b) If no additional HOME funds are used to enable the tenants to become homeowners, the homeownership units are subject to a minimum period of affordability equal to the remaining affordable period if the units continued as rental units. If additional HOME funds are used to directly assist the tenants to become homeowners, the minimum period of affordability is the affordability period under [§ 92.254\(a\)\(4\)](#), based on the amount of direct homeownership assistance provided.

### **Sanctions**

Whenever HID staff determines that a recipient of HOME funds has failed to comply with the requirements of the HOME program the HID staff shall notify the recipient of the noncompliance and shall request appropriate compliance action. If within a reasonable period of time the recipient fails or refuses to comply, the City may:

- Terminate payments to the recipient, if applicable
- Require repayment of funds spend improperly
- Reduce payments to the recipient by an amount equal to the amount of such payments that were not expended in accordance with the required HOME project, if applicable
- Prohibit the recipient from participation in future HOME/CDBG competitions
- Limit the availability of payments to programs or activities not affected by such failure to comply
- Take such other action as may be provided by law, regulation, or program policies and/or
- Refer the matter to the Attorney General with a recommendation that an appropriate action be instituted

### **Opportunity for Informal Consultation**

Prior to a reduction, withdrawal, or adjustment of a grant or other appropriate action taken, the Subrecipient shall be notified of such proposed action and be given an opportunity within a prescribed time period for an informal consultation.

## Chapter 6: Tenant-Based Rental Assistance Specific Guidelines

### Overview

HOME Investment Partnerships Program (HOME) permits Participating Jurisdictions (PJs) to create flexible programs that provide assistance to individual households to help them afford the housing costs of market-rate units. These programs are known as "Tenant-Based Rental Assistance," or TBRA. HOME TBRA programs differ from other types of HOME rental housing activities in three key ways:

- TBRA programs help individual households, rather than subsidizing particular rental projects.
- TBRA assistance moves with the tenant—if the household no longer wishes to rent a particular unit, the household may take its TBRA and move to another rental property.
- The level of TBRA subsidy varies—the level of subsidy is based upon the income of the household, the particular unit the household selects, and the PJ's rent standard (rather than being tied to the PJ's high and low HOME rents).

There are many different types of TBRA programs, but the most common type provides payments to make up the difference between the amount a household can afford to pay for housing and the local rent standards. Other TBRA programs help tenant pay for costs associated with their housing, such as security and utility deposits.

### Tenant-Based Rental Assistance: Eligible Costs and Requirements [92.209]

- (a) **Eligible costs.** Eligible costs are the rental assistance and security deposit payments made to provide tenant-based rental assistance for a family pursuant to this section. Eligible costs also include utility deposit assistance, but only if this assistance is provided with tenant-based rental assistance or security deposit payment. Administration of tenant-based rental assistance is eligible only under general management oversight and coordination at [§ 92.207\(a\)](#), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible as costs of the tenant-based rental assistance.
- (b) **General requirement.** A participating jurisdiction may use HOME funds for tenant-based rental assistance only if the participating jurisdiction makes the certification about inclusion of this type of assistance in its consolidated plan in accordance with [24 CFR 91.225\(d\)\(1\)](#), [91.325\(d\)\(1\)](#), or [91.425\(a\)\(2\)\(i\)](#), and specifies local market conditions that lead to the choice of this option.
- (c) **Tenant selection.** The participating jurisdiction must select low-income families in accordance with written tenant selection policies and criteria that are based on local housing needs and priorities established in the participating jurisdiction's consolidated plan.
  - (1) **Low-income families.** Tenant-based rental assistance may only be provided to very low- and low-income families. The participating jurisdiction must determine that the family is very low- or low-income before the assistance is provided. During the period of assistance, the participating jurisdiction must annually determine that the family continues to be low-income.

(2) **Targeted assistance.**

- (i) The participating jurisdiction may establish a preference for individuals with special needs (e.g., homeless persons or elderly persons) or persons with disabilities. The participating jurisdiction may offer, in conjunction with a tenant-based rental assistance program, particular types of nonmandatory services that may be most appropriate for persons with a special need or a particular disability. Generally, tenant-based rental assistance and the related services should be made available to all persons with special needs or disabilities who can benefit from such services. Participation may be limited to persons with a specific disability if necessary to provide as effective housing, aid, benefit, or services as those provided to others in accordance with [24 CFR 8.4\(b\)\(1\)\(iv\)](#).
  - (ii) The participating jurisdiction may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) if the specific category is identified in the participating jurisdiction's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.
  - (iii) **Self-sufficiency program.** The participating jurisdiction may require the family to participate in a self-sufficiency program as a condition of selection for assistance. The family's failure to continue participation in the self-sufficiency program is not a basis for terminating the assistance; however, renewal of the assistance may be conditioned on participation in the 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.
  - (iv) **Homebuyer program.** HOME tenant-based rental assistance may assist a tenant who has been identified as a potential low-income homebuyer through a lease-purchase agreement, with monthly rental payments for a period up to 36 months (i.e., 24 months, with a 12-month renewal in accordance with [paragraph \(e\)](#) of this section). The HOME tenant-based rental assistance payment may not be used to accumulate a down payment or closing costs for the purchase; however, all or a portion of the homebuyer-tenant's monthly contribution toward rent may be set aside for this purpose. If a participating jurisdiction determines that the tenant has met the lease-purchase criteria and is ready to assume ownership, HOME funds may be provided for down payment assistance in accordance with the requirements of this part.
  - (v) Preferences cannot be administered in a manner that limits the opportunities of persons on any basis prohibited by the laws listed under [24 CFR 5.105\(a\)](#). For example, a participating jurisdiction may not determine that persons given a preference under the program are therefore prohibited from applying for or participating in other programs or forms of assistance. Persons who are eligible for a preference must have the opportunity to participate in all programs of the participating jurisdiction, including programs that are not separate or different.
- (3) **Existing tenants in the HOME-assisted projects.** A participating jurisdiction may select low-income families currently residing in housing units that are designated for

rehabilitation or acquisition under the participating jurisdiction's HOME program. Participating jurisdictions using HOME funds for tenant-based rental assistance programs may establish local preferences for the provision of this assistance. Families so selected may use the tenant-based assistance in the rehabilitated or acquired housing unit or in other qualified housing.

- (d) **Portability of assistance.** A participating jurisdiction may require the family to use the tenant-based assistance within the participating jurisdiction's boundaries or may permit the family to use the assistance outside its boundaries.
- (e) **Term of rental assistance contract.** The term of the rental assistance contract providing assistance with HOME funds may not exceed 24 months, but may be renewed, subject to the availability of HOME 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 a participating jurisdiction and an owner, the term of the contract must terminate on termination of the lease. For a rental assistance contract between a participating jurisdiction and a family, 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 family enters into a new lease.
- (f) **Rent reasonableness.** The participating jurisdiction must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.
- (g) **Tenant protections.** The tenant must have a lease that complies with the requirements in [§ 92.253 \(a\)](#) and [\(b\)](#).
- (h) **Maximum subsidy.**
  - (1) The amount of the monthly assistance that a participating jurisdiction may pay to, or on behalf of, a family may not exceed the difference between a rent standard for the unit size established by the participating jurisdiction and 30 percent of the family's monthly adjusted income.
  - (2) The participating jurisdiction must establish a minimum tenant contribution to rent.
  - (3) The participating jurisdiction's rent standard for a unit size must be based on:
    - (i) Local market conditions; or
    - (ii) The Section 8 Housing Choice Voucher Program ([24 CFR part 982](#)).
- (i) **Housing quality standards.** Housing occupied by a family receiving tenant-based assistance under this section must meet the requirements set forth in [24 CFR 982.401](#). The participating jurisdiction must inspect the housing initially and re-inspect it annually.
- (j) **Security deposits.**
  - (1) A participating jurisdiction may use HOME funds provided for tenant-based rental assistance to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units whether or not the participating jurisdiction provides any other tenant-based rental assistance under this section.
  - (2) The relevant State or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purposes of this part, except that the amount of

HOME funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit.

- (3) Only the prospective tenant may apply for HOME security deposit assistance, although the participating jurisdiction may pay the funds directly to the tenant or to the landlord.
  - (4) HOME funds for security deposits may be provided as a grant or as a loan. If they are provided as a loan, the loan repayments are program income to be used in accordance with [§ 92.503](#).
  - (5) [Paragraphs \(b\), \(c\), \(d\), \(f\), \(g\), and \(i\)](#) of this section are applicable to HOME security deposit assistance, except that income determinations pursuant to [paragraph \(c\)\(1\)](#) of this section and Housing Quality Standard inspections pursuant to [paragraph \(i\)](#) of this section are required only at the time the security deposit assistance is provided.
- (k) **Program operation.** A tenant-based rental assistance program must be operated consistent with the requirements of this section. The participating jurisdiction may operate the program itself or may contract with a PHA or other entity with the capacity to operate a rental assistance program. The tenant-based rental assistance may be provided through an assistance contract to an owner that leases a unit to an assisted family or directly to the family. In either case, the participating jurisdiction (or entity operating the program) must approve the lease.
- (l) **Use of Section 8 assistance.** In any case where assistance under section 8 of the 1937 Act becomes available, recipients of tenant-based rental assistance under this part will qualify for tenant selection preferences to the same extent as when they received the HOME tenant-based rental assistance under this part.

### **Eligible Activities and Costs**

- Up to 24 months of rent assistance per household to assist with paying the cost of monthly rent. A household may continue to receive assistance following the initial 24 month period, dependent on the availability of funding.
- Security deposits, regardless of whether the household will be receiving rent assistance.
- Utility deposit assistance, only in conjunction with rental assistance.
- Project delivery costs, which specifically includes administrative time determining income eligibility.
- When HOME TBRA is combined with other subsidies, the HOME TBRA assistance may only be used as a supplement to further reduce the household rent payment to 30 percent of income.

### **Ineligible Activities**

- Project-based rental assistance. Households must be free to use the assistance in any eligible unit.
- Rental assistance to a household already receiving rental assistance under another Federal program, or a state or local rental assistance program that reduces the tenant rent payment to 30% of income.
- Providing TBRA for overnight or temporary shelter.

- Move-in costs and credit checks.
- Case management and support services.
- Utility deposits without rental assistance.
- Payment of rent arrearages.

### **Subrecipient Eligibility**

Eligible Subrecipients are public housing authorities and nonprofit community-based organizations assisting households in areas throughout the City of Lawrence. Subrecipients must have prior experience administering a tenant-based rental assistance program unless an experienced entity has agreed to mentor the applicant for the term of the contract.

### **Targeted Assistance**

The TBRA program can be targeted to special needs populations and persons with disabilities. See 92.209(c)(2)(i) and (ii). However, the City has not established a preference for individuals with special needs or persons with disabilities. As such, the City does not offer, in conjunction with a tenant-based rental assistance program, particular types of non-mandatory services that may be most appropriate for persons with a special need or particular disabilities. Tenant-based rental assistance and the related services are made available to all persons with special needs or disabilities who can benefit from such services. Participation is not limited to persons with a specific disability.

### **Tenant Selection**

TBRA tenant selection policies must be based on local housing needs and priorities consistent with the consolidated plan. The Subrecipient must select low-income households in accordance with tenant selection policies and criteria that are based on local housing needs and priorities established in the City's consolidated plan. Tenant-based rental assistance may only be provided to very low- and low-income households; the Subrecipient must determine that the household is very low- or low-income before the assistance is provided. During the period of assistance, the City's Subrecipient's must annually determine that the family continues to be low income.

As the City's Consolidated Plan does not identify a preference, applicants must be chosen in a first come first-serve manner from a written waiting list. Each agency must outline its procedures for notifying households on the wait list of their eligibility for TBRA assistance, timing requirements for households once notified, and procedures for maintaining the written waiting list.

The Subrecipient's program cannot be administered in a manner that limits the opportunities of persons based on race, color, religion, sex, national origin, handicap, sexual orientation, gender identification, or familial status. A person selected for the TBRA program may not be prohibited from applying for or participating in other available programs or forms of assistance for which they might qualify. Subrecipients must administer the TBRA HOME program in compliance with Fair Housing Law.

### **Unit Selection & Approval**

Approved applicants may select units that are publicly or privately owned and located within the City of Lawrence. TBRA may not be provided to a family who proposes to rent a unit that receives project-based rental assistance through federal, state, or local programs, if the TBRA assistance would lower the household's rent and utility costs to less than 30% of the household income.

## **Rent Reasonableness**

Units must rent for a reasonable amount, compared to rents charged for comparable, unassisted units. Subrecipients must document the basis of their rent reasonableness determinations. Although documentation of three comparable units is preferable, in some rural areas this may be difficult or impossible. In these cases, comparable units from neighboring communities are acceptable if the rents are similar. Documentation of fewer than three units is also acceptable with a written explanation. A rental lease must be disapproved if the rent is not reasonable, based on rents charged for comparable unassisted units.

## **Housing Quality Standards (HQS)**

All units must meet Section 8 Housing Quality Standards (HQS). Inspections must be made at initial occupancy and annually during the length of assistance. A copy of the inspection must be retained in the client file. If tenants are occupying a unit owned by the contractor, the unit must be inspected by a third party. Units may also be inspected as a result of housing quality complaints initiated by the owner or the tenant.

If a unit fails to pass inspection, the owner may be given a reasonable period of time to correct the deficiencies. If the owner fails to make the needed corrections, the Subrecipient has several options. The Subrecipient may, with adequate notice to the owner and household, terminate the TBRA Rental Assistance Contract and require the household to move to another location in order to continue to receive assistance. Inspection documentation shall be retained in the client file.

## **Lead Based Paint**

HUD's Lead Regulation [24 CFR Part 35, Subpart M](#) applies to the TBRA program. The regulation only applies to dwelling units built before 1978 occupied or to be occupied by families or households that have one or more children of less than 6 years of age, common areas servicing such dwelling units, and exterior painted surfaces associated with such dwelling units or common areas. Common areas servicing a dwelling unit include those areas through which residents pass to gain access to the unit and other areas frequented by resident children of less than 6 years of age, including on-site play areas and child care facilities. Please consult the regulation itself to make sure that your agency implements this regulation fully and properly.

1. **Evaluation:** The Subrecipient must conduct a visual assessment of a unit prior to occupancy and at least annually thereafter. The visual assessment identifies deteriorated paint, dust, debris, and other residue. The visual assessment must be done by a person who is trained in visual assessment.
2. **Paint Stabilization:** The property owner must correct any conditions identified in the HQS inspection, including stabilizing deteriorated paint identified in the visual inspection. Paint stabilization can involve repairing the substrate, scraping, and repainting the surface. All deteriorated paint must be stabilized by properly trained or supervised workers using lead-safe work practices.

Documentation of safe work practices is required and consists of having copies of certificates of safe work practices training completion on file for those doing the lead reduction work.



When work is complete, the Subrecipient must ensure that the unit passes clearance and keep a copy of the clearance report. Failure to get clearance on any unit where lead hazard reduction activities have occurred will result in rental assistance being discontinued on the unit. Keep records of any unit where clearance is required but has not been obtained to ensure that the unit does not become rent assisted, even if another eligible household wants to live there.

3. Communication with Residents: The Subrecipient must ensure that residents receive the following communications:
  - a. Lead Hazard Information Pamphlet: Prior to occupying the unit, the Subrecipient must provide the resident with the most up to date Protect Your Family from Lead in Your Home pamphlet. This document can be accessed in multiple languages at the following link: <https://www.epa.gov/lead/lead-safety-documents-andoutreach-materials>. The Subrecipient must retain in the client file documentation of receipt of this pamphlet by the resident prior to occupation of the unit, which must include a signature of acknowledgement signed by the resident.
  - b. Lead Disclosure Notice: Residents must receive, from the owner, a Lead Disclosure Form notifying them of any known lead-based paint or hazards in the unit, prior to occupying the unit. The Subrecipient must retain in the client file documentation of any Lead Disclosure provided to the resident by the owner, which must include a signature of acknowledgement signed by the resident.
  - c. Notice of Lead Hazard Reduction: For instances in which visual assessment and lead hazard evaluation determines a need for paint stabilization and/or abatement, and the owner has conducted paint stabilization activities, the resident must receive a Notice of Lead Hazard Reduction within 15 days of the completion of paint stabilization and clearance. The Subrecipient must retain this documentation in the client file, which must include a signature of acknowledgement signed by the resident.
  - d. Notice of Lead Hazard Evaluation: Because a visual assessment is not a method of lead hazard evaluation, a notice of lead hazard evaluation is not required. However, if any lead hazard evaluation is conducted, for example in the event of a child with an Environmental Intervention Blood Lead Level (EIBLL), such a notice is required and must be posted at the applicable work site. The Subrecipient must retain all related documentation in the client file.
4. Child with an Elevated Blood Lead Level (EIBLL)
  - a. Should the Subrecipient be made aware that a child less than 6 years of age living in a dwelling unit participating in the TBRA program has been identified as having elevated blood lead levels, the Subrecipient must conduct an inspection of the dwelling unit for Lead Based Paint risk. The Subrecipient must immediately notify the household and the owner of the unit of the results of the inspection, and the owner must conduct paint stabilization and/or abatement in compliance with the requirements of 24 CFR Part 35, Subpart M. Hazard reduction must occur within 30 calendar days of notification to the owner. The Subrecipient must retain all

documentation of the EIBLL, as well as subsequent inspections, notification, and stabilization and/or abatement in the client file.

## **City of Lawrence Citizen Participation Plan**

### **1. INTRODUCTION**

The City of Lawrence (City) is a federal entitlement jurisdiction that receives federal grant funding from the U.S. Department of Housing and Urban Development (HUD) for the following programs: Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME).

As a requirement for receiving the above named entitlement grants, the City is required to prepare the following documents:

- (a) [Consolidated Plan](#): A five year Consolidated Plan to identify local community development needs and set forth a funding strategy to address those needs.
- (b) [Annual Action Plan](#): An Annual Action Plan that summarizes the activities that will be undertaken in the upcoming Program Year (PY) to address the needs outlined in the Consolidated Plan.
- (c) [Consolidated Annual Performance Evaluation Report \(CAPER\)](#): A Performance Report that evaluates the progress during the previous PY in carrying out the activities outlined in the Annual Action Plan.
- (d) [Assessment of Fair Housing \(AFH\)](#): An assessment to identify local and regional fair housing issues and set goals for improving fair housing choice and access to opportunity. Assessment of Fair Housing uses the HUD provided Assessment of Fair Housing tool to guide grantees through the identification process of fair housing issues and related contributing factors.

Under HUD's Code of Federal Regulations for citizen participation (Title 24 CFR 91.105), the City is required to adopt a Citizen Participation Plan that sets forth the City's policies and procedures for citizen participation in the planning, execution, and evaluation of the Consolidated Plan, Annual Action Plan, CAPER, and Assessment of Fair Housing. The guidelines established in this Citizen Participation Plan apply to the development and adoption of all of the above-listed documents (hereafter referred to as "the Plans"). Each Plan individually describes the agencies, groups, organizations, and others who participated in the citizen participation and consultation process.

### **2. OBJECTIVE**

The Citizen Participation Plan establishes standards to promote citizen participation in the development of the Plans and related documents. The Citizen Participation Plan is designed to especially encourage participation by low- and moderate-income persons. As an entitlement jurisdiction for the respective HUD programs, the City is responsible for the implementation and use of the Citizen Participation Plan. The requirements for citizen participation do not restrict the responsibility or authority of the City for the development and execution of its Plans.

### **3. CITIZEN PARTICIPATION (24 CFR 91.105)**

The City provides for and encourages citizens to participate in the development of all the Plans covered by the Citizen Participation Plan. The City further encourages participation by low- and moderate-income persons, particularly those persons living in areas designated by the jurisdiction as a revitalization area or in a slum and blighted area and in areas where CDBG funds are proposed to be used, and by residents of predominantly low- and moderate-income neighborhoods, as defined by the City. The City will take appropriate actions to encourage the participation of all citizens, including minorities and non-English speaking persons, as well as persons with disabilities.

The City encourages the participation of local and regional institutions, Continuums of Care, and other organizations (including businesses, developers, nonprofit organizations, philanthropic organizations, and community-based and faith-based organizations) in the process of developing and implementing the Plans. The City encourages the participation of public and private organizations, including broadband internet service providers, organizations engaged in narrowing the digital divide, agencies whose primary responsibilities include the management of flood prone areas, public land or water resources, and emergency management agencies in the process of developing the Plans.

The City encourages, in conjunction with consultation with public housing agencies (PHA), the participation of residents of public and assisted housing developments (including any resident advisory boards, resident councils, and resident management corporations) in the process of developing and implementing the Plans, along with other low-income residents of targeted revitalization areas in which the developments are located. The City will make an effort to provide information to the PHA about the AFH, AFH strategy, and consolidated plan activities related to its developments and surrounding communities so that the PHA can make this information available at the annual public hearing(s) required for the PHA Plan.

The City will explore alternative public involvement techniques and quantitative ways to measure efforts that encourage citizen participation in a shared vision for change in communities and neighborhoods, and the review of program performance; e.g., use of focus groups and the Internet.

The City will provide citizens with a reasonable opportunity to comment on the Plans and on substantial amendments to the Plans, and will make the citizen participation plan public. The citizen participation plan will be in a format accessible to persons with disabilities, upon request.

The City will take reasonable steps to provide language assistance to ensure meaningful access to participation by non-English-speaking residents of the community. The City of Lawrence Community Development Division (CDD) Limited English Proficiency (LEP) Plan is established pursuant to and in accordance with Title VI of the Civil Right Act of 1964, Executive Order 13166, "Improving Access to Services for Persons With Limited English Proficiency," and the Department of Housing and Urban Development's (HUD) Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against

National Origin Discrimination Affecting Limited English Proficient Persons, dated January 22, 2007, and effective February 21, 2007. The current CDD LEP Plan is available for public review online at: [https://lawrenceks.org/pds/reports\\_plans/](https://lawrenceks.org/pds/reports_plans/).

#### **4. CONSULTATION (24 CFR 91.100)**

In the development of the Plans, the City will consult with other public and private agencies and organizations that provide assisted housing, health services, and social services (including those focusing on services to children, elderly persons, persons with disabilities, persons with HIV/AIDS and their families, homeless persons), neighborhood-based groups, community-based and regionally-based organizations that represent protected class members, organizations that enforce fair housing laws, broadband internet service providers, organizations engaged in narrowing the digital divide, agencies whose primary responsibilities include the management of flood prone areas, public land or water resources, and emergency management agencies.

When preparing the portions of the consolidated plan describing the City's homeless strategy and the resources available to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) and persons at risk of homelessness, the City will consult with:

- (a) The Continuum of Care that serves the City's geographic area;
- (b) Public and private agencies that address housing, health, social service, victim services, employment, or education needs of low-income individuals and families; homeless individuals and families, including homeless veterans; youth; and/or other persons with special needs;
- (c) Publicly funded institutions and systems of care that may discharge persons into homelessness (such as health-care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and
- (d) Business and civic leaders.

When preparing the portion of its consolidated plan concerning lead-based paint hazards, the City will consult with state or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

The City also will consult with adjacent units of general local government and local and regional government agencies, including local government agencies with metropolitan-wide planning and transportation responsibilities, particularly for problems and solutions that go beyond a single jurisdiction.

The City will consult with the Lawrence-Douglas County Housing Authority regarding consideration of public housing needs, planned programs and activities, the AFH,

strategies for affirmatively furthering fair housing, and proposed actions to affirmatively further fair housing in the consolidated plan.

A variety of mechanisms may be utilized to solicit input from the persons/service providers/agencies listed above. These include posting and/or mailing notices of public meetings and hearings, telephone or personal interviews, mail surveys, social media, internet-based feedback and consultation workshops.

## **5. AVAILABILITY OF DRAFT AND APPROVED DOCUMENTS**

The draft versions of Consolidated Plans and Annual Action Plans will present to residents, public agencies, and other interested parties, information that includes the estimated amount the City expects to receive (including grant funds and program income) and the range of activities that may be undertaken, including the estimated amount that will benefit persons of low- and moderate-income.

The City will publish the proposed Plans in a manner that affords its residents, public agencies, and other interested parties a reasonable opportunity to examine the contents and to submit comments. The requirement for publishing will be met by publishing a summary of each document in one or more newspapers of general circulation. The summary will describe the content and purpose of the Plan, and will include a list of the locations where copies of the entire proposed document may be examined.

The draft and final versions of Consolidated Plans, Annual Action Plans, CAPERs, Assessments of Fair Housing, and Citizen Participation Plans, and all related amendments, will be made available for public review online at the City of Lawrence website: [https://lawrenceks.org/pds/reports\\_plans/](https://lawrenceks.org/pds/reports_plans/).

Hard copies of the documents will be available at the City of Lawrence Planning and Development Services Department, 1 Riverfront Plaza, Suite 320 Lawrence, KS 66044. The City will provide a reasonable number of free copies of the Plans to residents and groups that request it.

The City will provide residents of the community, public agencies, and other interested parties with reasonable and timely access to information and records relating to the Plans, and use of assistance under the programs covered by this plan during the preceding five years.

## **6. AMENDMENTS**

Substantial Amendments will be necessary whenever any of the criteria under each Plan listed below is proposed. Substantial amendments to any of the Plans will be subject to Citizen Participation Plan requirements. The City will consider all substantial amendments at a public meeting. Notice of all public meetings and information regarding the proposed substantial amendment will be made by publishing a notice prior to the meeting, which will begin the 30-day public comment period. The City will consider any comments or views of residents of the community received in writing, or orally at public hearings, if any, in preparing any substantial amendment. The recommendation regarding a substantial amendment will be forwarded to the City Commission for discussion and

consideration of approval at a regularly scheduled meeting. If approved, the substantial amendment shall be attached to the plan, and submitted along with all public comments or views, to the local HUD office. Implementation of the amendment shall not occur before the expiration of the public comment period.

- (a) Consolidated Plan and Annual Action Plan Amendment Considerations: A Substantial Amendment will be made to the Consolidated Plan or Annual Action Plan whenever one of the following decisions is made:
- (i) To change the allocation priorities or a change in the method of distribution of funds.
  - (ii) To carry out an activity, using funds from any program covered by the Consolidated Plan (including program income), not previously described in the plan.
  - (iii) To change the purpose of a previously approved activity. The following categories of purpose are established:
    - (A) Acquisition and/or Disposition of Real Property;
    - (B) Public Facilities and Improvements;
    - (C) Clearance;
    - (D) Public Services;
    - (E) Rehabilitation;
    - (F) Economic Development;
    - (G) Homeownership Assistance;
    - (H) Planning; and
    - (I) Program Administration
  - (iv) To change the scope of a previously approved activity. A change in scope will occur when the cost of the activity is reduced or increased by 50% or more, or when the quantity of the activity is reduced or increased by 50% or more.
  - (v) To change the location of a previously approved activity, when the change of location will cause the targeted group of beneficiaries to lose the benefit.
  - (vi) To change the beneficiaries of a previously approved activity, when the targeted groups of beneficiaries will no longer benefit, or when the percentage of low- and moderate-income beneficiaries will be less than the minimum required by federal law or regulation.

All other changes may be handled administratively and are not subject to the public hearing requirements of this Citizen Participation Plan. The following changes are considered administrative:

- (i) Proportional adjustments to previously approved activities to accommodate actual HUD allocation amounts (provided new subrecipients are not awarded funds).
  - (ii) Reallocation of funds, not exceeding an amount of \$100,000, between activities approved in the current or prior Annual Action Plan.
  - (iii) Reallocation of fund balance, in any amount, from a completed activity to another approved activity.
  - (iv) If the carry forward of unspent grant funds would inhibit the City's ability to meet the CDBG timeliness spending test, allocations of CDBG funding in total amounts less than \$250,000 in a single Program Year may be directed toward eligible City Projects/Programs within the same category of the unspent allocation. The Planning and Development Services Director may propose one-time CDBG-eligible City infrastructure projects to the City Manager for such previously allocated but unspent CDBG funding. Depending on project size and scope, the City Manager may bring such one-time projects directly to the City Commission for authorization as deemed necessary and appropriate for the timely expenditure of CDBG funds.
- (b) Citizen Participation Plan Amendment Considerations: A substantial amendment to the Citizen Participation Plan is defined as an addition or deletion of the plan's priorities or goals. All other changes may be handled administratively and are not subject to the public hearing requirements of this Citizen Participation Plan.
- (c) Assessment of Fair Housing Amendment Considerations: An AFH previously accepted by HUD must be revised and submitted to HUD for review under the following circumstances:
- (i) A material change occurs. A material change is a change in circumstances in the jurisdiction of a program participant that affects the information on which the AFH is based to the extent that the analysis, the fair housing contributing factors, or the priorities and goals of the AFH no longer reflect actual circumstances. Examples include Presidentially declared disasters, under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, in the program participant's area that are of such a nature as to significantly impact the steps a program participant may need to take to affirmatively further fair housing; significant demographic changes; new significant contributing factors in the participant's jurisdiction; and civil rights findings, determinations, settlements (including Voluntary Compliance Agreements), or court orders; or



- (ii) Upon HUD's written notification specifying a material change that requires the revision.

The City shall provide residents with reasonable notice of a revision to the AFH and provide not less than 30 calendar days to receive comments from residents. Notice of a revision to the AFH will be made public by publishing a notice prior to the revised AFH being submitted to HUD for review, which will begin the 30 day written comment period. The City shall consider the comments or views of residents, whether received in writing or orally, in regard to a revision to the AFH. A summary of any comments or views, and a summary of any comments or views not accepted and the reasons why, shall be attached to the revision to the AFH.

## **7. PUBLIC HEARINGS, NOTIFICATION AND ACCESS**

The City will follow the following procedure in conducting public hearings and providing notification and access to all Consolidated Plan and Annual Action Plan documents discussed in this Citizen Participation Plan:

- (a) Public Hearing Process: The City will conduct at least two public hearings per year to obtain citizens' views and comments, and to respond to proposals and questions. Such meetings will be conducted at a minimum of two different times of the program year and together will cover the following topics:
  - (i) Housing and Community Development Needs;
  - (ii) Development of Proposed Activities;
  - (iii) Proposed strategies and actions for affirmatively furthering fair housing consistent with the AFH; and
  - (iv) Review of Program Performance.

To obtain the views of residents of the community on housing and community development needs, including priority nonhousing community development needs and affirmatively furthering fair housing, the City will conduct at least one of these hearings before the Consolidated Plan is published for comment.

The City, at its discretion, may conduct additional outreach, public meetings, or public hearings as necessary to foster citizen access and engagement.

- (b) Public Hearing Notification: Notification of public hearings will be posted/printed at least two weeks prior to the meeting date. Noticing may include printing a public notice in newspaper(s) of general circulation in the City, website posting, email, and/or press releases.

Notices will include sufficient information about the subject of the hearing, including summaries when possible and appropriate, to permit informed comment.

- (c) Public Review/Comment Period: Public notices will be printed/posted prior to the commencement of any public review/comment period alerting citizens of the

documents for review. The minimum public review/comment period for each Plan is listed below:

<b>Document</b>	<b>Public Comment Period</b>
Consolidated Plan	30 days
Annual Action Plan	30 days
Substantial Amendments	30 days
CAPER	15 days
AFH	30 days
Citizen Participation Plan	30 days

Copies of all documents and notices will be available for public review at the City of Lawrence Planning and Development Services Department, 1 Riverfront Plaza, Suite 320 Lawrence, KS 66044, and on the City of Lawrence website: [https://lawrenceks.org/pds/reports\\_plans/](https://lawrenceks.org/pds/reports_plans/).

The City shall consider any comments or views of residents of the community received in writing or orally at all public hearings and/or meetings. A summary of these comments or views, and a summary of any comments or views not accepted and the reasons why, shall be attached to the Plans.

- (d) Access to Meetings: Unless otherwise noted, public hearings requiring City Commission action will be conducted at regularly scheduled City Commission meetings located at 6 E 6<sup>th</sup> Street, Lawrence, KS 66044. For public hearings and/or meetings not requiring City Commission action, the City will make every effort to conduct such meetings at a location accessible and convenient to potential and actual beneficiaries.

The City will provide residents of the community with reasonable and timely access to local meetings, consistent with accessibility and reasonable accommodation requirements, in accordance with section 504 of the Rehabilitation Act of 1973, the regulations at 24 CFR part 8, the Americans with Disabilities Act, and the regulations at 28 CFR parts 35 and 36, as applicable.

If an attendee or participant at a public hearing and/or meeting needs special assistance beyond what is normally provided, the City will attempt to accommodate such persons in every reasonable manner.

- (e) Technical Assistance: The City will provide for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in commenting on the Plans and in developing proposals for funding assistance under any of the programs covered by the consolidated plan, with the level and type of assistance determined by the City. The assistance need not include the provision of funds to the groups.
- (f) Complaints: A complaint regarding any of the Plans and related documents covered by this Citizen Participation Plan must be submitted in writing to the

Planning and Development Services Director, 1 Riverfront Plaza, Suite 320 Lawrence, KS 66044.

Community Development Division staff will assist the complainant with the preparation of written complaints and/or advise the complainant of other sources of technical assistance. All complaints shall be submitted on a Complaint Form provided by the Community Development Division and shall be signed by the complainant.

Pursuant to 24 CFR 91.105(j), the City will provide a timely, substantive written response to every written resident complaint within 15 working days, where practicable.

- (g) Individuals with Limited English Proficiency: The City will take reasonable steps to provide language assistance to ensure meaningful access to public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. If an individual or participant with Limited English Proficiency needs assistance beyond what is normally provided, the City will attempt to accommodate their request in every reasonable manner.

The City of Lawrence Community Development Division (CDD) Limited English Proficiency (LEP) Plan is established pursuant to and in accordance with Title VI of the Civil Right Act of 1964, Executive Order 13166, "Improving Access to Services for Persons With Limited English Proficiency," and the Department of Housing and Urban Development's (HUD) Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, dated January 22, 2007, and effective February 21, 2007. The current CDD LEP Plan is available for public review online at: [https://lawrenceks.org/pds/reports\\_plans/](https://lawrenceks.org/pds/reports_plans/).

- (h) In the Event of an Emergency: In the event of an unforeseen and unpreventable event that renders in-person public gathering impossible or inadvisable, such as a natural disaster or pandemic, public hearings may be held as a virtual meeting. Meeting formats may include webinars, webcasts, telecasts, radio or audio broadcasts, or other virtual communication tools as appropriate for the meeting format. Virtual meetings must provide, at a minimum, an opportunity for the public to submit public questions and for the presenter or public officials to make public response, or an acknowledgement of receipt of the comments. All questions and responses must be documented, either via text, such as meeting minutes or chat scripts, or recorded, or as appropriate for the meeting format. Virtual meetings must be publicly noticed, and in the event traditional noticing tools are unavailable or will not effectively reach the public, alternative public noticing efforts must be made and documented.

In the event of an emergency, the following alternatives may be instituted by the City:

- (i) The public comment and display period for the Consolidated Plan and/or Annual Action Plan and any amendment thereto will be consistent with HUD's requirements;
- (ii) Draft documents for public comment and review will be made available on the City's website at [https://lawrenceks.org/pds/reports\\_plans/](https://lawrenceks.org/pds/reports_plans/). Copies of the draft documents will be e-mailed upon request, if possible;
- (iii) Public meetings may be held as virtual meetings using online platforms for public viewing with the option for real-time questions to be presented; and/or
- (iv) The City may opt to hold one public hearing during the Consolidated Plan/Annual Plan process and its second required public hearing during the CAPER process for the same program year if a virtual hearing is not feasible.

## **8. ANTIDISPLACEMENT AND RELOCATION PLAN**

The City seeks to minimize, to the greatest extent feasible, the involuntary displacement, whether permanently or temporarily, of persons (families, individuals, businesses, nonprofit organizations, or farms) from projects funded with CDBG or HOME involving single or multi-family rehabilitation, acquisition, commercial rehabilitation, demolition, economic development, or capital improvement activities.

Projects that the City deems beneficial but that may cause displacement may be recommended and approved for funding only if the City demonstrates that such displacement is necessary and vital to the project and that they take efforts to reduce the number of persons displaced. Further, it must be clearly demonstrated that the goals and anticipated accomplishments of a project outweigh the adverse effects of displacement imposed on persons who must relocate.

This section describes the City's Residential Antidisplacement and Relocation Assistance Plan and how it will assist persons who will be temporarily relocated or permanently displaced due to the use of HUD funds. This plan takes effect whenever the City sponsors projects using CDGB or HOME funds that involve property acquisition or the demolition or conversion of low- and moderate-income dwelling units.

- (a) Minimizing Displacement: The City will take reasonable steps to minimize displacement occurring as a result of its CDBG and HOME activities. This means that the City will:
  - (i) Consider if displacement will occur as part of funding decisions and project feasibility determinations;
  - (ii) Assure, whenever possible, that occupants of buildings to be rehabilitated are offered an opportunity to return;

- (iii) Plan substantial rehabilitation projects in “stages” to minimize displacement; and
  - (iv) Meet all HUD notification requirements so that affected persons do not move because they have not been informed about project plans and their rights.
- (b) Relocation Assistance for Displaced Persons: Consistent with the goals and objectives of the CDBG and HOME programs, the City will take all reasonable steps necessary to minimize displacement of persons, even temporarily. If displacement occurs, the City will provide relocation assistance for lower income tenants who, in connection with an activity assisted under the CDBG and/or HOME Program(s), move permanently or move personal property from real property as a direct result of the demolition of any dwelling unit or the conversion of a lower-income dwelling unit in accordance with the requirements of 24 CFR 42.350. A displaced person who is not a lower-income tenant, will be provided relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24.
- (c) One-For-One Replacement of Lower-Income Dwelling Units: The City will replace all occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with a project assisted with funds provided under the CDBG and/or HOME Program(s).

Before entering into a contract committing the City to use HUD funds on a project that will directly result in demolition of lower-income dwelling units or the conversion of lower-income dwelling units to another use, the City will make public, by providing a notice that such information is available at the City of Lawrence Planning and Development Services Department, and submit to HUD, a One-for-One Replacement Plan that contains the following information in writing:

- (i) A description of proposed assisted activity;
- (ii) The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for lower-income dwelling units as a direct result of the assisted activity;
- (iii) A time schedule for the commencement and completion of demolition or conversion;
- (iv) The location on a map and number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units. If such data are not available at the time of the general submission, the submission shall identify the general location on an area map and the approximate number of dwelling units by size, and information identifying the specific

location and number of dwelling units by size shall be submitted and disclosed to the public as soon as it is available;

- (v) The source of funding and a time schedule for the provision of replacement dwelling units;
- (vi) The basis for concluding that each replacement dwelling unit will remain a lower-income dwelling unit for at least 10 years from date of initial occupancy; and
- (vii) Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units) is consistent with the needs assessment contained in its HUD-approved consolidated plan.

Under 24 CFR 42.375(d), the City may submit a request to HUD for a determination that the one-for-one replacement requirement does not apply, based on objective data, that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the area.

## **9. ASSESSMENT OF FAIR HOUSING**

During the development of the Assessment of Fair Housing (AFH), the City of Lawrence will:

- (a) Encourage citizens to participate in the development of the AFH and any revisions of the AFH.
- (b) Encourage the participation of Continuums of Care, businesses, developers, nonprofit organizations, philanthropic organizations, and community-based and faith-based organizations, in the process of developing and implementing the AFH.
- (c) Encourage, in conjunction with public housing agency consultations, participation of residents of public and assisted housing developments, including any resident advisory boards, resident councils, and resident management corporations, in the process of developing and implementing the AFH, along with other low-income residents of targeted revitalization areas in which the developments are located.
- (d) Take reasonable steps to provide language assistance to ensure meaningful access to participation by non-English-speaking, limited English proficiency residents, and persons with disabilities.
- (e) Make available to the public, residents, public agencies, and other interested parties any HUD-provided data and the other supplemental information the City plans to incorporate into its AFH at the start of the public participation process (or as soon as feasible after).
- (f) Provide for at least one public hearing during the development of the AFH, and provide not less than 30 calendar days to receive comments from residents.

- (g) Provide residents of the community with reasonable and timely access to local meetings, consistent with accessibility and reasonable accommodation requirements, in accordance with section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8 as well as the Americans with Disabilities Act and implementing regulations at 28 CFR part 35 and 36, as applicable.
- (h) Publish the proposed AFH in a manner that affords its residents, units of general local government, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments.
- (i) A summary which describes the content and purpose of the AFH, and includes a list of locations where copies of the entire proposed document may be examined, will be made public by publishing a display ad in one or more newspapers of general circulation, and by making copies of the AFH available on the City of Lawrence website at [https://lawrenceks.org/pds/reports\\_plans/](https://lawrenceks.org/pds/reports_plans/).
- (j) Provide for technical assistance to groups representative of persons of low-and-moderate income that request such assistance to comment on the AFH.
- (k) Consider the comments or views of residents, whether received in writing or orally at the public hearing, in preparing the final AFH. A summary of any comments or views, and a summary of any comments or views not accepted and the reasons why, shall be attached to the final AFH.
- (l) Provide a reasonable number of free copies of the AFH to residents and groups that request a copy.
- (m) Provide a timely, substantive written response to every written resident complaint related to the AFH and any revisions of the AFH, within an established period of time (normally within 15 working days, where practicable).

## **APPENDIX B**

### **City of Lawrence Personally Identifiable Information (PII) Policy and Guidance**

The City of Lawrence is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with the Privacy Act of 1974, as amended, and other federal privacy-related laws, guidance, and best practices. The City of Lawrence also expects its subrecipients who collect, use, maintain, or disseminate HUD information to protect the privacy of that information.

#### **Definitions**

1. Personally Identifiable Information (PII). Defined in OMB M-07-16 as "...information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc."
2. Sensitive Personally Identifiable Information (SPII). PII that when lost, compromised, or disclosed could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers (credit or debit card numbers).

#### **Steps to Take to Help Ensure Compliance:**

The Housing Initiatives Division will take the following steps to help ensure compliance to the Privacy Act and other privacy-related laws:

1. Limit Collection of PII. Do not collect or maintain sensitive PII without proper authorization. Collect only the PII that is needed for the purposes for which it is collected.
2. Manage Access to Sensitive PII
  - a. Only share or discuss sensitive PII with those who have a need to know for work purposes.
  - b. Do not distribute or release sensitive PII to others until the release is authorized.
  - c. Before discussing sensitive PII on the telephone, confirm that you are speaking to the right person and inform him/her that the discussion will include sensitive PII. Do not leave messages containing sensitive PII on voicemail.
  - d. Hold meetings in secure spaces (no unauthorized access or eavesdropping possible) if sensitive PII will be discussed.
  - e. Treat notes and minutes from such meetings as confidential unless you can verify that they do not contain sensitive PII. Record date, time, place, subject, chairperson, and attendees at any meeting involving sensitive PII.
  - f. Do not remove records with sensitive PII from facilities where City of Lawrence information is authorized to be stored, or access remotely (i.e., from locations



other than such physical facilities), unless approval is first obtained from a supervisor.

3. Protect Hard Copy and Electronic Files Containing Sensitive PII
  - a. Lock up all hard copy files containing sensitive PII in a secured location. Do not leave sensitive PII in an open area unattended.
  - b. Protect all media (e.g., thumb drives, CDs, etc.) that contain sensitive PII and do not leave unattended. This information should be maintained either in secured file cabinets or in computers that have been secured.
  - c. Keep accurate records of where PII is stored, used, and maintained.
  - d. Periodically audit all sensitive PII holdings to make sure that all such information can be readily located.
  - e. Secure digital copies of files containing sensitive PII. Protections include encryption, implementing enhanced authentication mechanisms such as two-factor authentication and limiting the number of people allowed access to the files.
  - f. Store sensitive PII only on workstations that can be secured, such as workstations located in areas that have restricted physical access.
4. Protecting Electronic Transmissions of Sensitive PII email, etc.
  - a. When sending sensitive PII via email or via an unsecured information system make sure the information and any attachments are encrypted.
  - b. Do not place PII on shared drives, multi-access calendars, the Intranet, or the Internet.
  - c. Do not let PII documents sit on a printer where unauthorized employees or contractors can have access to the information.
5. Records Management, Retention and Disposition
  - a. Follow all applicable records management laws, regulations, and policies.
  - b. Do not maintain records longer than required.
  - c. Destroy records after retention requirements are met.
  - d. Dispose of sensitive PII appropriately – permanently erase electronic records. Shred hard copy records.
6. Incident Response
  - a. A data breach occurs when PII is viewed, leaked, or accessed by anyone who is not the individual or someone authorized to have access to this information as part of his/her official duties. Promptly report all suspect compromises of sensitive PII related to HUD programs to HUD's National Help Desk at 1-888-297-8689.

# CHDO Requirements Checklist

Before committing CHDO set-aside funds to an organization, the PJ must certify that the organization:

1. Meets the definition of a “community housing development organization” in §92.2;
2. Has a project eligible for the set-aside that the organization will own, develop, or sponsor in accordance with §92.300(a); and
3. Has paid staff with demonstrated experience appropriate to the role the organization will play for the project being funded.

Additionally, before committing funds for CHDO predevelopment loans under §92.301 or CHDO operating expenses under §92.208, the PJ must certify that the organization meets the definition of a “community housing development organization” in §92.2 and that other requirements, outlined in Sections 6 (predevelopment) and 7 (operating) below, have been satisfied.

CHDO Requirements	Rule Citation	Requirement satisfied & documented
<b>ORGANIZATIONAL REQUIREMENTS</b>		
<b>1. Legal structure</b>		
1.1. The organization is organized under state or local law.	§92.2 CHDO Definition ¶ (1)	<input type="checkbox"/>
1.2. The organization has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons.	§92.2 CHDO Definition ¶ (7)	<input type="checkbox"/>
1.3. The organization has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.	§92.2 CHDO Definition ¶ (2)	<input type="checkbox"/>
1.4. The organization is not under the control or direction by any individual or entity seeking to derive profit or gain.	§92.2 CHDO Definition ¶ (3)	<input type="checkbox"/>
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 Section 905; or 1.5.3. A private nonprofit that is a wholly owned subsidiary of an organization that has 501(c)(3) or (c)(4) status and meets the CHDO definition.	§92.2 CHDO Definition ¶ (4)	<input type="checkbox"/>
1.6. The organization is not a governmental entity (any of the following: participating jurisdiction, other jurisdiction, Indian tribe, public housing agency, Indian housing authority, housing finance agency, or redevelopment authority).	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/>
<b>2. Independence</b>		
2.1. Public officials & employees of a governmental entity may comprise no more than 1/3 of the board.	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/>
2.2. Officers and employees of a governmental entity cannot be officers (e.g. CEO, CFO, or COO) or employees of a CHDO.	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/>

<b>CHDO Requirements</b>	<b>Rule Citation</b>	<b>Requirement satisfied &amp; documented</b>
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 of the board members and board members appointed by the governmental entity may not appoint remaining 2/3.	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/> Applicable
2.4. If the organization was created by a for-profit entity, then 2.4.1 through 2.4.4 apply:		<input type="checkbox"/> Applicable
2.4.1. The for-profit entity that sponsored or created the organization may not have as its primary purpose the development or management of housing, such as a builder, developer, or real estate management firm.	§92.2 CHDO Definition ¶ (3)(i)	<input type="checkbox"/>
2.4.2. The for-profit entity that created the organization may not appoint more than 1/3 board members, and for-profit-appointed members may not appoint remaining 2/3 of board.	§92.2 CHDO Definition ¶ (3)(ii)	<input type="checkbox"/>
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)	<input type="checkbox"/>
2.4.4. The organization must be free to contract for goods & services with others.	§92.2 CHDO Definition ¶ (3)(iii)	<input type="checkbox"/>
<b>3. Accountability to the Low Income Community</b>		
3.1. The organization must have a designated service area (i.e. the “community” in which it produces housing). A community can be a neighborhood or neighborhoods, city, county, metropolitan area, or multi-county area (but not the entire State).	§92.2 CHDO Definition ¶ (8)(i)	<input type="checkbox"/>
3.2. 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)	<input type="checkbox"/>
3.3. The organization has a formally adopted process for low-income beneficiaries to advise it on decisions regarding design, siting, development, and management of housing.	§92.2 CHDO Definition ¶ (8)(ii)	<input type="checkbox"/>
3.4. The organization has at least 1 year of serving the community, or, if it is formed by local churches, service organizations, or neighborhood organizations, its parent organization meets this requirement.	§92.2 CHDO Definition ¶ (10)	<input type="checkbox"/>
<b>4. Capacity</b>		
4.1. The organization has financial management systems that conform to 2 CFR 200.302 and 200.303	§92.2 CHDO Definition ¶ (6)	<input type="checkbox"/>

<b>CHDO Requirements</b>	<b>Rule Citation</b>	<b>Requirement satisfied &amp; documented</b>
4.2. 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)	<input type="checkbox"/>
4.1.1. During the first year of an organization's funding 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)	<input type="checkbox"/>
<b>CHDO ROLE</b>		
<b>5. CHDO set-aside project</b> CHDOs can undertake either homebuyer or rental projects, as described below, with CHDO set-aside funds:		<input type="checkbox"/> Applicable
5.1. Homebuyer projects in accordance with §92.254 To qualify under CHDO set-aside, must meet 5.1.1 and 5.1.2:		<input type="checkbox"/> Applicable
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	§92.300(a)(6)	<input type="checkbox"/>
5.1.2. The organization will control the development process including, at a minimum, arranging financing for the project and being in sole charge of construction.	§92.300(a)(6)(i)	<input type="checkbox"/>
5.2. Rental projects in accordance with §92.252 To qualify under CHDO set-aside, must meet one of the following:		<input type="checkbox"/> Applicable
5.2.1. Own: The organization is or will be owner in fee simple absolute (or will hold a long term 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)	<input type="checkbox"/>
5.2.2. Develop: The organization is or will be owner in fee simple absolute (or will hold a long term 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)	<input type="checkbox"/>
5.2.3. Sponsor: Must meet one of the following:		<input type="checkbox"/> Applicable
5.2.3.1. The organization will own and develop project that it will convey at a predetermined time after completion to a designated private nonprofit (that was not created by a governmental entity).	§92.300(a)(5)	<input type="checkbox"/>

<b>CHDO Requirements</b>	<b>Rule Citation</b>	<b>Requirement satisfied &amp; documented</b>
5.2.3.2. The project will be owned and/or developed by an eligible CHDO affiliate, including: <ul style="list-style-type: none"> <li>• A wholly owned subsidiary of the CHDO; or</li> <li>• A limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or</li> <li>• A limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member.</li> </ul>	§92.300(a)(4)	<input type="checkbox"/>
<b>CHDO PREDEVELOPMENT</b>		
<b>6. CHDO pre-development loan</b> 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 designated as one of following two loan types:		<input type="checkbox"/> Applicable
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)	<input type="checkbox"/>
6.1.1. Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b).	§92.352	<input type="checkbox"/>
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)	<input type="checkbox"/>
6.2.1 Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b).	§92.352	<input type="checkbox"/>
<b>CHDO OPERATING</b>		
<b>7. CHDO operating expenses</b> 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 in 1-3 and item 4.1 above and be receiving the operating funds specifically to hire staff to meet the requirements in 4.2 above.  In addition, the CHDO must meet the following requirements	§92.208(c)	<input type="checkbox"/> Applicable
7.1. The organization is funded from the set-aside for a project under development, or is reasonably expected to be funded from the CHDO set-aside within 24 months	§92.300(e)	<input type="checkbox"/>
7.2. The operating expense funds will be used for eligible operating costs that are reasonable and necessary	§92.208(a)	<input type="checkbox"/>
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 organization's total operating expenses in that year	§92.300(f)	<input type="checkbox"/>

**CHDO CERTIFICATION**

**8. CHDO Certification**

- The organization meets all CHDO regulatory thresholds, AND one or more of the following:
  - The organization has a project 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 for eligible costs under 92.301.
  - The organization qualifies for Operating Expenses.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

## APPENDIX D

### **A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:**

As required by HOME regulations, to ensure affordability for the required period of time, the City has elected to impose resale requirements on this housing. Current resale requirements of the program ensure that the housing is made available for subsequent purchase only to a buyer whose family qualifies as a low or moderate income family (50%-80% MFI paying no more than 38 percent of income for Principal, Interest, Property Taxes and Insurance), and will use the property as their principal residence. The affordability period is secured by a recorded deed restriction signed by the buyer at closing.

**Notification to Prospective Buyers:** The resale policy is explained to the prospective homebuyer(s) prior to signing a contract to purchase the HOME-assisted unit. The prospective homebuyer(s) sign an acknowledgement that they understand the terms and conditions applicable to the resale policy as they have been explained. This document is included with the executed sales contract.

**Enforcement of Resale Provisions:** The resale policy is enforced through the use of a recorded deed restriction signed by the homebuyer(s) at closing. The deed restriction specifies:

1. The length of the affordability period (based on the dollar amount of HOME funds invested in the unit);
2. That the home remain the Buyer's principal residence throughout the affordability period; and
3. The conditions and obligations of the Owner should the Owner wish to sell before the end of the affordability period, including:
  - a. The Owner must contact the Developer or CHDO in writing if intending to sell the home prior to the end of the affordability period;
  - b. The subsequent buyer must be low or moderate income as defined by the resale provisions, and occupy the home as his/her principal residence for the remaining years of the affordability period. (However, if the new purchaser receives assistance through a HOME-funded program, the affordability period will be reset according to the amount of assistance provided);
  - c. The sales price must be affordable to the subsequent purchaser; affordability is defined as limiting the Principal, Interest, Taxes and Insurance (PITI) amount to no more than 38% of the new purchaser's monthly income; and
  - d. The Owner will receive a fair return on their investment as detailed in the resale provisions.

**Fair Return on Investment:** The City of Lawrence will administer its resale provisions by ensuring that the Owner receives a fair return on his/her investment and that the home will continue to be affordable to a specific range of incomes. Fair Return on Investment means the total homeowner investment, which includes the total cash contributed, plus up to 25% of the dollar amount of appreciation as calculated by the Housing Price Index Calculator, plus the approved capital improvement credits as described below:

1. The amount of the down payment plus principal paid to date;
2. Up to 80% of the cost of any capital improvements, documented with receipts and pictures provided by the homeowner, including but not limited to:
  - a. Room addition (bedroom, bathroom, family room);
  - b. Refurbishment/modernization of kitchens or bathrooms, limited to built-in new appliances, cabinets, or flooring;
  - c. Addition of porches or decks;
  - d. Installation of new central air conditioning or new upgraded heating equipment;
  - e. Major upgrading of electrical service or plumbing; and
  - f. Sprinkler system.

Any and all of which must have been paid for directly by the Owner and which were not installed through a federal, state, or locally funded grant program. All applicable City of Lawrence building codes and permitting requirements must have been followed.

3. Up to 25% of the appreciation as calculated by the **Housing Price Index (HPI)** Calculator of the Federal Housing Finance Agency. The HPI Calculator is currently located at <http://www.fhfa.gov/DataTools/Tools/pages/hpi-calculator.aspx> and projects what a given house purchased at a point in time would be worth today if it appreciated at the average appreciation rate of all homes in the area. The calculation shall be performed for the Lawrence, KS Metropolitan Statistical Area (MSA).

It is important to note that in certain circumstances, such as a declining housing market where home values are depreciating, the original homebuyer(s) may not receive a return on his/her investment because the home sold for less or the same price as the original purchase price. The fair return on investment does not include any reasonable and customary sales expenses paid by the buyer or seller in connection with the sale, such as closing costs and/or property taxes.



**A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:**

**Affordability to a Range of Buyers:** The City of Lawrence will ensure continued affordability to a range of buyers, particularly those whose total household incomes range from 50% to no greater than 80% MFI. The affordable sales price shall not exceed 95% of the median purchase price for the area as established by HUD.

**Example:** A home with a 10-year affordability period was purchased nine years ago by the original homeowner who now wishes to sell. The original homeowner's mortgage was \$120,000, and the principal amount paid down so far is \$19,830 leaving a current mortgage balance of \$100,170.

**Down Payment:** The original homeowner was required to put down \$2,000 at the signing of the sales contract.

**Cost of Capital Improvements:** The original homeowner renovated the kitchen and provided pictures and receipts totaling \$5,000.

**Appreciation/Depreciation of the property:** The original purchase price of the home was \$122,000 and the amount of developer subsidy using HOME funds was \$20,000, thus requiring the 10-year affordability period. Using the HPI Calculator, the house would be worth approximately \$126,789 as of 1st Quarter 2015.

Calculating the Fair Return to the Original Owner:

Down payment:	\$2,000
Up to 80% of approved Capital Improvements:	\$4,000
Principal paid to date:	\$19,830
Up to 25% of the appreciation per HPI:	<u>\$447</u>
	<b>\$26,277 Fair Return</b>

In order to realize a fair return to the original homeowner, the sales price must be set at \$126,447 (i.e., \$120,000 [\$19,830 in principal payments plus remaining mortgage balance of \$100,170] + \$2,000 down payment + \$4,000 capital improvements + \$447 HPI appreciation).

**Affordability for a Range of Buyers:** If the original homeowner sets the sales price at \$126,447 to get a fair return on investment and if current assumptions are used for front/back ratios, interest rates, insurance, taxes, an 80% Loan-to-Value (LTV) Ratio, etc., the monthly PITI would be approximately \$745. The PITI of \$745 could, in theory, be supported by an annual household income of \$23,520 and not exceed 38% of the subsequent homebuyer's monthly income. If the subsequent homeowner does not require any HOME subsidy to purchase the home, the original affordability period would end in one (1) year.

## APPENDIX E

### CDBG/HOME Allocation and Recommendation Procedures

*City of Lawrence CDBG/HOME Program Year: August 1 – July 31*

This section describes the general application guidelines, timelines, and procedures for the allocation of the City of Lawrence CDBG/HOME program. It should be noted that the CDBG/HOME program year does not align with the City's calendar year budget. This procedure guidelines below reflect that fact.

#### **Important Definitions/Acronyms**

*CDBG – Community Development Block Grant* - funded under Title 1 of the Housing and Community Development Act of 1974, as amended. The City of Lawrence is part of the CDBG Entitlement Program which provides annual grants on a formula basis to entitled cities and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. This grant has a cap on Public Service activities of 15% as the bulk of the funds are intended to go to housing activities and infrastructure.

*HOME – HOME Investment Partnerships Program* - funded under Title II of the Cranston Gonzalez National Affordable Housing Act of 1990, as amended. The HOME Program provides grants to States and local governments to fund a wide range of activities including 1) building, buying, and/or rehabilitating housing for rent or homeownership or 2) providing direct rental assistance to low-income families. It is the largest Federal block grant program for State and local governments designed exclusively to create affordable housing for low-income households.

*AHAB – Affordable Housing Advisory Board* – City advisory board that receives HOME applications and makes the funding recommendations to the City Commission.

*HID – Housing Initiatives Division* – The City of Lawrence's division charged with the administration of the CDBG and HOME grants. HID is housed in Planning and Development Services and also works with Affordable Housing and Homeless Programming.

*CPD – HUD's office of Community Planning and Development* – The City of Lawrence's federal grants are supported by the CPD Kansas City Regional Office located in Kansas City, KS. The CPD office facilitates the grant process for the city.

*MSO – Municipal Services and Operations* – The City of Lawrence's department that provides CDBG-eligible infrastructure improvements such as the Sidewalk Gap Program, pedestrian improvements, and traffic calming, among others.

*Five-Year Consolidated Plan* – document designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the CPD formula block grant programs.

*Annual Action Plan* – document that provides a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.

*CAPER – Consolidated Annual Performance Evaluation Report* - report detailing accomplishments and progress toward Consolidated Plan goals

*CFDA – Catalog of Federal Domestic Assistance* – initiative managed by the General Services Administration (GSA). The CFDA is a list of all federal financial assistance and nonfinancial assistance programs available to a variety of applicants.

### **HOME grant specifics**

CFDA 14.239 <https://www.hudexchange.info/programs/home/>

The HOME grant will be distributed in the following manner:

1. Administration of grant program:  
*10% (regulatory cap) of the base entitlement grant amount will automatically go to the Administration of the program. **This amount will not include reallocated funds or program income.***

AHAB Recommendation guidelines (remaining funds):

2. Minimum 15% (per regulations) must be allocated to Community Housing Development Organization (CHDO) activities. The AHAB can recommend a larger allocation of HOME dollars to this category.
3. Optional 5% (per regulations) can be allocated to CHDO(s) operating activities to assist the CHDO(s) in affordable housing efforts.
4. Remaining amount (including any reallocated funds from previous program years and any anticipated program income) can be allocated to eligible applicant agencies.

The above items are consistent with the historical funding of HOME activities.

### **CDBG grant specifics**

CFDA 14.218

<https://www.hudexchange.info/programs/cdbg-entitlement/>

CDBG will be distributed in the following manner:

1. Administration of grant program:  
*20% (regulatory cap) of the base entitlement grant amount will automatically go to the Administration of the program. **This amount will not include reallocated funds or program income.***

2. Public Services:

Up to 15% (regulatory cap) may be allocated to public service agencies and neighborhoods for public service activities. These include (but are not limited to) direct financial assistance, agency operations, case management, financial counseling services, and neighborhood operations. The City Commission has the authority to designate priorities for the Public Service funding. In the fall of each year, staff will reaffirm with the City Commission that the funding priorities from the previous program year are still appropriate.

3. Non-Public Services (includes any reallocation and anticipated program income):

*Automatic – 75% of non-public service available dollars will be applied to city programs including (but not limited to) Comprehensive Housing Rehabilitation, Emergency and Furnace Loans, Weatherization, MSO infrastructure (i.e., sidewalks, bike paths, pedestrian*

*pathways, crosswalks, etc.), Parks and Recreation projects, and HID activity delivery of those projects.*

25% of non-public service available dollars will be recommended for funding of capital project proposals received from eligible neighborhoods, agencies, and interested parties. In the case that the dollar amount of the eligible applications received does not equal the 25% available for funding the category, then the remaining amount will be applied to the HID and MSO automatic allocation for that year.

The above items are consistent with the historical funding of CDBG activities.

### **Funding priorities**

The Consolidated Plan and the City's Strategic Plan will continue to be the leading indicator of funding guidelines for the CDBG/HOME funding. The goals and priorities included in the Consolidated Plan (and subsequent Annual Action Plans) are the HUD-approved funding guidelines. These plans can be amended as necessary (see Citizen Participation Plan for amendment requirements). In addition, the City Commission has adopted a strategic plan which includes critical success factors and priority initiatives. It is the desired goal of CDBG and HOME funding that the projects and entities funded align with not only the Consolidated Plan, but also the strategic plan factors and initiatives. As the Consolidated Plan and the City Commission's strategic plan will be the guiding principles for the funding recommendations, the Step Up to Better Housing Strategy noted below will be amended to reflect these updated funding priorities, as well as providing an opportunity for incorporation of the Affordable Housing Advisory Board goals and priorities into the document.

*(Since 1997, the CDBG/HOME funding decisions for the City of Lawrence have been guided by the Step Up to Better Housing Strategy (updated 2010). This document had been critical in identifying spending goals and priorities associated with CDBG/HOME funding on an annual basis. This document shall be reworked to better align with current priorities within the community.)*

### **Scoring of Applications**

A scoring matrix has been developed to look at the applications received for CDBG and HOME funding that directly correlates to the Consolidated Plan/Annual Action Plan and the City's strategic plan. This matrix will be provided with the application packet to the interested parties. All applications received will be scored on this matrix and the results will be made public and used in making final funding recommendations. Annually, the City Commission will have the ability to amend funding priorities for CDBG and HOME for the ensuing program year.

### **Calendar**

The general calendar is as follows (please note there are typically three timelines happening during the year, and at most points there are three simultaneous timelines, the current program year, the past program year, and the future program year.

January - Application released to interested parties for the next CDBG/HOME program year. Required applicant meetings held. Staff begins working on the Consolidated Plan/Action Plan.

February – Application packet due to the city. AHAB recommends HOME funding, city staff recommends CDBG funding. Work continues on the Consolidated Plan/Action Plan.

April – Consolidated Plan/Action Plan draft is completed. City Commission receives funding recommendations for CDBG and HOME at their 3<sup>rd</sup> April Meeting. (If that meeting is cancelled, staff will adjust the calendar accordingly). Public Hearing is held, beginning 30-day public comment period on the Consolidated Plan/Annual Action Plan and funding recommendations.

May – 30-day comment period ends. City Commission consent agenda item for consideration of adoption of the Consolidated Plan/Annual Action Plan and funding recommendations.

June 2 – CDBG Timeliness Test - Under the provisions of 24 CFR 570.902 of the CDBG regulations, a grantee is considered to be timely, if 60 days prior to the end of the grantee's program year, the balance in its line-of-credit does not exceed 1.5 times the annual grant.

June – City Manager's recommended City budget presented to the City Commission.

June 15 - Five-Year Consolidated Plan/Annual Action Plan Due to HUD

July 31 – Program Year ends

August 1 – Program Year begins

August/September – Staff works on CAPER Document for recently ended program year. CAPER is released for a 30-day public comment in mid-September.

October – Fall Public Hearing is held at the AHAB monthly meeting.

October 31 – CAPER due to HUD.

November/December – Staff requests input for upcoming year application. Application finalized for distribution in January.

### **Detailed process for CDBG and HOME annual allocation timeline and recommendation (Program Year)**

1. Application packets are released in early January. There are two versions of the application, one for HOME and one for CDBG. Notification of the application availability will be provided through the city press release process (including social media), as well as electronic distribution to other interested parties and groups such as LAN, the United Way, the Lawrence regional Continuum of Care, and any others that contact us and wish to be included in the application notification.

The application period will be described in the application packet, with the application deadline clearly listed. During the beginning of the application period, HID staff will host two applicant meetings to provide information on the application process and provide technical assistance on completing the application. This meeting will be required for any potential applicant for either CDBG or HOME funding, and the potential applicant will only be required to attend one of the meetings. If a potential applicant cannot attend either meeting due to scheduling conflicts, HID staff will meet with them individually. The purpose of this meeting is to ensure that the applicant understands how the application needs to be completed, what attachments are needed for submittal, and to ensure that their application is eligible and meets a HUD-defined national objective (if applicable). In addition, staff will go over the scoring matrix with the potential applicants.

2. Applications are due to HID staff in February. After receiving the applications, HID staff will review them for completeness, eligibility, and meeting a HUD-defined national objective (if applicable). If additional information is needed or if an application does not meet the requirements, the applicant representative listed as the contact person for the organization will be e-mailed as soon as possible regarding the issue.

After the review of the applications and additional requested information has been received, the applications will move forward to the designated parties which will be scoring them and making funding recommendations to the City Commission.

- a. The HOME applications will be submitted to the AHAB for review. The AHAB will be given a minimum of two weeks to review and score the applications prior to their March meeting. The applicants will be notified as to the date of the meeting and will be given the opportunity to attend in case there are any questions from the board. It will be the expectation that the AHAB will make their recommendations for funding at their March meeting.
  - b. The CDBG applications will be reviewed by a group of city staff composed of the HID Manager, the HID Program Analyst, a representative of the City's Strategic Plan "Safe and Welcoming Neighborhoods" team, and a representative from the city's Finance Department. The review team will have a minimum of two weeks to review and score the applications prior to a meeting that will be set for the end of March. It will be the expectation that the review team will make their recommendations for funding by the end of March.
3. At the 3<sup>rd</sup> City Commission meeting in April (\*) the final funding recommendations will be presented to the City Commission as a regular agenda item. The City Commission will hold a public hearing regarding the allocation recommendations. Applicants and the general public are able to speak to the funding recommendations at this hearing. The Consolidated Plan/Annual Action Plan will be released and made available for public comment. This public comment period will be open for 30 days.  
*\*if the meeting is cancelled, staff will adjust the calendar accordingly.*
  4. At the 3<sup>rd</sup> City Commission meeting in May (\*) the final funding recommendations and the Consolidated Plan/Annual Action Plan (including all public comments received) will be placed on the consent agenda for adoption by the Commission. The City Clerk will have the signature pages for the Mayor to sign upon adoption.  
*\*if the meeting is cancelled, staff will adjust the calendar accordingly.*
  5. The adopted Consolidated Plan/Annual Action Plan and final funding allocation is due to HUD no later than June 15.
  6. The CDBG/HOME program year begins on August 1 and ends on July 31
  7. In November/December, if appropriate, HID staff will reaffirm the funding priorities for the ensuing grant program year with the City Commission by way of approval of the annual application. The application cycle utilizing these priorities will begin in early January.

# APPENDIX F

Tenants to Homeowners - CHDO Operating					
Date	Debit	Description	Eligible Expense	Amt. Drawn YTD	Remaining Balance
1-Aug-21		Beginning Balance			\$20,000.00
09.01.2021	\$1,666.66	August 2021 CHDO Operating	ED Labor - August	\$1,666.66	\$18,333.34
10.01.2021	\$1,666.66	September 2021 CHDO Operating	ED Labor - September	\$3,333.32	\$16,666.68
11.01.2021	\$1,666.66	October 2021 CHDO Operating	ED Labor - October	\$4,999.98	\$15,000.02
12.01.2021	\$1,666.66	November 2021 CHDO Operating	ED Labor - November	\$6,666.64	\$13,333.36
01.01.2022	\$1,666.66	December 2021 CHDO Operating	ED Labor - December	\$8,333.30	\$11,666.70
02.01.2022	\$1,666.66	January 2022 CHDO Operating	ED Labor - January	\$9,999.96	\$10,000.04
03.01.2022	\$1,666.66	February 2022 CHDO Operating	ED Labor - February	\$11,666.62	\$8,333.38
04.01.2022	\$1,666.66	March 2022 CHDO Operating	ED Labor - March	\$13,333.28	\$6,666.72
05.01.2022	\$1,666.66	April 2022 CHDO Operating	ED Labor - April	\$14,999.94	\$5,000.06
06.01.2022	\$1,666.66	May 2022 CHDO Operating	ED Labor - May	\$16,666.60	\$3,333.40
07.01.2022	\$1,666.66	June 2022 CHDO Operating	ED Labor - June	\$18,333.26	\$1,666.74
08.01.2022	\$1,666.66	July 2022 CHDO Operating	ED Labor - July	\$19,999.92	\$0.08

Invoice	PD Check	PD Date
411404	<b>468259</b>	<b>10.20.2021</b>
417339	<b>470596</b>	<b>02.16.2022</b>
412651	<b>468687</b>	<b>11.10.2021</b>
416017	<b>470214</b>	<b>02.02.2021</b>
416027	<b>470215</b>	<b>02.02.2021</b>
417341	<b>470597</b>	<b>02.16.2021</b>
418671	<b>470972</b>	<b>03.09.2022</b>
421080	<b>471573</b>	<b>04.13.2022</b>
425479	<b>472746</b>	<b>6.15.2022</b>
425478	<b>472746</b>	<b>6.15.2022</b>
427289	<b>473650</b>	<b>8.03.2022</b>
429173	<b>473824</b>	<b>9.03.2022</b>