

**AFFORDABLE HOUSING FUNDING AGREEMENT**

THIS AGREEMENT, made and entered into, by and between the City of Columbia, Missouri, a municipal corporation (hereinafter "City"), the Housing Authority of the City of Columbia, Missouri, a municipal corporation of the State of Missouri (hereinafter "Agency"), and Kinney Point Housing Development Group, LP, a limited partnership organized in the State of Missouri (hereinafter "Property Owner") with an effective date of the last party's execution of this Agreement.

WITNESSETH:

WHEREAS, on March 13, 2020, the President of the United States declared that the outbreak of COVID-19 constituted a national emergency and the Governor of the State of Missouri declared a state of emergency in the State of Missouri;

WHEREAS, on March 16, 2020, the City Manager of Columbia, Missouri, issued a declaration of emergency and the City Council adopted Resolution 46-20 in support of the declaration of the state of emergency;

WHEREAS, as part of the economic recovery from the COVID-19 national emergency, Congress appropriated funds under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) ("ARP") for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services, which approved activities include the development and support of affordable housing;

WHEREAS, Agency and Property Owner are in need of funds to construct 24 affordable housing rental units as part of its Kinney Point development project in Columbia, Missouri ("Project");

WHEREAS, the Agency heretofore conveyed to Property Owner and Property Owner now owns a qualifying property that is to be developed as affordable housing described as:

A TRACT OF LAND CONTAINING 1.96 ACRES, MORE OR LESS, BEING LOT ONE-A (1-A) OF GRACE COVENANT CHURCH SUBDIVISION PLAT ONE -A (1-A) IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AS SHOWN BY THE PLAT THEREOF RECORDED IN PLAT BOOK 46, PAGE 12, RECORDS OF BOONE COUNTY, MISSOURI.

WHEREAS, the Parties agree that Agency's Kinney Point Affordable Housing Development Project will serve qualifying individuals or families who are either: (1) homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. 11302(a)) ("McKinney-Vento"); (2) at risk of homelessness as defined in section 401 of McKinney-Vento; (3) fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking; (4) part of other populations where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability; or (5) veterans and families that include a veteran family member that meet the criteria in one of (1)-(4) above.

WHEREAS, Agency and Property Owner represent and warrant that they are equipped, competent, and able to provide all of the work for the above-described project in accordance with the terms of this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants set out in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows.

1. Statement of Work

- a. Subject to the terms and conditions of this Agreement, the City agrees to provide the Property Owner TWO MILLION DOLLARS (\$2,000,000.00) to construct 24 affordable housing rental units on a piece of property located at 1 East Sexton Road, Columbia, Missouri legally described above; in accordance with items included in its application for funding submitted by the Agency.

- b. Unit Designation:  
The total number of HOME-ARP rental units restricted for occupancy by qualifying households = 17  
The total number of HOME-ARP rental units restricted for low-income households = 7
- c. Tenant Selection: The method of tenant selection shall be in accordance with the requirements set forth in Exhibits A and B. The parties agree that the selection of tenants shall be consistent with the tenant selection process, policies and procedures outlined in Exhibit E.
- d. Funding shall be provided in the form of a secured loan, to be repaid without interest upon sale or use of the property for a purpose that does not comply with the federal funding requirements, the terms of this Agreement, or for uses prohibited by the federal funding requirements prior to the Discharge Date. Failure of Agency or Property Owner to comply with all terms, conditions and requirements of the HOME ARP Program prior to the Discharge Date shall require repayment of funds to the City of Columbia upon demand.
- e. Project Completion and Occupancy:
  - i. HOME-ARP rental projects must meet the definition of project completion at 24 CFR 92.2.
  - ii. Property Owner shall repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households within 12 months of project completion.
- f. Ongoing Compliance: Rental housing assisted with HOME-ARP funds shall comply with the on-going requirements set forth in Section VI.B. of Exhibit A or repayment shall be in accordance with Section VI.B.22 of Exhibit A.
- g. Penalties for Noncompliance: Unless repayment of the HOME-ARP funds is not required pursuant to the requirements set forth in Exhibit A,
  - i. If the noncompliance or termination occurs within the first ten years of the compliance period, Property Owner shall repay the entire amount of HOME-ARP funds invested in the project.
  - ii. If the noncompliance or termination occurs in years 11-15, the repayment amount will be reduced by 20 percent for each year beyond the initial ten years during which time the project was compliant.

## 2. Long Term Loan and Affordability Covenant

- a. Term of Agreement and Term of Loan. The term of this Agreement and the loan is for a period of twenty (20) years. Upon the expiration of such term ("Discharge Date"), this Agreement shall terminate and the loan shall be automatically cancelled, discharged and deemed forgiven, provided that the City has not previously declared a default and demanded payment as provided herein or in the Promissory Note or Deed of Trust to be executed herewith.
- b. Affordability Period. The affordable housing project being financed has an affordability period of not less than twenty years after the project or assisted units are available for occupancy after having received the ARP investment. The start date of the affordability covenant may conform to the start date of other covenants on the same project or units that are required by another source of federal or state funding associated with the projects or units. The affordability period shall be based on the date of project completion defined by 24 CFR 92.2.
- c. Agency and Property Owner may use Low Income Housing Credits (LIHTC) under section 42 of the Internal Revenue Code of 1986 (the Code) for this project, in addition to the ARP funding. If LIHTC are used, property owner shall agree, as a condition for accepting such a loan, to waive any right to request a qualified contract (as defined in section 42(h)(6)(F) of the Code); and the property owner must agree to repay any loaned amounts to the City at the time the project becomes non-compliant, including if such project ceases to satisfy the requirements of a qualified low-income housing project (as defined in section 42(g) of the Code) or a qualified residential rental project (as defined in section 142(d) of the Code), or if such project fails to comply with any of the requirements of the extended low-income housing commitment that are described in section 42(h)(6)(B)(i)-(iv) of the Code.
- d. Loan modifications are permitted if the modifications do not result in repayment of all or substantially all funds to the City prior to the end of the affordability period.
- e. Pursuant to Exhibit A, the Property Owner and Agency may not request disbursement of funds

until the funds are needed for payment of eligible costs. The amount of each request shall be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the City.

3. Levels of Accomplishment – Goals and Performance Measures

The Agency and Property Owner shall cause the Property Owner to construct 24 affordable housing residential rental units over the period of this agreement, in accordance with the Approved Project Budget (set forth in Exhibit C), the Schedule of Tasks and Project Completion (set forth in Exhibit D), and the following:

- a. The Agency and the Property Owner agree to begin utilization of ARP funds within 90 days of the Effective Date.
- b. The Agency and the Property Owner agree to have 50% of ARP funds expended by July 31, 2024.
- c. The Agency and the Property Owner agree that all eligible costs associated with the Project for funding with this Agreement shall be incurred no later than December 31, 2024.
- d. The Agency and the Property Owner agree that all work shall be completed and funds expended prior to December 31, 2026.
- e. Should progress on this project fall short of the above listed milestones, the amount of funding, time frame for project completion, and the ability of the Agency and Property Owner to complete the project may be reviewed by the Community Development Department Director and City Council, and be subject to termination without reimbursement of additional expenditures.
- f. The Agency's and Property Owner's obligations shall not end until all close-out requirements are completed. Activities during the closeout period shall include, but are not limited to: making final payments; disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Agency and/or Property Owner), and determining custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Agency and/or Property Owner has control over ARP funds, including program income and shall continue for a period of twenty years from the date of program completion.

4. Commitment

The Agency and Property Owner hereby represent that all other 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 12 months of the agreement date.

5. Payments

- a. Upon presentation of proper documentation by the Agency and/or the Property Owner, the City will reimburse the Property Owner for the Property Owner's eligible costs of construction and design and inspection services, including all improvements to the Kinney Point Affordable Housing Development in Columbia, Missouri for which the City is being billed consistent with the Agency's ARP application. Final payment shall not be made until compliance with the above requirements is met. Documentation needed to secure payment shall include the following: payment request form; paid invoices; documentation of Davis-Bacon prevailing wage compliance, lien waivers from contractors, material suppliers, subcontractors; and copies of all contracts executed by the Agency and/or the Property Owner that include applicable requirements and regulations contained in this agreement.
- b. Neither the Agency nor the Property Owner shall obligate funds for payment for construction activities under this agreement until the City has completed an environmental review of the site on which construction will occur and a release of funds has been obtained by the City from the Department of Housing and Urban Development.

6. Matching Funds

No matching funds are required.

7. Recognition

The Agency and Property Owner shall ensure recognition of the role of the U.S. Department of Housing and Urban Development and the City's HOME/ARP funds in in the Project funded through this Agreement, including reference to the support provided herein in all publications made possible with funds available under this Agreement. Any publications produced with funds from this Agreement shall display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Columbia, Missouri, by the U.S. Department of the Housing and Urban Development."

8. Records and Reports:

- a. The Agency and Property Owner shall provide all information needed for reporting and monitoring purposes by the City, the U.S. Treasury, or the U.S. Department of Housing and Urban Development, including, but not limited to, information specifically mentioned in this Agreement as required by the City, the U.S. Treasury, and the Department of Housing and Urban Development, and as set forth in Exhibits A and B.
- b. The Agency and Property Owner agree to provide an annual financial audit and comply with all other uniform administrative requirements of the HOME/ARP Program (see Exhibits A and B), and any applicable provisions set forth in 24 CFR 92.505.
- c. The Agency and Property Owner shall annually provide the City with information on rents and occupancy of HOME-ARP assisted units to demonstrate compliance with the requirements set forth in Exhibit A. The required information includes: demographics of each occupant; the race, ethnicity, and household status of each occupant. Information proving the income of each person residing at the house shall be provided to the City on an annual basis and shall be made available by the Agency to the City upon request. If the rental project has floating HOME-ARP units, the Agency and Property Owner must provide the City with information regarding unit substitution and filling vacancies so that the project remains in compliance with the HOME-ARP occupancy requirements. The Agency and Property Owner shall also provide to the City financial statements and any other records requested by the City to determine the financial condition and continued financial viability of the project and for the City to comply with its record keeping requirements set forth in the federal regulations and guidance, including those contained in Exhibits A and B.
- d. In addition to income information, the Agency and Property Owner shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this agreement, or after the resolution of all Federal audit findings, whichever occurs later.
- e. **AUDIT:** Agency and Property Owner must maintain an acceptable cost accounting system. Agency and Property Owner agree to provide the City, the U.S. Department of Housing and Urban Development, U.S. Treasury, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of Agency and Property Owner which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. Agency and Property Owner agrees to maintain all books, records and reports required under this contract for the applicable periods set forth herein and in Exhibits A and B.
- f. 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.
- g. 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.

9. Termination.

- a. Termination for Cause. In the event that Property Owner fails to comply with any term of this Agreement, the City may suspend or terminate this Agreement, in whole or in part, or take other remedial action in accordance with 2 CFR § 200.339 through 200.343. Should the City desire to terminate this Agreement for noncompliance, it shall first give written notice of the reason for proposed termination. The notice shall set forth the following: (i) Reasonable description of the default/reason for termination; (ii) Demand for a cure; and (iii) Statement of reasonable time within which a cure must be effected. Such reasonable time will be presumed to be not less than thirty, nor more than sixty, days. Such times shall be measured from the actual receipt of said notice. In the event of termination of this Agreement by the City, when termination is due to noncompliance as set forth above, Property Owner shall forfeit to the City all unexpended monies provided under the Agreement. At the City's discretion, Property Owner may also be required to refund all the funding awarded during the period of this Agreement that have already been spent by Property Owner and reimbursed by the City. If Property Owner cures the default within the reasonable period of time set forth in the notice, or as otherwise agreed between the parties, the City shall not terminate the Agreement and the written notice of proposed termination shall be deemed revoked, null and void.
- b. Termination by Mutual Agreement. The parties may agree to terminate this Agreement for their mutual convenience. The Parties will state the effective date of the termination and the procedures for proper closeout of the Agreement, which shall be documented in writing and signed by both parties.
- c. Termination for Convenience. The award may be terminated for convenience in accordance with 24 CFR Part 85.44.

10. Other Provisions.

- a. The Agency and the Property Owner agree to comply with all applicable provisions of the Americans with Disabilities Act and the regulations implementing the Act, including those regulations governing employment practices. The Agency and the Property Owner agree to comply with Section 504 of the Rehabilitation Act of 1973, as amended, the Uniform Federal Accessibility Standards, and applicable building codes for the City of Columbia.
- b. The Agency and the Property Owner agree to comply with the following laws governing fair housing and equal opportunity: Title VI of the Civil Rights Act of 1964 and Executive Order 11063, the Fair Housing Act with implementing regulations at 24 CFR part 100-115, the Age Discrimination Act of 1975 with implementing regulations at 24 CFR Part 146, and Section 109 of the Housing and Community Development Act of 1974.
- c. The Agency and the Property Owner agree to comply with the following laws and regulations regarding equal opportunity in employment and contracting: Executive Order 11246 with implementing regulations at 41 CFR Part 60, Section 3 of the Housing and Urban Development Act of 1968 regarding employment by lower income local residents, and Executive Orders 11625, 12432, and 12138 regarding outreach to minority and female owned businesses.
- d. The Agency and Property Owner agree to comply with the disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 CFR part 87; and the requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 et seq.)
- e. The Agency and Property Owner agree to comply with the prohibitions at 24 CFR Part 24 on the use of debarred, suspended or ineligible contractors.
- f. The Agency and Property Owner agree to comply with the Drug-Free Workplace Act of 1988 (41

U.S.C. 701 et seq.) and HUD's implementing regulations at 24 CFR part 24.

- g. The Agency and Property Owner shall procure all materials, property, contracts, and services in accordance with 24 CFR Part 84.40-48.
- h. The Agency and Property Owner shall comply with labor standards provisions of HUD regulations 24 CFR Part 570.603. The Agency and Property Owner agree to comply with Section 110 of the Housing and Community Development Act of 1974, as amended, 24 CFR 570.603, and State regulations regarding the administration and enforcement of labor standards; Davis Bacon Act with respect to prevailing wage rates; Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C.
- i. Property Owner shall comply 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").
- j. Agency shall determine and document that beneficiaries meet the definition of a qualifying population, or for the portion of the HOME-ARP rental units not restricted to qualifying populations, that beneficiaries are low-income. The HOME-ARP rental units occupied by low income households must operate under the regulations applicable to HOME rental units at 24 CFR 92.252. All HOME-ARP funded units shall be restricted to eligible households throughout the compliance period. Agency shall follow the requirements set forth in Exhibits A and B to determine income qualifications and eligibility.
- k. The leases shall comply with the rent limitations and tenant protections set forth in Exhibits A and B. If Property owner intends to execute a sublease or master lease with a nonprofit organization for HOME-ARP units restricted for occupancy by qualifying households, the agreement must specify the duration of the sublease or master lease, applicable rents, lease requirements and tenant protections in accordance with the federal requirements set forth in Exhibits A and B.
- l. This project must meet requirements of the Uniform Relocation Act (URA).
- m. The Agency and Property Owner shall maintain a Section 3 and MBE/WBE plan to ensure adequate marketing and solicitation of Section 3 and MBE/WBE contractors.
- n. The Agency and Property Owner shall establish a written tenant selection plan consistent with the requirements of 24 CFR 92.253(d).
- o. The Agency and Property Owner shall establish an affirmative marketing plan that meets requirements set forth in 24 CFR 92.351(a)(2).
- p. The Agency and Property Owner shall utilize 1 year leases with occupants unless mutually agreed to by the occupant and Agency. The Agency and Property Owner shall not include prohibited lease provisions identified under 24 CFR 92.253.
- q. The Agency and Property Owner shall maintain compliance with conflict of interest provisions stated in 92.356. The provision shall cover services provided for, or by, persons who are employees, agents, officers, or Board members of the Agency or Property Owner; or elected officials or employees of the City of Columbia, unless otherwise granted a written exception by the City.
- r. The Agency and Property Owner shall be subject to annual monitoring to review the funded units for compliance under 24 CFR 92.504(d)(1). The City reserves the right to conduct file reviews on

a more frequent basis based on compliance deficiencies identified in previous monitoring reports.

- s. Agency and Property Owner shall comply with HUD's Equal Access Rule.
- t. HOME-ARP funding shall not be used for any of the prohibited activities, costs or fees in 24 CFR 92.214, as revised by the Appendix to the Notice. (See Exhibits A and B).
- u. All costs paid by HOME-ARP funds shall comply with the requirements of the Notice (Exhibit A) and the Cost Principles at 2 CFR part 200, subpart E of the Uniform Administrative Requirements, as amended.
- v. Property Standards. HOME-ARP rental units must comply with all property standards applicable to rental projects required in 24 CFR 92.251, as set forth in Exhibit A. The rental units shall also comply with all City Code requirements, including but not limited to the building code, electrical code, fire code, plumbing code, mechanical code, and property maintenance code.
- w. HOME-ARP funds shall be used for eligible construction costs. HOME-ARP funds shall not be expended for project operating cost assistance or reserves. Net operating income resulting from HOME-ARP operating cost assistance is prohibited. HOME-ARP funds are subject to the requirements set forth in Exhibits A and B, unless waived by the U.S. Department of Housing and Urban Development. Agency and Property Owner shall comply with the applicable requirements set forth in Exhibits A and B.
- x. City shall conduct on-site inspections and financial oversight in accordance with the requirements set forth in 24 CFR 92.504(d)(1) and (2) and as further described in Exhibits A and B. Property Owner shall comply with inspection notices and shall promptly repair deficiencies. Property owner shall also comply with the certification requirements related to occupancy and financial oversight requirements as further described in Exhibit B.
- y. Reversion of Assets. Upon expiration of the agreement, Agency and Property Owner shall transfer to the City any HOME-ARP funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME-ARP funds.
- z. Program Income. Program income received through the project and attributable to HOME will be retained by the Columbia Housing Authority and reinvested into HOME eligible activities

#### 11. Certification Of Agency And Property Owner Regarding Debarment

Each of Agency and Property Owner certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction. Agency and Property Owner, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The Agency and Property Owner will accomplish this by: (1) Checking the System for Award Management at website: <http://www.sam.gov>.; (2) Collecting a certification statement similar to the Certification of Agency and Property Owner Regarding Debarment above;(3) Inserting a clause or condition in the covered transaction with the lower tier contract. If the U.S. Treasury later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered into the covered transaction, the U.S. Treasury may pursue any available remedies, including suspension and debarment of the non-compliant participant.

## 12. Certification Regarding Lobbying

Each of Agency and Property Owner certifies by signing and submitting this Agreement, to the best of its knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Agency and Property Owner, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## 13. Federal Funding

The Parties agree that the City will use ARP funding for this loan. Agency and Property Owner shall comply with any and all requirements that apply to the use of federal funding, including but not limited to those set forth in U.S. Department of Housing and Urban Development's Notice CPD-21-10 issued on 9/13/2021, and in its Waiver and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program, and otherwise contained herein.

## 14. Increasing Seat Belt Use in the United States

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Property Owner should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

## 15. Reducing Text Messaging While Driving

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Property Owner should encourage its employees, and contractors to adopt and enforce policies that ban text messaging while driving, and Property Owner should establish workplace safety policies to decrease accidents caused by distracted drivers.

## 16. Procurement Of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its Agency and Property Owners must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for



procurement of recovered materials identified in the EPA guidelines.

17. 2 CFR Section 200.216 Prohibition On Certain Telecommunications And Video Surveillance Services Or Equipment.

For the services provided by Agency and Property Owner to City pursuant to this Contract, Agency and Property Owner shall not procure any equipment, services or systems that use any prohibited, covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system pursuant to Section 200.216, of Title 2, Subtitle A, Chapter II, Part 200, Subpart C.

18. Compliance with Laws

Agency and Property Owner shall comply with all applicable laws, ordinances, codes, and regulations of the United States, State of Missouri, and the City of Columbia, including but not limited to Section 285.530 RSMo.

19. Compliance with Federal Funding Requirements

Agency and Property Owner shall comply with all other applicable federal requirements, including but not limited to those set forth in Exhibits A and B.

20. Fees

Agency and Property Owner shall not charge servicing, origination or other fees for the costs of administering the HOME-ARP program, except as permitted by 24 CFR 92.214, as revised by the Appendix (See Exhibit B). Property owner shall not charge fees that are not customarily charged in rental housing such as laundry room access fees. (See Exhibit B).

21. Section 200.322 Domestic Preferences For Procurements, Build America, Buy America Act

To the greatest extent consistent with law, Agency and Property Owner shall provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel cement, and other manufactured products). The requirements of this section and the Build America, Buy America Act must be included in all subcontracts and purchase orders for work or products under this award, as those terms are defined in Section 200.322 of Title 2, Subtitle A, Chapter II, Part 200 Subpart D, and in the Build America, Buy America Act.

22. Never Contract with the Enemy

Agency and Property Owner shall comply with the regulations that implement 2 CFR Part 200, Section 200.215, Never Contract with the enemy.

23. Whistleblower

Agency and Property Owner shall comply with the Whistleblower protections, provided in federal law and regulations.

24. Compliance

Upon finding that the Agency materially fails to comply with any term of this Agreement, subject to the provisions of Paragraph 9, the City may require that any ARP funds on hand at the time of such funding shall be transferred to the City of Columbia and future assistance may be denied, in addition to all other legal remedies available to City.

25. Federal Funding Accountability and Transparency Act of 2006

Property Owner and Agency shall provide City with all information requested by City to enable City to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

26. Confidentiality

Agency and Property Owner shall maintain the confidentiality of qualifying households as individuals or

families fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking. Agency and Property Owner shall adopt written policies and procedures for maintaining confidentiality in compliance with the VAWA protections contained in 24 CFR Part5, Subpart L. Agency and Property Owner shall develop, implement and maintain written procedures to comply with the confidentiality requirements set forth herein and in the attached exhibits.

27. Governing Law and Venue

This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this contract document, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.

28. Notice To Transferees

If the Property Owner sells, transfers, exchanges or encumbers the property at any time after the initial date of ARP expenditures on the property described in the Agreement, and prior to the Discharge Date, Agency and Property Owner shall notify City in writing thirty (30) days prior to closing and the Agency and Property Owner shall notify in writing and obtain the agreement of any buyer, successor, transferee or lender, or other person acquiring the Property or any interest therein that such acquisition is subject to the requirements of this Agreement. The Owner agrees that the City may void any sale, transfer, exchange or encumbrance of the Property prior to the Discharge Date if the buyer or successor or other person fails to assume in writing the requirements of this Agreement.

29. Covenants Running With the Land

The terms of this agreement are covenants and restrictions running with the land and shall bind Property Owner and its successors and assigns for a period of twenty years from the date of project completion unless released sooner by written agreement of the parties.

30. Contract Documents

This Agreement includes the following exhibits, which are incorporated herein by reference:

<u>Exhibit</u>	<u>Description</u>
A	U.S. Department of Housing and Urban Development's Notice CPD-21-10 issued on 9/13/2021
B	Waiver and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program
C	Project Budget
D	Schedule of Tasks and Project Completion, including Requirements related to Environmental Review
E	Tenant Selection Process, Policies and Procedures

In the event of a conflict among the terms of exhibits A and B, and this Agreement, the Parties agree that the conflict shall be resolved in a manner in which allows the City to comply with the federal requirements set forth in Exhibits A and B.

{Signatures on following page}

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year last written below.

CITY OF COLUMBIA, MISSOURI

BY: \_\_\_\_\_  
De'Carlton Seewood, City Manager

DS  


Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy Thompson, City Counselor/rw

CERTIFICATION: I hereby certify that this agreement is within the purpose of the appropriation to which it is to be charged, Account No. 26704131-504990, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefore.

\_\_\_\_\_  
Matthew Lue, Director of Finance


Kinney Point Housing Development Group, LP

By: \_\_\_\_\_  


Name and Title: Executive Director

Date: 10/6/2023

HOUSING AUTHORITY OF THE CITY OF COLUMBIA, MISSOURI

By: \_\_\_\_\_  


Name and Title: Randy Cole, CEO

Date: 10/6/2023

**Exhibit A - U.S. Department of Housing and Urban Development's Notice CPD-21-10 issued on 9/13/2021**



U.S. Department of Housing and Urban Development  
Community Planning and Development

**Special Attention of:**

CPD Division Directors  
All HOME Coordinators  
All HOME Participating Jurisdictions

**Notice: CPD-21-10**

Issued: September 13, 2021

Expires: **This NOTICE is effective until it is amended, superseded, or rescinded**

Cross Reference: 24 CFR Part 92

Subject: Requirements for the Use of Funds in the HOME-American Rescue Plan Program

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## I. PURPOSE

This Notice establishes requirements for funds appropriated under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) (“**ARP**”) for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services.

## II. BACKGROUND

On March 11, 2021, President Biden signed ARP into law, which provides over \$1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses.

To address the need for homelessness assistance and supportive services, Congress appropriated \$5 billion in ARP funds to be administered through HOME to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other vulnerable populations. These activities include: (1) development and support of affordable housing, (2) tenant-based rental assistance (TBRA), (3) provision of supportive services; and (4) acquisition and development of non-congregate shelter units. The program described in this notice for the use of the \$5 billion in ARP funds is the **HOME-American Rescue Plan** or “**HOME-ARP**.”

ARP defines qualifying individuals or families as those that are (1) homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. 11302(a)) (“**McKinney-Vento**”); (2) at risk of homelessness, as defined in section 401 of McKinney-Vento; (3) fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; (4) part of other populations where providing supportive services or assistance would prevent a family’s homelessness or would serve those with the greatest risk of housing instability; or (5) veterans and families that include a veteran family member that meet the criteria in one of (1)-(4) above.

ARP authorized HUD to allocate HOME-ARP funds to states, units of general local government, insular areas, and consortia of units of general local government that qualified for an allocation of HOME funds in Fiscal Year (FY) 2021, pursuant to section 217 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended (42 U.S.C. 12701 et seq.) (“**NAHA**”). On April 8, 2021, HUD allocated HOME-ARP funds to 651 grantees using the HOME formula established at [24 CFR 92.50](#) and [92.60](#). The HOME-ARP allocation amounts can be found [here](#).

## III. ESTABLISHMENT OF HOME-ARP REQUIREMENTS

ARP provides funds for homelessness and supportive services assistance under the HOME statute of Title II of NAHA (42 U.S.C. 12721 et seq.) and authorizes the Secretary of HUD to waive or specify alternative requirements for any provision of NAHA or regulation for the administration of the HOME-ARP program, except requirements related to fair housing, civil rights, nondiscrimination, labor standards, and the environment, upon a finding that the waiver

or alternative requirement is necessary to expedite or facilitate the use of HOME-ARP funds. Pursuant to ARP, the per-unit cost limits (42 U.S.C. 12742(e)), commitment requirements (42 U.S.C. 12748(g)), matching requirements (42 U.S.C. 12750), and set-aside for housing developed, sponsored, or owned by community housing development organizations (CHDOs) (42 U.S.C. 12771) in NAHA do not apply to HOME-ARP funds.

This Notice describes the requirements applicable to a participating jurisdiction's (PJ's) use of HOME-ARP funds. Consolidated plan requirements for HOME are in title I of NAHA and [24 CFR part 91](#). HOME program regulations are in [24 CFR part 92](#). Except as described in ARP and this Notice, HOME statutory and regulatory provisions apply to a PJ's use of HOME-ARP funds. Sections I-IX of this Notice describe the HOME-ARP requirements imposed on a PJ for the use of HOME-ARP funds to assist the qualifying populations through HOME-ARP projects or activities. The Appendix describes the waivers and alternative requirements imposed on PJs for the use of HOME-ARP funds and is included in any reference to "this Notice." Specific citations in the Notice shall mean the statute or regulation cited, as may be revised by the Appendix to this Notice. PJs and insular areas must comply with all applicable statutory, regulatory, and alternative requirements, as described in this Notice, including the Appendix.

## IV. QUALIFYING POPULATIONS, TARGETING AND PREFERENCES

ARP requires that funds be used to primarily benefit individuals and families in the following specified "qualifying populations." Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population or required for income determinations in HOME-ARP eligible activities must use the annual income definition in [24 CFR 5.609](#) in accordance with the requirements of [24 CFR 92.203\(a\)\(1\)](#).

### A. Qualifying Populations

1. **Homeless**, as defined in [24 CFR 91.5](#) *Homeless* (1), (2), or (3):

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

- (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
  - (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - (ii) No subsequent residence has been identified; and
  - (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
  - (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

**2. At risk of Homelessness**, as defined in [24 CFR 91.5](#) *At risk of homelessness*:

- (1) An individual or family who:



(i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

(ii) Does not have sufficient resources or support networks, *e.g.*, family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and

(iii) Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;

(2) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

(3) A child or youth who does not qualify as “homeless” under this section but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42

U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

**3. Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.**

For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

**Domestic violence**, which is defined in [24 CFR 5.2003](#) includes felony or misdemeanor crimes of violence committed by:

- 1) A current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
- 2) A person with whom the victim shares a child in common;
- 3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- 4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
- 5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Dating violence** which is defined in [24 CFR 5.2003](#) means violence committed by a person:

- 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- 2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship;
  - b. The type of relationship; and
  - c. The frequency of interaction between the persons involved in the relationship.

**Sexual assault** which is defined in [24 CFR 5.2003](#) means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** which is defined in [24 CFR 5.2003](#) means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) Fear for the person's individual safety or the safety of others; or
- 2) Suffer substantial emotional distress.

**Human Trafficking** includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:

- 1) *Sex trafficking* means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- 2) *Labor trafficking means* the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

4. **Other Populations** where providing supportive services or assistance under section 212(a) of NAHA ([42 U.S.C. 12742\(a\)](#)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

- (1) **Other Families Requiring Services or Housing Assistance to Prevent Homelessness** is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in [24 CFR 91.5](#), are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

(2) **At Greatest Risk of Housing Instability** is defined as household who meets either paragraph (i) or (ii) below:

- (i) has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);

(ii) has annual income that is less than or equal to 50% of the area median income, as determined by HUD, **AND** meets one of the following conditions from paragraph (iii) of the “At risk of homelessness” definition established at [24 CFR 91.5](#):

- (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
- (B) Is living in the home of another because of economic hardship;
- (C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
- (D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
- (E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
- (F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
- (G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan

**Veterans and Families that include a Veteran Family Member** that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

## **B. Use of Funds to Benefit Qualifying Populations**

ARP states that funds must be used to primarily benefit the qualifying populations through the four eligible activities: (1) TBRA, (2) development and support of affordable housing, (3) provision of supportive services; and (4) acquisition and development of non-congregate shelter (NCS) units. Recognizing the urgent needs of individuals and families in qualifying populations, HUD is requiring that:

- 100% of HOME-ARP funds used by a PJ for TBRA, supportive services, and acquisition and development of non-congregate shelter units must benefit individuals and families in qualifying populations. Individuals and families in qualifying populations may be assisted by one or more of the HOME-ARP eligible activities, consistent with the requirements in this Notice.
- Not less than 70 percent of affordable rental housing units acquired, rehabilitated, or constructed with HOME-ARP funds by a PJ must be occupied by households in the qualifying populations. Units that are not restricted to occupancy by qualifying populations are subject to income targeting and rent requirements established under the

HOME-ARP Rental Program rules and are only permitted in projects with rental units restricted for occupancy by qualifying populations.

HUD recognizes that, because many households in the qualifying populations are unable to pay rents sufficient to cover unit operating costs, PJs and project owners should attempt to obtain Federal or state project-based rental subsidies, if available. Since project-based rental subsidies can be difficult to secure, additional flexibility may be necessary to structure and underwrite projects so that they remain both affordable and financially viable. HUD is providing PJs with additional flexibilities in [Section VI.B.](#) to structure and underwrite HOME-ARP rental projects so they remain financially viable during the minimum compliance period. One of these flexibilities is permitting up to 30 percent of HOME-ARP rental housing units funded by a PJ to be occupied by low-income households. PJs are encouraged to use this flexibility only when it is required to facilitate development of a HOME-ARP rental project.

PJs must determine and document that households meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to these populations, that households are low-income.

## **C. Preferences Among Qualifying Populations, Referral Methods, and Subpopulations**

### **1. Preferences**

ARP establishes the qualifying populations that are eligible for assistance with HOME-ARP funds. A PJ may establish reasonable preferences among the qualifying populations to prioritize applicants for HOME-ARP projects or activities based on the PJ's needs and priorities, as described in its HOME-ARP allocation plan. For example, a PJ may set a preference among qualifying individuals and families for a HOME-ARP non-congregate shelter for individuals and families who are homeless; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; and veterans and families with a veteran family member that meet the criteria of one of these prior qualifying populations, consistent with its HOME-ARP allocation plan.

The PJ must comply with all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in [24 CFR 5.105\(a\)](#) when applying preferences through its referral methods. Persons who are eligible for a preference must have the opportunity to participate in all HOME-ARP activities of the PJ in which they are eligible under this Notice, including activities that are not separate or different, and cannot be excluded because of any protected characteristics or preferential status.

*Targeted assistance:* If HOME-ARP funds are used for TBRA, the PJ may establish a preference for individuals with special needs or persons with disabilities among the HOME-ARP qualifying populations. Within the qualifying populations, participation may be limited to persons with a specific disability only, if necessary, to provide effective housing, aid, benefit, or services that would be as effective as those provided to others in accordance with [24 CFR 8.4\(b\)\(1\)\(iv\)](#). The PJ may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) within the qualifying

populations only if the specific category is identified in the PJ's HOME-ARP allocation plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

## **2. Referral Methods for Projects or Activities**

A PJ may use the referral methods described below to administer HOME-ARP assistance to qualifying individuals and families. Regardless of the referral method used by the PJ, HUD holds the PJ responsible for determining and documenting that beneficiaries meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to qualifying populations, that beneficiaries are low-income.

A PJ may use the coordinated entry or coordinated entry process (CE) of a continuum of care (CoC) for referrals for projects and activities as described below. Under 24 CFR 578.3, a CE is a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals within a defined area. HUD requires each CoC to establish and operate a CE with the goal of increasing the efficiency of local crisis response systems and improving fairness and ease of access to resources, including mainstream resources. A PJ may permit a CoC CE to collect information and documentation required to determine whether an individual or family meets the criteria of a HOME-ARP qualifying population at any point in the coordinated entry process, (i.e., after or concurrently with the assessment and intake processes) as long as that information is not used to rank a person for HOME-ARP assistance other than as specified by the preferences or method of prioritization established by the PJ, in accordance with HOME-ARP requirements. If the PJ uses CE, the PJ cannot require HOME-ARP victim service providers to use the CE but may permit them to do so.

The PJ must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in [24 CFR 5.105\(a\)](#) and any other applicable fair housing and civil rights laws and requirements when using the following referral methods:

### **i. Use of Expanded CE in HOME-ARP**

Under this referral method, a PJ may use a CE established by a CoC operating within its boundaries for one or more projects or activities if the CE accepts all HOME-ARP qualifying populations eligible for those activities or projects, in accordance with the preferences and prioritization, if any, established or approved by the PJ in its HOME-ARP allocation plan and imposed through the PJ's written agreements.

Before using a CoC's CE, PJs should consider whether the CE covers the same service area as the HOME-ARP project or activity that would use that CE. At a minimum, the PJ must establish policies and procedures that describe the relationship of the geographic area(s) served by the project or activity to the geographic area(s) covered by the CoC CE and address how the CE will provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

The PJ must require a project or activity to use CE along with other referral methods (as provided in section ii below) or to use only a project/activity waiting list (as provided in section iii below) if:

1. the CE does not have a sufficient number of qualifying individuals and families to refer to the PJ for the project or activity;
2. the CE does not include all HOME-ARP qualifying populations; or,
3. the CE fails to provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

## **ii. Use of CE with Other Referral Methods**

The PJ may use a CoC CE with additional referrals from outside organizations or project-specific waiting lists consistent with HOME-ARP requirements. If using this referral method, the PJ must establish or approve any preferences or prioritization criteria applied by a CoC CE or other referral sources. The PJ may also use a waiting list to receive referrals from a CoC CE and other referral agencies for a project or activity, where a CoC CE or referral agency refers an applicant that is placed on the waiting list for that project or activity in chronological order.

If applicable, a PJ must establish policies and procedures for applying a PJ's established preferences and method of prioritization, if any, when accepting direct referrals from a CoC CE and other referral agencies and must document that such the policies and procedures were followed for each applicant served.

## **iii. Use of a Project/Activity Waiting List**

The PJ may establish a waiting list for each HOME-ARP project or activity. All qualifying individuals or families must have access to apply for placement on the waiting list for an activity or project. Qualifying individuals or families on a waiting list must be accepted in accordance with the PJ's preferences, if any, consistent with this Notice or, if the PJ did not establish preferences, in chronological order, insofar as practicable.

## **3. Limiting Eligibility to Subpopulations**

PJs must follow all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in [24 CFR 5.105\(a\)](#). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, section 504 of Rehabilitation Act, HUD's Equal Access Rule, and the Americans with Disabilities Act, as applicable.

HOME-ARP rental housing or NCS may be limited to a specific subpopulation of a qualifying population identified in [Section IV.A.](#) of this Notice, so long as admission does not discriminate against any protected class under federal nondiscrimination laws in [24 CFR 5.105](#) (e.g., the housing may be limited to homeless households and at risk of homelessness households,



veterans and their families, victims of domestic violence, dating violence, sexual assault, stalking or human trafficking and their families).

Recipients may limit admission to or provide a preference for HOME-ARP rental housing or NCS to households who need the specialized supportive services that are provided (e.g., domestic violence services). However, no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

Consistent with the statutory authority under ARP, HOME-ARP NCS may be converted to permanent housing under the CoC program or used as shelters under the ESG program, when all program and fair housing and nondiscrimination requirements are met. As such, HOME-ARP NCS may need to limit eligibility to households that are homeless and/or at risk of homelessness if the shelter will be converted to permanent housing under the CoC program or used as an emergency shelter in the ESG program.

## **V. HOME-ARP ALLOCATION PLAN**

PJs develop annual action plans as part of their application for HOME funding. To receive its HOME-ARP funds, a PJ must engage in consultation and public participation processes and develop a HOME-ARP allocation plan that meets the requirements established in this section of the Notice and submit it to HUD as a substantial amendment to its Fiscal Year 2021 annual action plan. HUD is using the waiver and alternative requirement authority provided by ARP to establish requirements for the HOME-ARP allocation plan in this Notice. The HOME-ARP allocation plan must describe how the PJ intends to distribute HOME-ARP funds, including how it will use these funds to address the needs of HOME-ARP qualifying populations. A PJ's HOME-ARP allocation plan must include:

- A summary of the consultation process and results of upfront consultation;
- A summary of comments received through the public participation process and a summary of any comments or recommendations not accepted and the reasons why;
- A description of HOME-ARP qualifying populations within the jurisdiction;
- An assessment of unmet needs of each qualifying population;
- An assessment of gaps in housing and shelter inventory, homeless assistance and services, and homelessness prevention service delivery system;
- A summary of the planned use of HOME-ARP funds for eligible activities based on the unmet needs of the qualifying populations;
- An estimate of the number of housing units for qualifying populations the PJ will produce or preserve with its HOME-ARP allocation; and
- A description of any preferences for individuals and families in a particular qualifying population or a segment of a qualifying population.

All the above required elements of the HOME-ARP allocation plan shall be part of the FY 2021 annual action plan for purposes of the HOME-ARP program. Consequently, PJs are not required to amend their consolidated plans.



## **A. Consultation**

Before developing its HOME-ARP allocation plan, a PJ must consult with agencies and service providers whose clientele include the HOME-ARP qualifying populations to identify unmet needs and gaps in housing or service delivery systems. In addition, a PJ should use consultation to determine the HOME-ARP eligible activities currently taking place within its jurisdiction and potential collaborations for administering HOME-ARP. This consultation will provide a basis for the PJ's strategy for distributing HOME-ARP funds for eligible activities to best meet the needs of qualifying populations. At a minimum, a PJ must consult with the CoC(s) serving the jurisdiction's geographic area, homeless and domestic violence service providers, veterans' groups, public housing agencies (PHAs), public agencies that address the needs of the qualifying populations, and public or private organizations that address fair housing, civil rights, and the needs of persons with disabilities. State PJs are not required to consult with every PHA or CoC within the state's boundaries; however, local PJs must consult with all PHAs (including statewide or regional PHAs) and CoCs serving the jurisdiction. In its plan, a PJ must describe its consultation process, list the organizations consulted, and summarize the feedback received from these entities.

## **B. Public Participation**

PJs must provide for and encourage citizen participation in the development of the HOME-ARP allocation plan. Before submitting the HOME-ARP allocation plan to HUD, PJs must provide residents with reasonable notice and an opportunity to comment on the proposed HOME-ARP allocation plan of no less than 15 calendar days. The PJ must follow its adopted requirements for "reasonable notice and an opportunity to comment" for plan amendments in its current citizen participation plan. In addition, PJs must hold at least one public hearing during the development of the HOME-ARP allocation plan prior to submitting the plan to HUD.

For the purposes of HOME-ARP, PJs are required to make the following information available to the public:

- The amount of HOME-ARP funds the PJ will receive.
- The range of activities the PJ may undertake.

A PJ must consider any comments or views of residents received in writing, or orally at a public hearing, when preparing the HOME-ARP allocation plan. In its plan, a PJ must describe its public participation process, including any efforts made to broaden public participation. In its plan, the PJ must also include a summary of comments and recommendations received through the public participation process and any comments or recommendations not accepted and the reasons why.

Throughout the HOME-ARP allocation plan public participation process, the PJ must follow its applicable fair housing and civil rights requirements and procedures for effective communication, accessibility and reasonable accommodation for persons with disabilities and providing meaningful access to participation by limited English proficient (LEP) residents that are in its current citizen participation plan as required by [24 CFR 91.105](#) and [91.115](#).

## C. HOME-ARP Allocation Plan Requirements

The HOME-ARP allocation plan must describe the distribution of HOME-ARP funds and the process for soliciting applications and/or selecting eligible projects. The plan must also identify any preferences being established for eligible activities or projects. However, PJs are not required to identify specific projects that will be funded in the HOME-ARP allocation plan.

1. **Needs Assessment and Gaps Analysis:** A PJ must evaluate the size and demographic composition of qualifying populations within its boundaries and assess the unmet needs of those populations. In addition, a PJ must identify any gaps within its current shelter and housing inventory as well as the service delivery system. A PJ should use current data, including point in time count, housing inventory count, or other data available through CoCs, and consultations with service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services. A PJ should identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing. A PJ must consider the housing and service needs of qualifying populations, including but not limited to:
  - Sheltered and unsheltered homeless populations;
  - Those currently housed populations at risk of homelessness;
  - Other families requiring services or housing assistance to prevent homelessness; and
  - Those at greatest risk of housing instability or in unstable housing situations.

A PJ should include data in its HOME-ARP allocation plan that describes the qualifying populations.

In addition, a PJ must include a narrative description that:

- Identifies the characteristics of housing associated with instability and an increased risk of homelessness if the PJ will include such conditions under HUD's definition of "other populations" as established in [Section IV.A.4.2.ii.G.](#) of this Notice.
  - Identifies the PJ's priority needs for qualifying populations; and,
  - Explains how the PJ determined the level of need and gaps in its shelter and housing inventory and service delivery systems.
2. **HOME-ARP Activities:** The HOME-ARP allocation plan must describe how a PJ will distribute HOME-ARP funds in accordance with its priority needs. The plan must describe the PJ's method for soliciting applications for funding and/or selecting developers, service providers, subrecipients and/or contractors and whether the PJ will administer eligible activities directly. If the PJ will provide any portion of its HOME-ARP administrative funds to a subrecipient or contractor prior to HUD's acceptance of the PJ's HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the PJ's entire HOME-ARP grant, the plan must identify the subrecipient or contractor and describe its role and responsibilities in administering all of the PJ's HOME-ARP program.

PJs must indicate in the HOME-ARP allocation plan the amount of HOME-ARP funding that is planned for each eligible HOME-ARP activity type, including administrative and

planning activities. In addition, a PJ must demonstrate that any planned funding for nonprofit organization operating assistance, as described in [Section VI.F](#), nonprofit capacity building, and administrative costs is within HOME-ARP limits. PJs must also include a narrative description about how the characteristics of its shelter and housing inventory, service delivery system, and the needs identified in the PJ's gap analysis provided a rationale for its plan to fund eligible activities.

3. **HOME-ARP Production Housing Goals:** The HOME-ARP allocation plan must estimate the number of affordable rental housing units for qualifying populations that a PJ will produce or support with its HOME-ARP allocation. The plan must also include a narrative about the specific affordable rental housing production goal that the PJ hopes to achieve and describe how it will address the PJ's priority needs.
4. **Preferences:** The HOME-ARP allocation plan must identify whether the PJ intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project. For example, PJs may include a preference for:
  - homeless individuals and families as defined in the ESG and CoC programs;
  - individuals with special needs or persons with disabilities among qualifying individuals and families;
  - a specific category of qualifying individuals and families (e.g., chronically homeless as defined in [24 CFR 91.5](#)).

PJs are not required to describe specific projects to which the preferences will apply in the HOME-ARP allocation plan. However, a PJ must explain how the use of a preference or method of prioritization will address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or category of qualifying population, consistent with the PJ's needs assessment and gap analysis. The PJ must also describe how it will still address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in a preference through the use of HOME-ARP funds.

Preferences cannot violate any applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in [24 CFR 5.105\(a\)](#). The PJ must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in [24 CFR 5.105\(a\)](#) and any other applicable fair housing and civil rights laws and requirements when establishing preferences or methods of prioritization.

5. **HOME-ARP Refinancing Guidelines:** If a PJ intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, it must state its refinancing guidelines in accordance with [24 CFR 92.206\(b\)\(2\)](#). The guidelines must describe the conditions under which the PJ will refinance existing debt for a HOME-ARP rental project. At a minimum, the guidelines must:
  - Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity.

- Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.
  - State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.
  - Specify whether the required compliance period is the minimum 15 years or longer.
  - State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.
6. **Substantial Amendments to the HOME-ARP Allocation Plan:** PJs must make a substantial amendment to the HOME-ARP allocation plan for changes in the method of distributing funds; to carry out an activity not previously described in the plan; or, to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan. In addition, the requirements for substantial amendments at [24 CFR 92.63](#) apply to the HOME-ARP allocation plan for insular areas. PJs are not required to make a substantial amendment to describe individual projects selected for funding if the eligible activity is included in the PJ's plan. PJs must make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission. Upon completion of the public comment period, PJs must submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan as described in [Section V.D.](#)
7. **Certifications and SF-424:** PJs must submit the required certifications in accordance with the requirements in this Notice, including the following:
- a. Affirmatively Further Fair Housing;
  - b. Uniform Relocation Assistance and Real Property Acquisition Policies Act and Anti-displacement and Relocation Assistance Plan;
  - c. Anti-Lobbying;
  - d. Authority of Jurisdiction;
  - e. Section 3; and,
  - f. HOME-ARP specific certification that a PJ will only use HOME-ARP funds consistent with ARP and the HOME-ARP Notice for eligible activities and eligible costs.

PJs must also submit the SF-424, SF-424B, and SF-424D with the HOME-ARP allocation plan.

## **D. Submission and Review Process**

1. **HOME-ARP Submission and the eCon Planning Suite:** Upon completion of the HOME-ARP allocation plan, a PJ must submit the HOME-ARP allocation plan to HUD. To submit the HOME-ARP allocation plan, PJs must follow the process in IDIS to make an amendment to the Fiscal Year (FY) 2021 annual action plan. Once the FY 2021 annual action plan is reopened, a PJ must upload a Microsoft Word or PDF version of the plan as an attachment next to the "HOME-ARP allocation plan" option on the AD-26 screen (for

PJs whose FY. 2021 annual action plan is a Year 2-5 annual action plan) or the AD-25 screen (for PJs whose FY 2021 annual action plan is a Year 1 annual action plan that is part of the 2021 consolidated plan), unless instructed by HUD to follow a different submission procedure. PJs are not required to make any other edits to the FY 2021 annual action plan or applicable consolidated plan screens in the eCon Planning Suite. For more information on how to upload an attachment in the eCon Planning Suite, PJs can refer to the [eCon Planning Suite Desk Guide](#).

2. **HUD Review of the HOME-ARP Allocation Plan:** The PJ must submit its HOME-ARP allocation plan to HUD for review in accordance with [24 CFR 91.500](#), as revised by this Notice. Unless instructed otherwise by HUD, the HOME-ARP allocation plan is received by HUD when the SF-424 is submitted electronically, which means that it is uploaded in the eCon Planning Suite as an attachment on AD-25 or AD-26 screen, as applicable, and the action plan status is changed to “Submitted for Review.” HUD will review a PJ’s HOME-ARP allocation plan to determine that it is:

- Substantially complete, and
- Consistent with the purposes of ARP.

HUD may disapprove a PJ’s HOME-ARP allocation plan in accordance with [24 CFR 91.500\(b\)](#). HUD may also disapprove a HOME-ARP allocation plan or a portion of a plan if HUD determines that the plan is inconsistent with the purposes of ARP or substantially incomplete. A PJ’s plan is inconsistent with ARP if it allocates HOME-ARP funds for uses other than a HOME-ARP eligible activity, as described in this Notice. A PJ’s HOME-ARP allocation plan is substantially incomplete if:

- The PJ does not complete the required public participation or consultation or fails to describe those efforts in the plan;
- The PJ fails to include the required elements outlined in this Notice, including the amount of HOME-ARP funds for each eligible HOME-ARP activity type;
- The PJ fails to identify and describe the responsibilities of the subrecipient or contractor administering all of its HOME-ARP award, if applicable; or,
- HUD rejects the PJ’s HOME-ARP certification as inaccurate.

In accordance with section 105(c) of NAHA (42 U.S.C. 12705(c)) and [24 CFR 91.500\(a\)](#), if the PJ’s HOME-ARP allocation plan is not disapproved within 45 days, then the plan is deemed approved 45 days after HUD receives the plan, and HUD shall notify the PJ that the plan is accepted.

If HUD determines that the plan is substantially incomplete or that the plan is inconsistent with ARP, HUD will notify the PJ in writing with the reasons for disapproval, in accordance with [24 CFR 91.500\(c\)](#). If a PJ’s plan is disapproved, the PJ may revise or resubmit the plan for HUD review within 45 days after the first notification of disapproval. HUD will respond to accept or disapprove the resubmitted plan within 30 days of receiving the revisions or resubmission.

Once HUD notifies a PJ that the plan is accepted, the PJ must make the final HOME-ARP allocation plan available to the public in accordance with the same requirements in the PJ’s

current citizen participation plan that are followed to make the PJ's adopted consolidated plan and substantial amendments available to the public, including the availability of materials in a form accessible to persons with disabilities, and translated materials in different languages to accommodate LEP persons, upon request.

3. **HUD Review of the HOME-ARP Allocation Plan for Insular Areas:** In addition to the standards for review described in [Section V.D.2](#), HUD will review an insular area's HOME-ARP allocation plan in accordance with [24 CFR 92.62](#). If HUD cannot make a determination based on the information submitted that the HOME-ARP allocation plan complies with HOME-ARP allocation plan requirements, or if the eligible activities described in the plan are not within the insular area's management capability as demonstrated by past performance in housing and community development programs, HUD will notify the insular area within 30 days of receipt of the HOME-ARP allocation plan that supporting documentation is needed. The insular area will have a mutually agreed upon period to submit the necessary supporting information or to revise the eligible activities in its HOME-ARP allocation plan.

## VI. ELIGIBLE ACTIVITIES

### A. Administration and Planning

The PJ may expend, for payment of reasonable administrative and planning costs, up to 15 percent of its HOME-ARP allocation. Reasonable administrative and planning costs for the HOME-ARP program include:

1. Reasonable costs of overall HOME-ARP program management, coordination, monitoring, and evaluation. Such HOME-ARP costs include, but are not limited to, necessary expenditures for the following:
  - a. Salaries, wages, and related costs of the PJ's staff. If a PJ charges costs to this category, the PJ may either include the entire salary and related costs allocable to the HOME-ARP program of each person whose *primary* responsibilities with regard to the HOME-ARP program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes *any* program administrative assignments. A PJ may only use one of these two methods. Program administration includes:
    - i. Developing systems and schedules for complying with HOME-ARP program requirements, including systems to prevent a duplication of benefits among beneficiaries of HOME-ARP activities;
    - ii. Developing interagency agreements and agreements with entities receiving HOME-ARP funds;
    - iii. Monitoring HOME-ARP activities for progress and compliance with HOME-ARP program requirements;
    - iv. Preparing HOME-ARP reports and other documents related to the HOME-ARP program for submission to HUD;



- v. Coordinating the resolution of audit and monitoring findings on HOME-ARP activities;
    - vi. Evaluating HOME-ARP program results against stated objectives in the HOME-ARP allocation plan, and
    - vii. Managing or supervising persons whose primary responsibilities with regard to the HOME-ARP program include such assignments as those described above.
  - b. Travel costs incurred for official business in carrying out the HOME-ARP program.
  - c. Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services.
  - d. Other costs for goods and services required for administering the HOME-ARP program, such as: rental or purchase of equipment, insurance, information systems necessary to track and implement beneficiaries of HOME-ARP activities in accordance with the requirements of this Notice, utilities, office supplies, and rental and maintenance (but not purchase) of office space.
  - e. Costs of administering HOME-ARP TBRA and HOME-ARP supportive services programs.
2. Staff and overhead costs of the PJ directly related to carrying out a HOME-ARP project, in accordance with [24 CFR 92.207\(b\)](#).
  3. The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME-ARP funds.
  4. Activities to affirmatively further fair housing (AFFH) in accordance with 24 CFR 5.151 and the PJ's certification as required under this Notice and 24 CFR 5.152. The AFFH definition in HUD's Interim Final Rule entitled, "Restoring Affirmatively Furthering Fair Housing Definitions and Certifications" (86 FR 30779, June 10, 2021), as amended, at 24 CFR 5.151, and the AFFH certification requirement, at 24 CFR 5.152, available at <https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.
  5. Indirect costs may be charged to the HOME-ARP program under a cost allocation plan prepared in accordance with [2 CFR part 200, subpart E](#), as amended.
  6. Preparation of the HOME-ARP allocation plan as required in this Notice. Preparation includes the costs of public hearing, consultations, and publications.
  7. Costs of complying with the applicable Federal requirements in [24 CFR part 92, subpart H](#). Project-specific environmental review costs may be charged as administrative or project costs in accordance with [24 CFR 92.206\(d\)\(8\)](#) and is at the discretion of the PJ.

Funds available under the HOME-ARP appropriation for administration and planning may not be used to pay costs attributable to the regular HOME Program.

PJs may provide all or a portion of its HOME-ARP administrative funds to subrecipients and contractors that are administering activities on behalf of the PJ (e.g., CoC entity, other non-Federal entity), in accordance with the requirements in this Notice. However, from the obligation date of the HOME-ARP funds in the HOME-ARP Grant Agreement and prior to HUD's acceptance of the PJ's HOME-ARP allocation plan, a subrecipient or contractor to the PJ may only incur and expend HOME-ARP funds for eligible administrative and planning costs if the subrecipient or contractor is responsible for the use of the PJ's entire HOME-ARP award and has executed a HOME-ARP written agreement that complies with [24 CFR 92.504](#) and this [Notice](#). The PJ must also identify the subrecipient or contractor administering the PJ's entire HOME-ARP award and describe the subrecipient or contractor's responsibilities in the PJ's HOME-ARP allocation plan.

All costs must comply with the Cost Principles contained in subpart E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at [24 CFR part 200](#), as amended (Uniform Administrative Requirements).

Once HUD obligates the HOME-ARP funds, as described in [Section VIII.C.2](#) of this Notice, the PJ may incur and expend up to 5 percent of its HOME-ARP allocation on eligible administrative and planning costs, as described in this section and [24 CFR 92.207](#). Before HUD's acceptance of the PJ's HOME-ARP allocation plan, the PJ is only permitted to incur and expend HOME-ARP funds on eligible administrative and planning costs.

If the PJ does not submit a HOME-ARP allocation plan or if the PJ's plan is not accepted within a reasonable period of time, as determined by HUD, all HOME-ARP administrative and planning costs incurred by the PJ will be ineligible costs and any HOME-ARP funds expended by the PJ must be repaid to the PJ's HOME Investment Trust Fund Treasury account, in accordance with guidance issued by HUD. Moreover, if the PJ's HOME-ARP allocation plan does not identify or include a description of the responsibilities of the subrecipient or contractor that is responsible for the PJ's entire HOME-ARP award, if applicable, the administrative and planning costs incurred or expended by the subrecipient or contractor will also be ineligible and any HOME-ARP funds expended by the PJ's subrecipient or contractor must be repaid to the PJ's HOME Investment Trust Fund Treasury account, in accordance with guidance from HUD.

## **B. HOME-ARP Rental Housing**

HOME-ARP funds may be used to acquire, rehabilitate, or construct affordable rental housing primarily for occupancy by households of individuals and families that meet the definition of one or more of the qualifying populations described in [Section IV.A](#) of this Notice ("**qualifying households**"). Unlike the regular HOME Program, which targets HOME-assisted rental units based on tenant income, 70 percent of all HOME-ARP units will admit households based only upon their status as qualifying households. This complicates the underwriting and operation of projects that include HOME-ARP units. As a result, the requirements for HOME-ARP rental housing provide significant flexibilities to enable HOME-ARP rental projects to remain



financially viable and affordable for the qualifying populations throughout the minimum compliance period.

Eligible HOME-ARP rental housing includes “housing” as defined at [24 CFR 92.2](#), including but not limited to manufactured housing, single room occupancy (SRO) units, and permanent supportive housing. Emergency shelters, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses, and housing for students or dormitories do not constitute housing in the HOME-ARP program. However, HOME-ARP funds may be used to acquire and rehabilitate such structures into HOME-ARP rental housing.

Developing financially feasible rental housing for qualifying households is challenging in the absence of project-based rental assistance. Most HOME-assisted rental projects rely on tenant rents to cover all or a portion of the debt service and project operating costs. Most HOME-ARP qualifying households will be unable to pay a rent that covers allocated debt service or operating costs, requiring PJs to use other techniques to determine that HOME-ARP units are affordable and that projects containing HOME-ARP units are sustainable throughout the minimum compliance period. PJs are encouraged to work with local PHAs and other state or local agencies to obtain project-based rental assistance for units funded with HOME-ARP. In the absence of such project-based rental assistance, the HOME-ARP units for qualifying households may require substantial capital investment through HOME-ARP and other Federal, state, local, or private sources to eliminate debt service on the units. ARP suspended the maximum per-unit subsidy limit for HOME-ARP units, enabling HOME-ARP funds to pay the entire cost to acquire, rehabilitate and/or construct the HOME-ARP rental units, eliminating the need for the HOME-ARP units to support debt. In mixed-income developments, revenue from market rate or higher income-restricted units may also provide an internal subsidy to cover a portion of the operating costs of HOME-ARP units.

To address these challenges and maintain affordability, HUD is using its HOME-ARP statutory authority to:

- Establish alternative rent requirements to [24 CFR 92.252\(b\)](#) and extend an owner’s ability to charge the maximum rent permissible under a rental assistance program (to units occupied by recipients of tenant-based rental assistance (e.g., Housing Choice Vouchers, HOME TBRA, HOME-ARP TBRA).
- Establish a minimum compliance period of 15 years for all HOME-ARP rental units irrespective of the amount of subsidy per unit or whether the units are acquired, rehabilitated, and/or newly constructed.
- Permit the use of HOME-ARP funds to provide ongoing operating cost assistance or capitalize a project operating cost assistance reserve to address operating deficits of the HOME-ARP units restricted for qualifying households during the compliance period.
- Allow not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the PJ to be restricted to households that are low-income as defined in [24 CFR 92.2](#) (“low-income households”). These units may only be located in projects containing HOME-ARP units restricted for qualifying households. The HOME-ARP rental units occupied by low-income households must operate under the regulations applicable to HOME rental units at [24 CFR 92.252](#) (i.e., be occupied by low-income

households and bearing a rent not greater than the lesser of a. the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or b. a rent equal to 30 percent of the adjusted income of a family with annual income at 65 percent of median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit).

1. **Targeting and Occupancy Requirements:** ARP requires HOME-ARP activities to primarily benefit households in the qualifying populations. To improve the feasibility and maintain the long-term viability of projects with HOME-ARP rental units for qualifying households, a PJ may invest HOME-ARP funds in units that are not restricted for occupancy solely for qualifying populations as described in this section. Specifically, participating jurisdictions must comply with the following requirements:
  - a. **Targeting:** HOME-ARP funds can only be invested in units restricted for qualifying households or low-income households as follows:
    - i. Not less than 70 percent of the total number of rental units assisted with HOME-ARP funds by the PJ must be restricted for occupancy by households that are qualifying households at the time of the household's initial occupancy; and,
    - ii. Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the PJ may be restricted to low-income households. These rental units do not have to be restricted for occupancy by qualifying households, however rental units restricted to low-income households are only permitted in projects that include HOME-ARP units for qualifying households.
  - b. **Occupancy Requirements:**
    - i. **Qualifying Households.** Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a qualifying population. As such, a unit restricted for a qualifying household remains in compliance with the HOME-ARP unit restriction as long as the unit is occupied by a qualifying household that met the definition of a qualifying population at the time of admission.
    - ii. **Low-Income Households.** At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in [24 CFR 92.2](#). If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the PJ to take action in accordance with the rent and unit mix requirements in [Sections VI.B.15](#) and [VI.B.17](#) of this Notice, respectively.

2. **Eligible Activities:** A PJ may use HOME-ARP funds for acquisition, construction, and rehabilitation, including reconstruction as defined in [24 CFR 92.2](#), of affordable rental housing for qualifying and low-income households. Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide HOME-ARP rental housing within the timeframes provided in [Section VI.B.](#) of this Notice. A HOME-ARP rental project must meet the definition of *project* in [24 CFR 92.2](#).

HOME-ARP funds may be used to assist one or more units in a project. Only the eligible development costs of the HOME-ARP units may be charged to the HOME-ARP program. Cost allocation in accordance with [24 CFR 92.205\(d\)\(1\)](#) is required if the assisted and non-assisted units are not comparable. After project completion, the number of HOME-ARP units in a project cannot be reduced. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, a PJ may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion. A qualifying household admitted to a HOME-ARP rental unit may still receive HOME-ARP supportive services or TBRA in accordance with the requirements in this Notice.

3. **Forms of Assistance:** The PJ may invest HOME-ARP funds in accordance with the eligible forms of assistance described in [24 CFR 92.205\(b\)](#). Each PJ has the right to establish the terms of assistance, subject to the HOME-ARP requirements described in this Notice.
4. **Minimum Amount of Assistance:** The minimum amount of HOME-ARP funds that must be invested in a rental housing project is \$1,000 times the number of HOME-ARP-assisted units in the project as established in [24 CFR 92.205\(c\)](#).
5. **Eligible Costs:** HOME-ARP funds may be used to pay for up to 100% of the following eligible costs associated with the acquisition, development, and operation of HOME-ARP rental units:
  - a. Development hard costs – defined in [24 CFR 92.206\(a\)](#).
  - b. Refinancing – the cost to refinance existing debt secured by a rental project that is being rehabilitated with HOME-ARP funds in accordance with [24 CFR 92.206\(b\)\(2\)](#) and the PJ's HOME-ARP refinancing guidelines, as stated in their HOME-ARP Allocation Plan.
  - c. Acquisition – the costs of acquiring improved or unimproved real property.
  - d. Related soft costs – defined in [24 CFR 92.206\(d\)](#).
  - e. Relocation costs – as defined in [24 CFR 92.206\(f\)](#), [24 CFR 92.353](#), and described in this Notice.
  - f. Costs relating to payment of loans – If the HOME-ARP funds are not used to directly pay a cost specified in this HOME-ARP rental housing section, but are used to pay off a

construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if: (1) the loan was used for eligible costs specified in this HOME-ARP rental housing section, and (2) the HOME-ARP funds are part of the original financing for the project and the project meets the requirements of this Notice.

- g. *Operating Cost Assistance* – A PJ may pay ongoing operating cost assistance or capitalize an operating cost assistance reserve for HOME-ARP-assisted units restricted for occupancy by qualifying populations in a project where the PJ determines in its underwriting that the reserve is necessary to maintain the HOME-ARP units' long-term operational feasibility. However, HOME-ARP funds cannot be used for both a capitalized operating cost assistance reserve and ongoing payments for operating cost assistance during the minimum compliance period. The allowable amount of the reserve shall not exceed the amount determined by the PJ to be necessary to provide operating cost assistance for HOME-ARP units restricted for occupancy by qualifying populations for the 15-year HOME-ARP minimum compliance period.

The operating cost assistance reserve for HOME-ARP units for qualifying households must be held by the project owner in a separate interest-bearing account and sized, based on an analysis of projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units' share of operating costs. Funds in a capitalized operating cost assistance reserve can only be drawn to address operating deficits associated with HOME-ARP units restricted for occupancy by the qualifying populations. A PJ must use the definition of operating costs in this Notice in its calculation of operating deficits to determine the amount of HOME-ARP funds needed for an operating cost assistance reserve or when providing operating cost assistance. Unexpended operating cost assistance reserve amounts remaining at the end of the minimum compliance period must be returned in accordance with [Section VI.B.24](#) of this Notice.

A PJ may provide operating cost assistance to a HOME-ARP rental project to cover an operating deficit associated with HOME-ARP units restricted for occupancy by qualifying households except for when an operating cost assistance reserve is already established for the project. Operating cost assistance committed to a project cannot be provided beyond the HOME-ARP budget period, as described in [Section VIII.C.4](#) of this Notice.

Operating costs include costs for administrative expenses, property management fees, insurance, utilities, property taxes, and maintenance of a unit that is designated as a HOME-ARP-assisted unit and required to be occupied by a qualifying household. . Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project.

Project administrative expenses include payroll costs, which are gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits; employee education, training, and travel; advertising; and general administrative costs which are costs for goods and services

required for administration of the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance, and other administrative costs that are reasonable and customary for the general administration of a rental unit occupied by qualifying populations. HOME-ARP permits the pro-rated staffing costs of a Resident Services Coordinator to be included in the operating costs allocated to a HOME-ARP unit for low-income or qualifying households if such costs are not already paid by another source. Typically, the role of a Resident Services Coordinator is to arrange community activities for residents and link residents to outside service agencies as needed.

A property management fee includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. A management agent must cover its costs of supervising and overseeing operations of a HOME-ARP unit out of the fee they receive.

A reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a reserve for replacement of major systems included in the operating costs allocated to a HOME-ARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A reserve for replacement allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOME-ARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period.

Supportive services costs are not eligible operating costs of HOME-ARP units, however, qualifying households occupying HOME-ARP rental units may receive supportive services through the HOME-ARP supportive services eligible activity.

6. **Prohibited Activities and Fees:** HOME-ARP may not be used for any of the prohibited activities, costs or fees in [24 CFR 92.214](#), as revised by the Appendix to this Notice.
7. **HOME-ARP Funds and Public Housing:** HOME-ARP funds must be used in accordance with the requirements in [24 CFR 92.213\(a\)-\(c\)](#).
8. **Commitment:** The affordable housing requirements in the definition of *Commitment* in [24 CFR 92.2](#), including the provisions in (2) *Commit to a specific local project*, apply to rental housing units assisted with HOME-ARP funds. This includes but is not limited to the requirements that the PJ and project owner have an executed legally binding written agreement under which HOME-ARP 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 12 months of the agreement date.
9. **Maximum Per-Unit Subsidy and Limitations on Costs:** The maximum per-unit subsidy established in NAHA does not apply to HOME-ARP units. PJs may pay up to 100 percent of the eligible and reasonable HOME-ARP costs allocated to a HOME-ARP unit, including



operating cost assistance associated with units restricted for occupancy by qualifying households. All costs paid by HOME-ARP funds must comply with the requirements of this Notice and the Cost Principles at [2 CFR part 200](#), subpart E of the Uniform Administrative Requirements, as amended.

- 10. Underwriting, Subsidy Layering:** Before the PJ can commit HOME-ARP funds to a project, it must evaluate the project to determine the amount of HOME-ARP capital subsidy and operating cost assistance necessary to provide quality affordable housing that meets the requirements of this Notice and is financially viable throughout the minimum 15-year HOME-ARP compliance period. The PJ must evaluate the project in accordance with underwriting and subsidy layering guidelines it has developed for HOME-ARP projects.

The PJ's project underwriting must include an in-depth review of underlying project assumptions, development sources and uses, and projected operating income and expenses, and the project's long-term financial viability to determine the project's need for HOME-ARP assistance while preventing over-subsidization of the project. HUD anticipates that project developers will rely on Low-Income Housing Tax Credit (LIHTC) financing, HOME funds, Housing Trust Fund grants, project-based vouchers, project-based rental assistance, operating cost reserves, state or local sources, or a combination of these and other resources to create a feasible HOME-ARP project and maintain compliance with HOME-ARP requirements. HOME-ARP units for qualifying households that do not receive a commitment of project-based vouchers or project-based rental assistance may require both deep capital subsidy and operating cost assistance to remain financially sustainable for the minimum 15-year HOME-ARP compliance period. However, the PJ, through its underwriting, must also determine that the HOME-ARP capital and operating subsidies do not result in over-subsidization of the project.

To secure HOME-ARP rental units for qualifying households, HOME-ARP funds may be invested in different types of projects, including permanent supportive housing, mixed-finance affordable housing, and market-rate projects. While the viability of the HOME-ARP units is the PJ's primary concern, it must not limit its underwriting analysis to the HOME-ARP units. The long-term viability of HOME-ARP units is contingent upon the financial health of the entire project. PJs must therefore take a holistic approach to underwriting that examines the overall feasibility of the entire project to determine that the property will be financially sustainable for the duration of the 15-year HOME-ARP compliance period.

For projects that will receive operating cost assistance through a capitalized operating cost assistance reserve or on-going operating cost assistance for a specific period, the on-going operating cost assistance or operating cost assistance reserve must be included in the underwriting. Unless placed into an operating cost assistance reserve, operating cost assistance committed to a project for a specific period cannot be provided beyond the budget period, as described in [Section VIII.C.4.](#) of this Notice. HOME-ARP units that have commitments for a form of project-based rental assistance must be underwritten with the projected rental assistance and not with operating cost assistance. An operating cost assistance reserve must be sized based on an analysis of projected operating deficits

remaining after the expected payments toward rent by qualifying households are applied to the HOME-ARP unit's share of operating costs. While a PJ may offer on-going project operating cost assistance instead of providing an operating cost assistance reserve, it may find this approach makes it more difficult to develop HOME-ARP units.

- a. *Underwriting and Subsidy Layering Guidelines*: PJs must develop standardized underwriting guidelines for HOME-ARP rental projects. These guidelines must provide for underwriting that accommodates and is appropriate for different types of projects. For example, a standard market analysis does not provide the necessary data for a project where 100% of the units are restricted as permanent supportive housing for qualifying populations. In contrast, if a mixed-income property relies on rental income from market-rate units to subsidize the operating costs of permanent supportive housing units for which little or no tenant-paid rental income is projected, then a market study confirming that the proposed market rents are achievable is needed to demonstrate the long-term financial viability of the project.

PJs with existing HOME rental underwriting standards may use these standards as the foundation for their HOME-ARP underwriting guidelines, but all PJs are required to develop and implement standardized underwriting guidelines for HOME-ARP that require the following:

- i. An examination of the sources and uses of funds for the project and a determination that costs are necessary and reasonable. In examining a project's proposed sources and uses, a PJ must determine the amount of HOME-ARP development subsidy required to fill the gap between other committed funding sources and the cost to develop the project.

A developer fee is a permitted development cost under the HOME-ARP program, but the PJ must review the fee and determine that it is reasonable. A PJ may set limits on the developer fee and other fees (e.g., asset management fee, property management fee) to be paid by HOME-ARP funds that differ from other funding sources (e.g., LIHTC underwriting standards).

- ii. An assessment of the current market demand for the proposed project.
  - (1) For HOME-ARP units for qualifying households, a market assessment is not required. Rather, the PJ can demonstrate that there is unmet need among qualifying populations for the type of housing proposed through their gap analysis, CoC data, public housing and affordable housing waiting lists, point-in-time surveys, housing inventory count, or other relevant data on the need for permanent housing for the qualifying populations.
  - (2) For projects containing units restricted for occupancy by low-income households or market-rate households, the PJ must conduct a market assessment in accordance with [24 CFR 92.250\(b\)\(2\)](#). A third-party market assessment completed by the developer or another funder meets this requirement, but the PJ must review the assessment and provide a written, dated acknowledgement that it accepts the assessment's findings and conclusions. The market assessment and the PJ's written, dated

acknowledgement must be retained for recordkeeping purposes.

- iii. Review of and determination that the developer's experience and financial capacity are satisfactory based on the size and complexity of the project. When assessing the developer, the PJ must review, at minimum, prior experience with similar projects and the current capacity to develop the proposed project. When determining whether the developer has the financial capacity to undertake the project, the PJ should examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.
- iv. Firm written financial commitments for the project.
- v. A careful review of the project's operating budget, including the basis for assumptions, projections of a project's net operating income, and reasonably expected changes in revenue and expenses during the minimum compliance period, to determine if any HOME-ARP-funded operating cost assistance is necessary and if applicable, an operating cost assistance reserve is sized appropriately. Operating income of the project must be sufficient to cover operating expenses throughout the minimum compliance period. For HOME-ARP units for qualifying households, the proforma or budget projections should include any anticipated ongoing operating cost assistance or draws from an operating cost assistance reserve, if applicable, that will offset operating deficits associated with those units to demonstrate sufficient operating support.
  - (1) If project-based vouchers or project-based rental assistance is or will be awarded, this analysis must include that rental assistance revenue because operating cost assistance cannot be used for units for qualifying households with project-based vouchers or project-based rental assistance.
  - (2) A PJ's underwriting standards may permit projects to generate reasonable net operating income throughout the minimum compliance period. However, HOME-ARP operating cost assistance may only be used to offset operating deficits, in accordance with the requirements of this Notice. Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.
- vi. An assessment of the project's overall viability through the minimum compliance period based on the households (i.e., qualifying households, low-income households, market-rate households) it will serve.

**11. Property Standards:** HOME-ARP rental units must comply with all property standards applicable to rental projects required in [24 CFR 92.251](#) paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing, (e) manufactured housing, and (f) on-going property condition standards.

**12. Determining Household Income:** The PJ must require all HOME-ARP units to be restricted for eligible households (i.e., either qualifying or low-income households)



throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP rental units solely by meeting the definition of one of the qualifying populations (i.e., HOME-ARP does not impose income restrictions on units restricted for qualifying populations). If there is no income requirement in the qualifying population's definition, a PJ is not required to perform an initial determination of household income except as necessary to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restrictions (e.g., LIHTC). Each subsequent year during the compliance period, starting 1 year after initial occupancy, the PJ must use the definition of annual income as defined in [24 CFR 5.609](#) to examine the income of qualifying households to determine the household's contribution to rent. For low-income households, the PJ must use the definition of annual income as defined in [24 CFR 5.609](#) to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution.

- a. *Qualifying populations*: For purposes of establishing the qualifying household's rental contribution after initial occupancy, a PJ must examine a HOME-ARP qualifying household's income using [24 CFR 92.203\(a\)\(1\)\(i\) or \(iii\)](#), starting 1 year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in [24 CFR 92.203\(a\)\(1\)](#) specified by the PJ. A project owner who re-examines household income through a statement and certification in accordance with [24 CFR 92.203\(a\)\(1\)\(ii\)](#), must examine the income of each household, in accordance with [24 CFR 92.203\(a\)\(1\)\(i\)](#), every sixth year of the compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with [24 CFR 92.203\(a\)\(1\)\(ii\)](#) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.
- b. *Low-income Households*: In accordance with [24 CFR 92.252\(h\)](#), the income of each low-income household must be determined initially in accordance with [24 CFR 92.203\(a\)\(1\)\(i\)](#), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in [24 CFR 92.203\(a\)\(1\)](#) specified by the PJ. An owner who re-examines household income through a statement and certification in accordance with [24 CFR 92.203\(a\)\(1\)\(ii\)](#), must examine the income of each household, in accordance with [24 CFR 92.203\(a\)\(1\)\(i\)](#), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with [24 CFR 92.203\(a\)\(1\)\(ii\)](#) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.
- c. *Households Assisted by Other Programs*: Notwithstanding paragraphs (a) and (b), if a family is applying for or living in a HOME-ARP-assisted rental unit, and the unit is assisted by a Federal or State project based rental subsidy then a PJ must accept a public housing agency, section 8 project owner, or CoC recipient or subrecipient's

determination of the family's annual income and adjusted income under that program's rules and does not need to obtain source documentation in accordance with [24 CFR 92.203\(a\)\(1\)](#) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP rental unit, and the family is assisted by a Federal tenant-based rental assistance program (e.g. housing choice vouchers) then a PJ may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under [24 CFR 92.203\(a\)\(1\)](#).

**13. Rent limitations:** This Notice establishes rent limits for HOME-ARP units restricted for qualifying populations and for units that may be restricted for low-income households.

- a. Units Restricted for Occupancy by Qualifying Households: In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis.

Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a qualifying household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance established pursuant to [Section VI.B.13.d](#) of this Notice.

- b. Rent limitations – low-income households: HOME-ARP rental units occupied by low-income households must comply with the rent limitations in [24 CFR 92.252\(a\)](#) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives a form of Federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program). The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to [Section VI.B.13.d](#) of this Notice.
- c. Rent limitations – Single Room Occupancy (SRO) Units: A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental, a SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's

designation as a SRO cannot be inconsistent with the building's zoning and building code classification.

If the SRO units have both sanitary and food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established pursuant to [Section VI.B.13.d](#) of this Notice.

- d. *Initial Rent Schedule and Utility Allowance:* The PJ must establish maximum allowances for utilities and services and update the allowances annually. The PJ may adopt the utility allowance schedule of the PHA.

The PJ must review and approve the HOME-ARP rents proposed by the owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the PJ must determine that the rent for the unit does not exceed the maximum rent minus the monthly allowance for utilities and services.

- 14. Tenant Contribution to Rent – Qualifying Households:** The PJ must determine that the qualifying household's contribution to rent is affordable to the qualifying household based on a determination of the household's income. If the household is receiving project-based or tenant-based rental assistance, the household cannot be required to contribute more towards rent than the amount permitted by the requirements of the applicable rental assistance program (See [Section VI.B.13.a](#) of this Notice). If a qualifying household is not receiving project-based or tenant-based rental assistance and cannot contribute any income toward rent, or the contribution is insufficient to cover the unit rent, the project owner may draw from the project's operating cost assistance reserve if projected rental revenue minus the operating costs of the unit results in a deficit. If an operating cost assistance reserve was not capitalized at project completion:

- The PJ may provide ongoing HOME-ARP operating cost assistance to cover the operating deficits associated with units occupied by qualifying households, subject to the requirements in this Notice.
- The qualifying household may receive HOME-ARP TBRA to remain housed in the HOME-ARP rental unit or the PJ may offer, in conjunction with a qualifying household's admittance into a HOME-ARP rental unit, a simultaneous award of supportive services to the qualifying household in accordance with [Section VI.D](#) of this Notice. Any provision of supportive services must comply with all requirements of [Section VI.D](#) of the Notice and the PJ's policies and procedures.
- Operating cost assistance, HOME-ARP TBRA, and supportive services funds committed to a project cannot be provided beyond the budget period for the HOME-ARP funds, as described in [Section VIII.C.4](#) of this Notice.

**15. Changes in Income and Over-income Households:**

A household that met the definition of one of the HOME-ARP qualifying populations at initial occupancy and whose annual income at the time of income re-certification is above

50 percent of median income for the area but at or below 80 percent of the median income for the area must pay the rent specified in [24 CFR 92.252\(a\)](#).

HOME-ARP-assisted units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.

A qualifying or low-income household that is not low-income at the time of income recertification (i.e., whose income is above 80 percent of the median income for the area) must pay rent that complies with the over income regulatory requirements at [24 CFR 92.252\(i\)\(2\)](#), which includes requirements applicable to HOME units that also have LIHTC restrictions.

- 16. Unit Designation:** The PJ must determine the number of HOME-ARP units in the project restricted for qualifying households and low-income households, respectively, and whether the units are fixed or floating units at the time of project commitment. The total number of HOME-ARP rental units restricted for occupancy by qualifying households and the total number of HOME-ARP rental units restricted for low-income households must be identified as separate totals in the written agreement. In a project containing HOME-ARP and other units, the PJ must designate fixed or floating HOME-ARP units in accordance with [24 CFR 92.252\(j\)](#). The PJ must maintain this unit mix throughout the compliance period.
- 17. Maintaining Unit Mix:** At the time of admission to a HOME-ARP rental unit, a household must meet the definition for at least one qualifying population or be determined to be a low-income household, depending on the applicable HOME-ARP restriction on the rental unit to which it is being admitted and in accordance with the written agreement.

For HOME-ARP rental units restricted for occupancy by qualifying populations, a household that meets the definition of a qualifying population at the time of admission retains its eligibility to occupy a HOME-ARP rental unit restricted for occupancy by qualifying populations, irrespective of changes in income or whether the household continues to meet the definition of a qualifying population after initial occupancy. As an example, a household that qualifies as “Homeless” at admission does not meet the Homeless definition once the household occupies a HOME-ARP unit but remains a qualifying household and is eligible to remain in a HOME-ARP rental unit restricted for qualifying populations. Income determinations for qualifying households are therefore only for purposes of establishing a qualifying household’s rental contribution as described in [Section VI.B.15](#) of this Notice and not for maintaining continued eligibility in the HOME-ARP program. In a project with floating units, PJs are encouraged but not required to shift the HOME-ARP qualifying population designation to another unit to serve another qualifying household if the household’s income subsequently is certified to be at or above 80 percent AMI and the household no longer meets the definition of any qualifying population.

For HOME-ARP rental units restricted for occupancy by low-income households, units will be considered temporarily out of compliance if the household's income increases above 80 percent of area median income. The requirements for correcting any noncompliance using vacancies or redesignation of units depends on whether the HOME-ARP rental units are fixed or floating and whether other funding sources (e.g., LIHTC) impose income or other restrictions on the units. Please note, in accordance with the requirements in 24 CFR 92.253 and in [Section VI.B.19.c](#), an increase in a tenant's income does not constitute good cause to evict or refuse to renew a tenant's lease, regardless of program requirements associated with other funding sources such as LIHTC. In addition, compliance with unit restrictions for low-income households requires adjustment of rents as described in [Section VI.B.15](#) of this Notice.

- 18. Minimum Compliance Period:** HOME-ARP-assisted units must comply with the requirements of this Notice for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the activity being undertaken. A PJ may impose a longer compliance period but should plan for the project's financial feasibility for the longer period without HOME-ARP funds. The PJ may not use HOME-ARP funds to provide operating cost assistance, including a capitalized operating cost assistance reserve, to cover deficits during a PJ's extended compliance period.

If a project-based rental assistance Housing Assistance Payments (HAP) contract is awarded to a HOME-ARP rental project, a PJ must impose a minimum compliance period that is the greater of 15 years or the term of the HAP contract. PJs are also encouraged to extend restrictions for occupancy of the HOME-ARP units in accordance with the requirements in this section to match the term of eligible HAP contract renewals.

The provisions at [24 CFR 92.252\(e\)\(1\)-\(4\)](#) apply, including the requirement that the PJ must impose the HOME-ARP rental requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanisms approved by HUD. The chart providing minimum affordability periods based on rental housing activity that is contained in 24 CFR 92.252(e) does not apply. The enforceable restriction must provide that units assisted with HOME-ARP comply with the requirements of this Notice throughout the minimum 15-year compliance period, including:

- a. Units restricted for qualifying populations must be occupied by households that met the definition of a qualifying population at the time of initial occupancy. The household's contribution toward rent during this period must be affordable in accordance with [Section VI.B.14](#) of this Notice. The rents for these units must comply with the rent limitations established in this Notice, including the rent provisions specified in [24 CFR 92.252\(i\)\(2\)](#) for households whose income increases above 80 percent of area median income and whose contribution to rent complies with the requirements in [Section VI.B.15](#).
- b. Units available for low-income households must be continuously occupied by households who are income eligible. The rents for these units must comply with the rent



limitations established in this Notice, including the rent provisions specified in [24 CFR 92.252\(i\)\(2\)](#) for households whose income increases above 80 percent of area median income.

- c. The units must comply with the ongoing property condition standards of [24 CFR 92.251\(f\)](#) throughout the compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by [24 CFR 92.504](#).
- d. Each household that occupies a HOME-ARP unit has an executed lease that complies with the tenant protections required in [Section VI.B.19](#) of this Notice.

**19. Tenant Protections:** PJs must verify that each household that occupies a HOME-ARP assisted unit has an executed lease that complies with the tenant protection requirements of this Notice. The lease must be either be between the project owner and the household or between the project owner and a HOME-ARP sponsor with a sublease between the qualifying household and HOME-ARP sponsor. A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. PJs may permit a HOME-ARP sponsor to lease a HOME-ARP unit from an owner or execute a master lease with the owner of a HOME-ARP project for HOME-ARP units restricted for occupancy by qualifying households. The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to the qualifying household. The sublease between the HOME-ARP sponsor and the qualifying household must comply with the rent limitations and tenant protection requirements of this Notice.

- a. *Lease Requirement*: There must be a lease between the qualifying household or the low-income household and the owner of the HOME-ARP-assisted project in accordance with [24 CFR 92.253\(a\)](#), except that a sublease is permitted if a HOME-ARP sponsor has executed a master lease or lease with the project owner for the leasing of the units restricted for occupancy by qualifying households.
- b. *Prohibited Lease Terms*: The lease between the low-income household, qualifying household, or HOME-ARP sponsor and the HOME-ARP project owner or the sublease between the HOME-ARP sponsor and a qualifying household may not contain any of the prohibited lease terms specified in [24 CFR 92.253\(b\)](#).
- c. *Termination of tenancy*: An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a HOME-ARP unit or of a HOME-ARP sponsor with a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws; or for other good cause. Similarly, a HOME-ARP sponsor may not refuse to renew a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the sublease; for violation of applicable Federal, State, or local laws; or for

other good cause. An increase in the tenant's or sublessee's income does not constitute good cause.

In addition, if HOME-ARP funds were or are used to capitalize an operating cost assistance reserve or there is a current contract for the PJ to provide operating cost assistance to the project, an owner may not terminate the tenancy or refuse to renew the lease of a qualifying household because of the household's inability to pay rent during the minimum compliance period. A qualifying household's inability to pay rent shall mean that the qualifying household cannot pay more than 30 percent of the qualifying household's income toward rent, based on an income determination made by the PJ in the last 30 days.

Where there is no capitalized operating reserve or other operating cost assistance to cover the operating deficit for a HOME-ARP unit occupied by a qualifying household, the PJ may assist the qualifying household with HOME-ARP TBRA or supportive services in accordance with the requirements of this Notice.

The above tenant protections are necessary as HOME-ARP requires the PJ to perform underwriting that reviews the operating feasibility of units occupied by qualifying households for the 15-year compliance period to determine how HOME-ARP funds may address the potential for qualifying households to have little to no income to contribute toward rent.

To terminate or refuse to renew tenancy for any household occupying a HOME-ARP unit, the owner must serve written notice upon the tenant (and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor) at least 30 days before termination of tenancy, specifying the grounds for the action. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the PJ, must notify the PJ in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

**20. Coordinated Entry and Project-Specific Waitlists:** In accordance with [Section IV.C](#) of this Notice, PJs must determine whether an owner may use a CoC's CE, a CoC's CE and other referral sources, or a project-specific waitlist, to select qualifying households for HOME-ARP units restricted for occupancy by qualifying populations. PJs will make this determination on a project-by-project basis. Regardless of which method is selected, in all cases, the PJ must use a project-specific waitlist when selecting households to occupy units restricted for occupancy by low-income households. Any preferences among qualifying households must be disclosed in the HOME-ARP allocation plan through the PJ's public participation process in accordance with [Section V.C](#) of this Notice. The written agreement between the PJ and the project owner must specify the method the owner must use for selecting qualifying households for admission to HOME-ARP units.

- a. The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that:

- i. Limits eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements; Preferences for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's preferences and the PJ's policies and procedures for applying those preferences, if any, and must not violate nondiscrimination requirements in [24 CFR 92.350](#).
  - ii. Do not exclude an applicant with a voucher under the section 8 Housing Choice Voucher Program ([24 CFR 982](#)), or an applicant participating in HOME, HOME-ARP or other Federal, state or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document;
  - iii. Limits eligibility or gives a preference to a particular qualifying population or segment of the qualifying 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 HOME-ARP allocation plan). A preference for households in one or more of the HOME-ARP qualifying populations must comply with the PJ's determined preference(s) and the PJ's policies and procedures for applying the preference(s), if any;
  - iv. Any limitation or preference must not violate nondiscrimination requirements in [24 CFR 92.350](#). If the PJ requires the use of a project-specific waitlist to select qualifying households and/or low-income households for occupancy of HOME-ARP units, provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable;
  - v. Gives prompt written notification to any rejected applicant of the grounds for any rejection; and,
  - vi. Complies with the VAWA requirements as described in [24 CFR 92.359](#).
- b. *Project-Specific Waitlist – Low-Income Households*: A project owner must use a project-specific waitlist to select households to occupy units restricted for occupancy by low-income households in accordance with the tenant selection requirements of [24 CFR 92.253\(d\)](#).

**21. Project Completion and Occupancy:** HOME-ARP rental projects must meet the definition of project completion at [24 CFR 92.2](#). If the PJ fails to complete a project within 4 years of project commitment, it must comply with the terminated project requirements at [24 CFR 92.205\(e\)\(2\)](#). If the HOME-ARP units are not occupied by eligible qualifying households or low-income households within six months following project completion, the PJ, as applicable, must submit to HUD information on its efforts to coordinate with a CoC, homeless service providers, social service, and other public agencies to fill units for qualifying households or must submit marketing information and, if appropriate, a marketing plan to fill units for low-income households. The PJ must repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households within 12 months of project completion.

**22. Penalties for Noncompliance:** The PJ must repay HOME-ARP funds invested in rental housing that is terminated before completion or otherwise does not comply with initial or ongoing requirements of this Notice during the compliance period, as follows:



- a. If the noncompliance or termination occurs within the first 10 years of the compliance period, the PJ must repay the entire amount of HOME-ARP funds invested in the project.
- b. If the noncompliance or termination occurs in years 11 through 15, the repayment amount will be reduced by 20 percent for each year beyond the initial 10-years during which time the project was compliant.

Repayment of the HOME-ARP funds is not required if the project owner sells or transfers, either voluntarily or involuntarily, the HOME-ARP project during the compliance period if (1) the HOME-ARP restrictions remain, (2) the project and new project owner continues to comply with all HOME-ARP requirements, and (3) any HOME-ARP funds remaining in a project's operating cost assistance reserve or reserve for replacement remain with the project and convey upon sale or transfer of the project as a restricted operating cost assistance reserve or reserve for replacement subject to HOME-ARP Notice requirements.

**23. Operating Cost Assistance Reserve - Management and Oversight:** The PJ must require that any HOME-ARP funds expended for project operating cost assistance reserves are held by the project owner in a separate interest-bearing account. The PJ must require the project owner to request written approval from the PJ prior to disbursing funds from the project operating cost assistance reserve. The PJ must review each requested distribution from the operating cost assistance reserve, including supporting documentation, to determine that the distribution is reasonable and necessary to cover the operating deficit associated with HOME-ARP units occupied by qualifying households. The PJ must, no less than annually, review the operating cost assistance reserve account to determine that the account is appropriately sized based on the projected operating deficits of HOME-ARP units restricted for occupancy by qualifying households. The PJ may require the project owner to enter into a deposit account control agreement for the operating cost assistance reserve where the PJ must approve disbursements from the account.

**24. End of Compliance Period and Return of Operating Cost Assistance Reserve:** Any unexpended operating cost assistance reserve remaining at the end of the compliance period must be returned as follows:

- a. If the HOME-ARP rental project will continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the HOME-ARP 15-year compliance period as demonstrated by enforceable restrictions imposed by the PJ, the project can retain the operating cost assistance reserve amount to address any operating deficits associated with the HOME-ARP units occupied by qualifying households.
- b. If the HOME-ARP project will not continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the 15-year HOME-ARP compliance period and the HOME-ARP grant has expired or is closed out, the remaining operating cost assistance reserve funds must be deposited in the PJ's local HOME

account and recorded as HOME program income receipt in the Integrated Disbursement and Information System (IDIS) and used for eligible costs under [24 CFR part 92](#).

### C. Tenant-Based Rental Assistance (TBRA)

HOME-ARP funds may be used to provide tenant-based rental assistance to qualifying households (“**HOME-ARP TBRA**”). In HOME-ARP TBRA, the PJ assists a qualifying household with payments to cover the entire or insufficient amounts that the qualifying household cannot pay for housing and housing-related costs, such as rental assistance, security deposits, and utility deposits. HOME-ARP TBRA assisted households may choose to rent a unit in a HOME-ARP rental project or any other eligible rental unit. HOME-ARP TBRA is a form of rental assistance that is attached to the household and not a particular rental unit. Therefore, the HOME-ARP TBRA assisted household may choose to move to another unit with continued HOME-ARP TBRA as long as the new unit meets the applicable property standards of this Notice. If a HOME-ARP TBRA assisted household chooses to move, the rental assistance contract terminates and a new rental assistance contract for the new unit will be executed according to HOME-ARP TBRA requirements. The HOME-ARP TBRA assisted household must notify the PJ before moving in order to receive continued HOME-ARP TBRA.

1. **Tenant Selection**: Only individuals and families in the qualifying populations are eligible to receive HOME-ARP TBRA assistance. PJs must perform tenant selection in accordance with [Section IV.C](#) of this Notice. The PJ must select qualifying households for HOME-ARP TBRA in accordance with written tenant selection policies and criteria that are based on local housing needs established in the HOME-ARP allocation plan. The PJ must follow written tenant selection policies and criteria that:
  - a. Limit eligibility to households that meet one of the HOME-ARP qualifying populations definitions in accordance with HOME-ARP requirements. Preferences for households in one or more of the HOME-ARP qualifying populations, if any, must comply with the preferences and/or method of prioritization in the PJ’s HOME-ARP allocation plan and the PJ’s policies and procedures for applying such preferences, if any, and must not violate nondiscrimination requirements in [24 CFR 92.350](#).
  - b. If the PJ selects HOME-ARP TBRA applicants off a waiting list, it must provide for the selection of qualifying households from a written waiting list in accordance with the PJ’s preferences or method of prioritization in the chronological order of their application, insofar as is practicable.
  - c. Give prompt written notification to any rejected applicant of the grounds for any rejection, and
  - d. Comply with the VAWA requirements as described in [24 CFR 92.359](#).

Finally, the PJ may offer, in conjunction with HOME-ARP TBRA assistance, a simultaneous award of services in accordance with [Section VI.D](#) of this Notice, and also provide particular types of other nonmandatory services that may be most appropriate for persons with a special need or a particular disability. Any provision of supportive services must comply with all requirements of [Section VI.D](#) of the Notice and the PJ’s policies and procedures.

2. **Tenant Protections:** PJs must require and verify that there is an executed lease between the qualifying household that receives HOME-ARP TBRA and the owner of the rental unit or between the owner of the rental unit and a HOME-ARP sponsor with a sublease between the qualifying households and the HOME-ARP sponsor, in accordance with [24 CFR 92.253\(a\)](#). A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. PJs may permit a HOME-ARP sponsor, as defined in [Section VI.B.19](#), to execute a lease or master lease with a project owner. The HOME-ARP sponsor must then sublease a unit to a qualifying household. The lease between the qualifying household and the rental unit owner or the sublease between the HOME-ARP sponsor and the qualifying household cannot contain any of the prohibited lease terms specified in [24 CFR 92.253\(b\)](#).
3. **Eligible Costs:** Eligible costs under HOME-ARP TBRA include rental assistance, security deposit payments, and utility deposit assistance to qualifying households. HOME-ARP funds may be used to pay for up to 100% of these eligible costs. A PJ may use HOME-ARP TBRA funds to provide loans or grants to qualifying households for security deposits for rental units regardless of whether the PJ provides any other HOME-ARP TBRA assistance. The amount of funds that may be provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Utility deposit assistance is an eligible cost only if rental assistance or a security deposit payment is provided. Costs of inspecting the housing are also eligible as costs of HOME-ARP TBRA. Administration of HOME-ARP TBRA is an eligible cost only if executed in accordance with general management oversight and coordination at [24 CFR 92.207\(a\)](#), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible project costs under HOME-ARP TBRA.
4. **Ineligible Costs:** HOME-ARP TBRA may not be used to pay for the homebuyer program as defined at [24 CFR 92.209\(c\)\(2\)\(iv\)](#).
5. **Portability of Assistance:** A PJ may require the HOME-ARP TBRA assisted household to use HOME-ARP TBRA within the PJ's boundaries or may permit the household to use the assistance outside its boundaries pursuant to [24 CFR 92.209\(d\)](#).
6. **Term of Rental Assistance Contract:** The requirements at [24 CFR 92.209\(e\)](#) defining the term of the rental assistance contract for providing assistance with HOME funds are waived for HOME-ARP TBRA. The PJ must determine the maximum term of the rental assistance contract. The rental assistance contract continues until the end of the rental assistance contract term, as determined by the PJ, or until the lease or sublease is terminated, whichever occurs first. The term of the rental assistance contract may be renewed, subject to the availability of HOME-ARP funds. The term of the rental assistance contract must begin on the first day of the term of the lease or sublease. HOME-ARP TBRA funds cannot be used after the end of the budget period.
7. **Maximum Subsidy:** The PJ must establish policies for the allowable maximum subsidy, which may differ from the maximum subsidy requirements at [24 CFR 92.209\(h\)](#). PJs may

provide up to 100 percent subsidy for rent, security deposit payments, and utility bills. The PJ must also establish policies for determining any household contribution to rent based on a determination of the qualifying household's income.

8. **Rent Standard:** Consistent with [24 CFR 92.209\(h\)\(3\)](#), PJs must also establish a rent standard for HOME-ARP TBRA by unit size that is based upon local market conditions or the section 8 Housing Choice Voucher program under [24 CFR part 982](#). The PJ must determine whether the rent for a HOME-ARP TBRA household complies with the rent standard established by the PJ for the HOME-ARP program and must disapprove a lease if the rent does not meet the PJ's rent standard for HOME-ARP TBRA.
9. **Housing Quality Standards:** Housing occupied by a household receiving HOME-ARP TBRA must comply with all housing quality standards required in [24 CFR 982.401](#) (or successor inspection standards issued by HUD) unless the tenant is residing in a HOME or HOME-ARP unit, in which case the PJ may defer to initial and ongoing inspection standards.
10. **Program Operation:** The PJ may operate HOME-ARP TBRA itself or may contract with a PHA or other entity with the capacity to operate a rental assistance program. In either case, the PJ or entity operating the program must approve the lease. HOME-ARP TBRA may be provided through an assistance contract with (1) an owner that leases a unit to a qualifying household; (2) the qualifying household, or (3) an owner and the qualifying household in a tri-party contract. In the case of HOME-ARP TBRA provided in coordination with a HOME-ARP sponsor, as described below, the PJ may require that payments be made directly to the HOME-ARP sponsor that will make rental payments to the owner on behalf of the qualifying household or require payments directly to the owner of the unit.
11. **HOME-ARP TBRA with a HOME-ARP Sponsor:** HOME-ARP TBRA may be provided in coordination with a HOME-ARP sponsor. As defined in [Section VI.B.19](#), a HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. A HOME-ARP sponsor may make rental subsidy payments and a security deposit payment on behalf of a qualifying household. Under HOME-ARP TBRA, a qualifying household may reside in housing leased by a HOME-ARP sponsor if there is a sublease that complies with HOME-ARP lease requirements between the HOME-ARP sponsor and the qualifying household.

- a. **Rental Assistance Contract:** There must be a rental assistance contract between the PJ and at least one of the following:
  - HOME-ARP sponsor;
  - Qualifying household; or
  - Owner of the housing.

Rental subsidy payments are made on behalf of the HOME-ARP TBRA household pursuant to a rental assistance contract. The rental assistance contract continues until the

lease is terminated or the term of the rental assistance contract expires (and is not renewed). Regardless of the role of the HOME-ARP sponsor, the HOME-ARP TBRA household has the right to continued HOME-ARP TBRA assistance if the household chooses to move from the unit. HOME-ARP TBRA funds cannot be used beyond the end of the HOME-ARP budget period.

The HOME-ARP sponsor may only receive the TBRA subsidy directly from the PJ on behalf of the qualifying household if the rental assistance contract is between the HOME-ARP sponsor and the PJ or the HOME-ARP sponsor and the PJ have entered into a written agreement as outlined below. The HOME-ARP sponsor must make rental subsidy payments to the owner on behalf of the qualifying household per the terms and conditions of the HOME-ARP TBRA contract or written agreement with the PJ. When the HOME-ARP TBRA assisted household moves to a new unit, the HOME-ARP sponsor is not required to continue its sponsor relationship with the HOME-ARP TBRA assisted household for the new rental unit but may do so with the consent of the HOME-ARP TBRA household.

The PJ must establish policies and procedures regarding termination of HOME-ARP TBRA assistance for qualifying households who are absent from the rental unit for a minimum of 60 days and where a HOME-ARP sponsor is leasing the rental unit and subleasing to the qualifying household or providing HOME-ARP TBRA rental subsidy payments on behalf of the household.

- b. *Lease and Sublease*: PJs must require and verify that each household that receives HOME-ARP TBRA assistance has an executed lease that complies with the tenant protection requirements of this Notice. The lease agreement may be between the project owner and the HOME-ARP TBRA household, or PJs may permit a HOME-ARP sponsor to execute a lease with an owner for an individual unit or a master lease for more than one unit restricted for occupancy by HOME-ARP TBRA households. If the lease agreement is between the HOME-ARP sponsor and owner, the HOME-ARP sponsor must execute a sublease agreement with a HOME-ARP TBRA household. The sublease between the HOME-ARP sponsor and the HOME-ARP TBRA household must meet the tenant protection requirements of this Notice.
- c. *Written Agreement with HOME-ARP Sponsor*: The PJ must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will receive the HOME-ARP TBRA subsidy directly from the PJ. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the HOME-ARP TBRA subsidy on behalf of the qualifying household and the HOME-ARP sponsor's obligation to provide the HOME-ARP TBRA payment to the owner for the unit's required rent.

**12. Project Completion**: Project completion for a HOME-ARP TBRA project means the final drawdown has been disbursed for the project.

## D. Supportive Services

HOME-ARP funds may be used to provide a broad range of supportive services to qualifying individuals or families as a separate activity or in combination with other HOME-ARP activities. Supportive services include: a) services listed in section 401(29) of the McKinney-Vento Homeless Assistance Act (“**McKinney-Vento Supportive Services**”)<sup>1</sup> (42 U.S.C. 11360(29)); b) homelessness prevention services, as described in [Section VI.D.3.](#) and [D.4](#) below; and c) housing counseling services.

1. **Eligible Program Participants:** Supportive services may be provided to individuals and families who meet the definition of a qualifying population under [Section IV.A](#) of this Notice and who are not already receiving these services through another program. Program participants in other HOME-ARP activities are eligible for supportive services under this Notice in accordance with policies and procedures developed by the PJ. These policies and procedures should identify the length of time that program participants may be served by HOME-ARP TBRA and/or HOME ARP rental housing before they will no longer be eligible as a qualifying population for purposes of this section.
2. **Client Selection:** HOME-ARP funds may only be used to provide supportive services to individuals or families that meet the definition of a qualifying population in [Section IV.A](#) of this Notice. PJs must develop policies and procedures for the selection of program participants for services under this section of the Notice that comply with [Section IV.C](#) and this section of this Notice.
3. **Eligible Supportive Services under HOME-ARP:** There are three categories specifically included as supportive services under HOME-ARP:
  - a. *McKinney-Vento Supportive Services:* McKinney-Vento Supportive Services under HOME-ARP are adapted from the services listed in section 401(29) of McKinney-Vento.
  - b. *Homelessness Prevention Services:* HOME-ARP Homelessness Prevention Services are adapted from eligible homelessness prevention services under the regulations at [24 CFR 576.102](#), [24 CFR 576.103](#), [24 CFR 576.105](#), and [24 CFR 576.106](#), and are revised, supplemented, and streamlined in [Section VI.D.4.c.i](#) below.
  - c. *Housing Counseling Services:* Housing counseling services under HOME-ARP are those consistent with the definition of housing counseling and housing counseling services defined at [24 CFR 5.100](#) and [5.111](#), respectively, except where otherwise noted. The requirements at [24 CFR 5.111](#) state that any housing counseling, as defined in [24 CFR 5.100](#), required under or provided in connection with any program administered by HUD shall be provided only by organizations and counselors certified by the Secretary under [24 CFR part 214](#) to provide housing counseling, consistent with [12 U.S.C. 1701x](#).

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<sup>1</sup> The Consolidated Appropriations Act, 2021 (P.L. 116-260) enacted changes that renumbered section 401(27) to (29) of McKinney-Vento.

HUD-approved Housing Counseling Agencies can be found on HUD's website at:  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/hcc](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hcc).

Program requirements and administration under [24 CFR part 214](#) apply to the provision of HOME-ARP Housing Counseling supportive services except those provisions related to current homeowners do not apply. Eligible HOME-ARP topics under Housing Counseling include but are not limited to the following examples:

<b>Rental Housing Counseling Topics</b> ( <a href="#">24 CFR 214.300(e)(4)</a> )	<b>Pre-Purchase Homebuying Topics</b> ( <a href="#">24 CFR 214.300(e)(1)</a> )	<b>Homeless Services Topics</b> ( <a href="#">24 CFR 214.300(e)(5)</a> )
HUD rental and rent subsidy programs	Advice regarding readiness and preparation	Homeless assistance information regarding emergency shelter
Other federal, state, or local assistance	Federal Housing Administration insured financing	Other emergency services
Fair housing	Housing selection and mobility	Transitional housing
Rental search assistance	Housing search assistance	Referral to local, state, and federal resources ( <a href="#">24 CFR 214.300(b)(2)</a> )
Landlord tenant laws	Fair housing and predatory lending	
Lease terms	Budgeting and credit	
Rent delinquency	Loan product comparison	
Referrals to local, state, and federal resources	Purchase procedures and closing costs	
	Referrals to local, state, and federal resources	

Housing Counseling surrounding the following topics are **ineligible** under HOME-ARP:

- Resolving or preventing mortgage delinquency, including, but not limited to default and foreclosure, loss mitigation, budgeting, and credit;
- Home maintenance and financial management for homeowners, including, but not limited to: Escrow funds, budgeting, refinancing, home equity, home improvement, utility costs, energy efficiency, rights and responsibilities of homeowners, and reverse mortgages.

In accordance with [24 CFR 214.300\(a\)\(2\)](#), housing counselors must establish an action plan for each participating qualifying individual or family. Additionally, as per [24 CFR](#)



[214.300\(c\)](#), housing counselors must also make reasonable efforts to have follow-up communications with participating qualifying individuals, when possible, to assure that the individual or family is progressing toward the housing goal established in the plan, to modify or terminate housing counseling, and to learn and report outcomes.

4. **Eligible Costs of Supportive Services for Qualifying Individuals and Families:** HOME-ARP funds may be used to pay eligible costs associated with the HOME-ARP supportive services activity in accordance with the requirements in this Notice. Eligible costs that may be paid using HOME-ARP funds are limited to only those identified in [Section VI.D.4.c](#) below. Any ineligible costs paid using HOME-ARP funds must be repaid in accordance with the requirements of this Notice.

HUD has used its discretion in ARP to include eligible costs for supportive services that are necessary to assist the qualifying populations, prevent homelessness, or to enable qualifying households to obtain and maintain housing. The list of eligible costs associated with McKinney-Vento Supportive Services and Homelessness Prevention Services is in [Section VI.D.4.c.i](#) of this Notice.

While all qualifying households are eligible to receive supportive services under this activity, the PJ must establish requirements for documenting eligible costs for an individual or family in a qualifying population (as defined in [Section IV.A](#) of this Notice) as McKinney-Vento supportive services, homelessness prevention services, or Housing Counseling.

If a person is homeless, then the person is eligible to be provided the supportive services as McKinney-Vento supportive services for the costs allowable in [Section VI.D.4.c](#) below. If a person is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing then the person is eligible for homelessness prevention services for the costs allowable in [Section VI.D.4.c.i](#) below. Housing Counseling services may be provided regardless of whether a person is homeless or currently housed.

PJs must document in their files which types of supportive services they wish to offer program participants. If PJs are using a supportive services provider, PJs must document in their written agreements with supportive service providers whether they are authorizing McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three. Only the supportive services that are authorized in the written agreement with the supportive service provider may be provided to program participants by that supportive service provider and only program participants that are eligible for those supportive services may be served. As such, supportive services providers must demonstrate through their documentation that the individuals served were eligible to receive the supportive services that were authorized under the written agreement in order for those costs to be eligible.

Consistent with the requirements in this section, the PJ may set a maximum dollar amount that a program participant may receive for each type of service described in [Section VLD.4.c.](#) below and may also set a maximum period for which a program participant may receive any of the types of assistance or services.

- a. *Oversight of Eligible Costs:* All supportive service costs paid for by HOME-ARP must comply with the requirements of this Notice, including requirements in [2 CFR part 200](#), subpart E, Cost Principles that require costs be necessary and reasonable. If a qualifying household is already receiving the same eligible supportive service or has been approved to receive the same service through another program or provider, the program participant does not have a need for the HOME-ARP service and the costs related to the service do not comply with the Cost Principles. The PJ is responsible for establishing requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services. This may include the use of systems such as Homeless Management Information Systems in coordination with local supportive service providers, CoCs, and other nonprofit organizations.
- b. *Direct provision of services:* PJs contracting with service providers engaged directly in the provision of services under the HOME-ARP eligible supportive services categories, shall have written agreements or contracts that comply with the requirements of this Notice and, to the extent practicable, enter into agreements or contracts in amounts that cover the actual total program costs and administrative overhead to provide the services contracted.

If the services outlined in paragraph c. below are being directly delivered by the PJ or a subrecipient, the following costs are eligible project delivery costs for those services:

- the costs of labor or supplies and materials incurred by the PJ or subrecipient in directly providing supportive services to program participants.
- the salary and benefit packages of the PJ and subrecipient staff who directly deliver the services.

These project delivery costs must be attributable to the identifiable objective of the service delivered, otherwise they are administrative costs of the PJ or subrecipient.

- c. *Eligible Costs:*
  - i. *Eligible Costs for McKinney Vento Supportive Services and Homelessness Prevention Services:* Eligible costs for supportive services under either of these two categories include costs associated with the following services:
    - (A) *Child care:* The costs of child care for program participants, including providing meals and snacks, and comprehensive and coordinated developmental activities, are eligible. The child care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible. The following conditions also apply:

- Children must be under the age of 13 unless the children have a disability.
  - Children with a disability must be under the age of 18.
- (B) Education services: The costs of improving knowledge and basic educational skills are eligible costs including:
- Instruction or training in consumer education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED).
  - Screening, assessment, and testing; individual or group instruction; tutoring; provision of books, supplies, and instructional material; counseling; and referral to community resources.
- (C) Employment assistance and job training: The costs of establishing and/or operating employment assistance and job training programs are eligible, including classroom, online and/or computer instruction, on-the-job instruction, services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is also an eligible cost.
- Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates.
  - Services that assist individuals in securing employment consist of:
    - Employment screening, assessment, or testing;
    - Structured job skills and job-seeking skills;
    - Special training and tutoring, including literacy training and pre-vocational training;
    - Books and instructional material;
    - Counseling or job coaching; and
    - Referral to community resources.
- (D) Food: The cost of providing meals or groceries to program participants is eligible.
- (E) Housing search and counseling services: Costs of assisting eligible program participants to locate, obtain, and retain suitable housing are eligible. Services are:
- Development of an action plan for locating housing;
  - Housing search;
  - Tenant counseling;
  - Securing utilities;
  - Making moving arrangements;
  - Outreach to and negotiation with owners;
  - Assistance submitting rental applications and understanding leases;
  - Assessment of housing for compliance with HOME-ARP requirements for TBRA assistance in [Section VI.C](#) of this Notice and financial

assistance for short-term and medium-term rental payments provided under [Section VI.D.4.c.i.\(R\)](#) below;

- Assistance obtaining utilities; and
- Tenant counseling;
- Mediation with property owners and landlords on behalf of eligible program participants;
- Credit counseling, accessing a free personal credit report, and resolving personal credit issues; and
- Payment of rental application fees;
- Other Housing counseling costs, as defined in [24 CFR 5.100](#), funded with or provided in connection with grant funds must be carried out in accordance with [24 CFR 5.111](#).

Please Note: When PJs or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of Housing counseling, as defined in [24 CFR 5.100](#), and therefore are not required to be carried out in accordance with the certification requirements of [24 CFR 5.111](#).

- (F) Legal services: Eligible costs are the fees charged by licensed attorneys and by person(s) under the supervision of licensed attorneys, for advice and representation in matters that interfere with a qualifying individual or family's ability to obtain and retain housing.
- Eligible subject matters are child support; guardianship; paternity; emancipation; legal separation; orders of protection and other legal remedies for victims of domestic violence, dating violence, sexual assault, human trafficking, and stalking; appeal of veterans and public benefit claim denials; landlord-tenant disputes; and the resolution of outstanding criminal warrants; landlord/tenant matters, provided that the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.
  - Legal services for immigration and citizenship matters and for issues related to mortgages and homeownership are ineligible. Retainer fee arrangements and contingency fee arrangements are prohibited.
  - Services may include client intake, receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.
  - Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.

- (G) Life skills training: The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, dating violence, sexual assault, stalking, human trafficking, substance abuse, and homelessness are eligible. These services must be necessary to assist the program participant to function independently in the community. Life skills training includes:
- the budgeting of resources and money management, household management, conflict management, shopping for food and other needed items, nutrition, the use of public transportation, and parent training.
- (H) Mental health services: Eligible costs are the direct outpatient treatment of mental health conditions that are provided by licensed professionals.
- Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances. Problem areas may include family and marital relationships, parent-child problems, or symptom management.
  - Services are crisis interventions; counseling; individual, family, or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.
- (I) Outpatient health services: Eligible costs are the direct outpatient treatment of medical conditions when provided by licensed medical professionals including:
- Providing an analysis or assessment of a program participant's health problems and the development of a treatment plan;
  - Assisting program participants to understand their health needs;
  - Providing directly or assisting program participants to obtain and utilize appropriate medical treatment;
  - Preventive medical care and health maintenance services, including in-home health services and emergency medical services;
  - Provision of appropriate medication;
  - Providing follow-up services; and
  - Preventive and non-cosmetic dental care.
- (J) Outreach services: The costs of activities to engage qualified populations for the purpose of providing immediate support and intervention, as well as identifying potential program participants, are eligible.
- Eligible costs include the outreach worker's transportation costs and a cell phone to be used by the individual performing the outreach.
  - Costs associated with the following services are eligible: initial assessment; crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; actively connecting and providing people with information and referrals to homeless and

mainstream programs; and publicizing the availability of the housing and/or services provided within the PJ's geographic area.

- (K) Substance abuse treatment services: Eligible substance abuse treatment services are designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors and are provided by licensed or certified professionals. The costs include:
- Program participant intake and assessment;
  - Outpatient treatment;
  - Group and individual counseling
  - Drug testing;
  - Inpatient detoxification and other inpatient drug or alcohol treatment are ineligible.
- (L) Transportation: Eligible costs are:
- The costs of program participant's travel on public transportation or in a vehicle provided by the PJ or subrecipient to and from medical care, employment, childcare, or other services eligible under this Notice;
  - Mileage allowance for service workers to visit program participants and to carry out housing inspections;
  - The cost of purchasing or leasing a vehicle in which staff transports program participants and/or staff serving program participants;
  - The cost of gas, insurance, taxes, and maintenance for the vehicle;
  - The costs of PJ or subrecipient staff to accompany or assist program participants to utilize public transportation; and
  - If public transportation options are not sufficient within the area, the PJ may make a one-time payment on behalf of a program participant needing car repairs or maintenance required to operate a personal vehicle, subject to the following:
    - Payments for car repairs or maintenance on behalf of the program participant may not exceed 10 percent of the Blue Book value of the vehicle (Blue Book refers to the guidebook that compiles and quotes prices for new and used automobiles and other vehicles of all makes, models, and types);
    - Payments for car repairs or maintenance must be paid by the PJ or subrecipient directly to the third party that repairs or maintains the car; and
    - PJs or subrecipients may require program participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.
  - The PJ must establish policies and procedures surrounding payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance described above, and maintenance for vehicles of program participants. Such costs must be limited to program participants with the inability to pay for such costs and who, without such assistance, would not be able to participate in eligible services under this [Section VI.D.4.c.i.](#)

- (M) Case management: The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant(s) are eligible costs. PJs and subrecipients providing these supportive services must have written standards for providing the assistance. Eligible costs are those associated with the following services and activities:
- Conducting the initial evaluation, including verifying and documenting eligibility, for individuals and families applying for supportive services;
  - Counseling;
  - Developing, securing, and coordinating services;
  - Using a centralized or coordinated assessment system that complies with the requirements of [Section IV.C](#) of the Notice;
  - Obtaining federal, State, and local benefits;
  - Monitoring and evaluating program participant progress;
  - Providing information and referrals to other providers;
  - Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking;
  - Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
  - Conducting re-evaluations of the program participant's eligibility and the types and amounts of assistance the program participant needs.
- (N) Mediation: HOME-ARP funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.
- (O) Credit repair: HOME-ARP funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.
- (P) Landlord/Tenant Liaison: Costs of liaison services between property managers/owners and program participants are eligible HOME-ARP costs and may include:
- Landlord outreach;
  - Physical inspections and rent reasonable studies as needed to secure units;
  - Rental application fees and security deposits for clients, in accordance with the financial assistance costs requirements in [\(R\)](#);
  - Mediation services in [\(N\)](#) for housing issues that may arise between owner, property manager, or other residents and clients;



- Coordination or assistance with the provision of other HOME-ARP eligible services to assist clients to maintain permanent housing.
- (Q) Services for special populations: HOME-ARP funds may be used to provide services for special populations, such as victim services, so long as the costs of providing these services are eligible under this section. The term victim services means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- (R) Financial assistance costs: HOME-ARP funds may be used to pay housing owners, utility companies, and other third parties for the following costs, as applicable:
- Rental application fees: Rental housing application fee that is charged by the owner to all applicants.
  - Security deposits: A security deposit that is equal to no more than 2 months' rent. This assistance is separate and distinct from the provision of financial assistance for First and Last Month's rent provided under this section and cannot be used to duplicate those costs.
  - Utility deposits: HOME-ARP funds may pay for a standard utility deposit or initiation fee required by the utility company or owner (if owner-paid utilities are provided) for all program participants for the following utilities:
    - Gas
    - Electric
    - Water
    - Sewer
  - Utility payments: HOME-ARP funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.
  - Moving costs: HOME-ARP funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under this section of the Notice and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.

- First and Last month's rent: If necessary to obtain housing for a program participant, HOME-ARP funds may be used to make a pre-payment of the first and last month's rent under a new lease to the owner at the time the owner is paid the security deposit for the program participant's tenancy in the housing. This assistance must not exceed two month's rent and must be tracked for purposes of determining the total short- and medium-term financial assistance for rent that the program participant may receive. This assistance is separate and distinct from financial assistance for Security Deposits provided under this section and cannot be used to duplicate those costs.
- Payment of rental arrears: HOME-ARP funds may be used for a one-time payment for up to 6 months of rent in arrears, including any late fees or charges on those arrears, if necessary for the household to maintain their existing housing or, for those without housing, if necessary to remove a demonstrated barrier to obtaining housing.

(S) Short-term and medium-term financial assistance for rent: Subject to the following conditions, a PJ may provide a program participant with short-term or medium-term financial assistance for rent, provided that the total financial assistance provided, including any pre-payment of first and last month's rent as described above, does not exceed 24 months of rental payments over any 3-year period.

- Short-term means up to 3 months.
- Medium-term means more than 3 months but not more than 24 months.
- The PJ may make rental payments only to an owner with whom the PJ has entered into a financial assistance agreement for rental payment. The financial assistance agreement must set forth the terms under which rental payments will be provided, including the requirements that apply under this Notice. The financial assistance agreement must provide that, during the term of the agreement, the owner must give the PJ a copy of any notice to the program participant to vacate the housing unit or any complaint used under State or local law to commence an eviction action against the program participant. The owner must serve written notice upon the program participant at least 30 days before termination of tenancy specifying the grounds for the action. Each financial assistance agreement that is executed or renewed must comply with the requirements in [24 CFR 92.359](#).
- The PJ must make timely payments to each owner in accordance with the financial assistance agreement. The financial assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The PJ is solely responsible for paying late payment penalties that it incurs with non-HOME-ARP funds.
  - Rental payments cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD, as provided under [24 CFR](#)

[part 888](#), and complies with HUD's standard of rent reasonableness, as established under [24 CFR 982.507](#).

- Each program participant receiving financial assistance for rental payments must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the financial assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. New leases must have an initial term of 1 year unless a shorter period is agreed upon by the program participant and owner. The lease requirements in [24 CFR 92.359](#) apply to this financial assistance.
- PJs must establish requirements to prevent the provision of short- or medium-term financial assistance for rent for the same period for which a program participant is receiving rental assistance or living in housing provided with ongoing assistance (such as project-based rental assistance or operating subsidies).
- If a program participant receiving financial assistance for short- or medium-term rental payments under this section meets the conditions for an emergency transfer under [24 CFR 5.2005\(e\)](#), HOME-ARP funds may be used to pay amounts owed for breaking a lease to effectuate an emergency transfer. These costs are not subject to the 24-month limit on rental payments.

Ineligible costs - Financial assistance cannot be provided to a program participant who is receiving the same type of assistance through other public sources. Financial assistance also cannot be provided to a program participant who has been provided with replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC 4601 et seq.) and its implementing regulations at [49 CFR part 24](#), or Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d) and its implementing regulations at [24 CFR part 42](#), during the period of time covered by the replacement housing payments.

- ii. *Eligible Costs Associated with Housing Counseling under 24 CFR 5.100 and 5.111*: Costs associated with housing counseling services as defined at [24 CFR 5.100](#) and [5.111](#) are eligible under HOME-ARP. As homeowner assistance and related services are not eligible HOME-ARP activities, costs for the provision of services related to mortgages and homeownership to existing homeowners are also not eligible under HOME-ARP. If a program participant is a candidate for homeownership, costs associated with pre-purchase homebuying counseling, education and outreach are eligible under HOME-ARP. Eligible costs are those costs associated with the services listed in [24 CFR part 214](#) and include, but are not limited to:

- (A) Staff salaries and overhead costs of HUD-certified housing counseling agencies related to directly providing eligible housing counseling services to HOME-ARP program participants;
- (B) Development of a housing counseling workplan;
- (C) Marketing and outreach;
- (D) Intake;
- (E) Financial and housing affordability analysis;
- (F) Action plans that outline what the housing counseling agency and the client will do to meet the client's housing goals and that address the client's housing problem(s);
- (G) Follow-up communication with program participants.

**5. Termination of assistance to program participants:**

- a. *Termination of assistance:* The PJ may terminate assistance to a program participant who violates program requirements or conditions of occupancy or no longer needs the services as determined by the PJ. Termination under this section does not bar the PJ from providing further assistance at a later date to the same individual or family under this Notice.
- b. *Due process:* The PJ must establish policies and procedures for termination of assistance to program participants. In terminating assistance to a program participant, the PJ must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law. This process, at a minimum, must consist of:
  - i. Providing the program participant with a written copy of the program rules and the termination process before the participant begins to receive assistance;
  - ii. Written notice to the program participant containing a clear statement of the reasons for termination;
  - iii. A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
  - iv. Prompt written notice of the final decision to the program participant.

During this process, the PJ must provide effective communication and accessibility for individuals with disabilities, including the provision of reasonable accommodations. Similarly, the PJ must provide meaningful access to persons with LEP.

- 6. Commitment:** For supportive services, commitment means that before disbursing any HOME-ARP funds to any entity, the PJ executed a legally binding written agreement that complies with HOME-ARP requirements with the contractor or subrecipient providing the supportive service (that includes the date of the signature of each person signing the agreement).
- 7. Policies and Procedures:** PJs must establish the following policies and procedures in compliance with this notice:

- a. Tenant selection procedures in accordance with [Section IV.C.2](#) and this section;
  - b. Eligibility of program participants in other HOME-ARP activities for supportive services under [Section VI.D.4.c.i](#) above including the length of time that program participants may be served by HOME-ARP TBRA and/or HOME ARP rental housing before they will no longer be eligible as a qualifying population for purposes of this section;
  - c. If the PJ chooses to set maximum amounts and/or maximum periods for assistance or services, the maximum dollar amount that a program participant may receive for each type of service described in [Section VI.D.4.c.i](#) above and/or maximum periods for which a program participant may receive any of the types of assistance or services under this section;
  - d. Documentation of eligible costs;
  - e. Requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services;
  - f. Payments for the cost of gas, insurance, taxes, the one-time payment for car repairs or maintenance described above, and maintenance for vehicles of program participants;
  - g. Financial assistance for short-term and medium-term rental payments under this Notice, including requirements to prevent a duplication of rental or financial assistance provided to a program participant;
  - h. Housing stability case management; and
  - i. Termination of assistance to program participants.
8. **Project Completion:** Project completion for a HOME-ARP Supportive Services project means the final drawdown has been disbursed for the project.

## **E. Acquisition and Development of Non-Congregate Shelter**

A non-congregate shelter (NCS) is one or more buildings that provide private units or rooms as temporary shelter to individuals and families and does not require occupants to sign a lease or occupancy agreement. HOME-ARP funds may be used to acquire and develop HOME-ARP NCS for individuals and families in qualifying populations. This activity may include but is not limited to the acquisition of land and construction of HOME-ARP NCS or acquisition and/or rehabilitation of existing structures such as motels, hotels, or other facilities to be used for HOME-ARP NCS. HOME-ARP funds may not be used to pay the operating costs of HOME-ARP NCS. Consequently, PJs must consider the availability of ongoing operating funds for the HOME-ARP NCS so that the HOME-ARP NCS can remain viable through the restricted use period specified in this Notice.

During the restricted use period, HOME-ARP NCS may:

- Remain as HOME-ARP NCS in compliance with the requirements of this Notice.
- Be used as a non-congregate emergency shelter under the Emergency Solutions Grants (ESG) program (Subtitle B of title IV of the McKinney-Vento Homeless Assistance [Act](#)) (42 USC 11371 et seq.), in which case the non-congregate shelter must be operated in compliance with all requirements at [24 CFR part 576](#) that apply when ESG funds are provided for operating costs or essential services in the shelter. During any period for which ESG funds are provided, the applicable ESG requirements shall govern in the event of any conflict with HOME-ARP requirements.
- Be converted to permanent affordable housing according to the requirements established in [Section VI.E.11](#) of this Notice.
- Be converted to permanent housing as defined in Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 USC 11381 et seq.) according to requirements of this Notice and [24 CFR part 578](#).

1. **Admission and Occupancy:** HOME-ARP NCS units may only be occupied by individuals or families that meet the criteria for one or more of the qualifying populations as defined in [Section IV.A.](#) of this Notice. Where applicable, occupancy of NCS units by qualifying populations must be in accordance with the requirements in [Section IV.C](#) of this Notice. The PJ must not allow qualifying populations to be charged occupancy fees or other charges to occupy a HOME-ARP NCS unit unless the PJ determines such fees and charges to be customary and reasonable and the charges comply with [24 CFR 578.77\(b\)](#).

To ensure that access to HOME-ARP NCS by qualifying populations is effectively integrated with other assistance and services, PJs are encouraged to incorporate each HOME-ARP NCS into the CE established by the CoC(s) for the area the NCS is funded to serve, provided that the CE is used in accordance with [Section IV.C](#) of this Notice. Whether or not packaged with NCS funding, HOME-ARP supportive services may also be provided as needed to qualifying individuals and families served by the HOME-ARP NCS in accordance with the requirements contained in [Section VI.D](#) of this Notice.

No individual or family may be denied admission to or removed from a HOME-ARP NCS unit on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the individual or family meets the criteria of one of the qualifying populations.

2. **Eligible Activities:** HOME-ARP funds may be used to acquire and/or rehabilitate or construct HOME-ARP NCS units to serve qualifying populations. Acquisition of vacant land or demolition of existing structures may be undertaken only as part of a HOME-ARP NCS project. HOME-ARP NCS units acquired and/or developed with HOME-ARP funds must meet the requirements of this Notice, i.e., be used as HOME-ARP NCS or used as emergency shelter under ESG for the restricted use period established in [Section VI.E.9](#) of this Notice.
3. **Eligible Costs:** HOME-ARP funds may be used for actual costs of acquiring NCS or developing HOME-ARP NCS as follows:

- a. Acquisition Costs: Costs to acquire improved or unimproved real property.
- b. Demolition Costs: Costs of demolishing existing structures for the purpose of developing HOME-ARP NCS.
- c. Development Hard Costs: Costs identified in [24 CFR 92.206\(a\)](#) to rehabilitate or construct HOME-ARP NCS units, except costs must be for meeting the physical standards established in [Section VI.E.7](#) of this Notice.
- d. Site Improvements: Costs to make improvements to the project site, including installation of utilities or utility connections, and the construction or rehabilitation of laundry, community facilities, on-site management, or supportive service offices.
- e. Related Soft Costs: Reasonable and necessary costs incurred by the PJ and owner associated with the financing, acquisition, and development of HOME-ARP NCS projects, including costs identified in [24 CFR 92.206\(d\)](#) with the following exceptions:
  - i. Costs to provide information services such as affirmative marketing to prospective homeowners and tenants are not eligible.
  - ii. Costs of funding an initial operating deficit reserve are not eligible.
  - iii. Costs of project-specific assistance to community housing development organizations, including technical assistance and site control loans or seed money loans as specified in [24 CFR 92.301](#) are not eligible.
- f. Replacement Reserve: Costs to capitalize a replacement reserve to pay the reasonable and necessary costs of replacing major systems and their components whose useful life will end during the restricted use period. Major systems include structural support, roofing, cladding, and weatherproofing, plumbing, electrical and HVAC. The costs of replacing major systems must be determined through a Capital Needs Assessment or documented in writing after an inspection by the PJ or PJ-selected contractor to assess the remaining useful life of major systems expected upon completion of the HOME-ARP NCS project. The costs of a replacement reserve must be included in the project budget in the written agreement along with a list of major systems to be replaced with the reserve and projected replacement schedule during the restricted use period (i.e., reserve for replacement analysis). Rehabilitation planned to be completed with HOME-ARP NCS reserve funds at a later date must be included in IDIS as a rehabilitation activity at initial commitment.

**4. Prohibited Costs:** HOME-ARP funds **may not** be used to:

- a. Pay any operating costs of a HOME-ARP NCS project.
- b. Provide additional HOME-ARP investment in a HOME-ARP NCS project during the restricted use period, except that additional HOME-ARP funds can be invested in the project up to one year after project completion in IDIS for eligible costs.



- c. Pay costs of a conversion of HOME-ARP NCS as described in [Section VI.E.11](#) of this Notice.
  - d. Provide non-Federal matching contributions required under any other Federal program.
  - e. Provide assistance for uses authorized under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (Public Housing Capital and Operating Funds).
  - f. Provide assistance to eligible low-income housing under [24 CFR part 248](#) (Prepayment of Low-Income Housing Mortgages).
  - g. Pay for the acquisition of property owned by the PJ, except for property acquired by the PJ with HOME-ARP NCS funds, or property acquired in anticipation of carrying out a HOME-ARP NCS project.
  - h. Pay delinquent taxes, fees, or charges on properties to be assisted with HOME-ARP NCS funds.
  - i. Pay for any cost that is not eligible under this Notice.
5. **Commitment:** PJs must commit HOME-ARP funds before disbursing funds for a HOME-ARP NCS project. HOME-ARP funds are committed to a HOME-ARP NCS project when the PJ executes a legally binding written agreement that meets the requirements in this Notice.

If the project is an acquisition-only activity, the PJ may commit HOME-ARP funds if it reasonably expects the project will be operated as HOME-ARP NCS within 6 months of the date of acquisition. Acquisition-only HOME-ARP NCS projects may be performed when the PJ reasonably determines that the units acquired will not require rehabilitation to meet the property standards in [Section VI.E.7](#) of this Notice. If the project is not in active use as HOME-ARP NCS within 6 months of the acquisition, HUD may require the PJ to submit a schedule for placing the project into operation within a period determined by HUD or may require the PJ to repay the funds to its HOME-ARP Treasury Account.

For projects that will involve rehabilitation or new construction with or without acquisition, the PJ may commit HOME-ARP funds if it reasonably expects development to begin within 12 months of the date of commitment.

6. **Project Development Due Diligence:** HOME-ARP NCS projects must meet the requirements of this Notice for the restricted use period. Consequently, before awarding HOME-ARP funds to a HOME-ARP NCS project, PJs must determine that acquisition and/or development is financially feasible. The PJ is responsible for maintaining continued operation of the NCS in accordance with this Notice throughout the restricted use period. Therefore, the PJ must consider whether the HOME-ARP NCS project has secured or has a high likelihood of securing operating funding because operating costs cannot be paid with HOME-ARP.

PJs must assess HOME-ARP NCS projects, including a review of information from the owner and/or developer that demonstrates the project's financial feasibility throughout the restricted use period. Before awarding funds for HOME-ARP NCS, the PJ must:

- Require that the developer submit evidence of appropriate skills and experience related to the development of shelters or similar facilities.
- Require the owner to submit evidence of prior experience with operating shelters.
- Require an acquisition or development budget, timeline, and sources and uses statement for the acquisition and/or development of the project be submitted for review.
- Require the owner to submit a proposed operating budget, including secured sources for operating costs and any operating gap that will require additional assistance. If there is a gap in the operating budget, the PJ should require the owner to submit a plan for securing additional private, local, state, or Federal funding sufficient for successful operation of the project.

Before committing funds, PJs should also determine whether the owner intends to continue operating the project as HOME-ARP NCS or emergency shelter NCS under ESG for the entire full restricted use period or plans to convert the HOME-ARP NCS to permanent affordable housing or CoC permanent housing during the restricted use period, once the minimum use period for HOME-ARP NCS established in this section is completed. If a HOME-ARP NCS project owner intends to convert the project to CoC permanent housing or permanent supportive housing during the restricted use period, the PJ is encouraged to pursue partnership and leveraging opportunities with the CoC early in the planning stage of a HOME-ARP NCS project. In such instances, the PJ should consider the physical design needs of an eventual conversion in its evaluation of the HOME-ARP NCS project.

7. **Property and Habitability Standards:** HOME-ARP NCS projects must meet the minimum HOME-ARP property standards prior to occupancy and the HOME-ARP NCS ongoing property standards throughout the restricted use period as described in this Notice. An "acquisition only" project must meet the HOME-ARP NCS minimum property standards described in paragraph a. below at the time of acquisition. If the project requires rehabilitation or repair to meet the minimum property standards, the project is considered acquisition and rehabilitation irrespective of the source of funds used for the rehabilitation or repair and must meet the NCS rehabilitation standards in paragraph b. below. In addition, PJs must meet the standards required in this Notice for rehabilitation or new construction, as applicable. The PJ must determine that construction contracts and documents describe the work to be completed in adequate detail to establish a basis for inspection to determine that all work was completed to contracted specifications and that the project met the HOME-ARP NCS property standards. Project classification as rehabilitation or new construction is determined by the PJs local code requirements based on specific work to be completed. PJs may also choose to adopt a standard that exceeds the minimum standards described here. The written agreement must impose the HOME-ARP NCS property standards or the PJ's locally developed standards and require that the PJ or its representatives have access to the property to perform inspections during development and throughout the restricted use period.

- a. *Minimum HOME-ARP NCS Property Standards:* All HOME-ARP NCS units and common areas must meet all applicable State and local codes, ordinances, and requirements and the applicable provisions of HUD's Lead Safe Housing Rules at [24 CFR Part 35](#). In addition, all HOME-ARP NCS projects must meet the following minimum safety, sanitation, accessibility, and privacy standards:
- i. Must be structurally sound to protect occupants from the elements and not pose any threat to health and safety of the occupants.
  - ii. Must be accessible in accordance with section 504 of the Rehabilitation Act ([29 U.S.C. 794](#)) and implementing regulations at [24 CFR part 8](#); the Fair Housing Act ([42 U.S.C. 3601 et seq.](#)) and implementing regulations at [24 CFR part 100](#); and Title II of the Americans with Disabilities Act ([42 U.S.C. 12131 et seq.](#)) and implementing regulations at [24 CFR part 35](#), all as applicable.
  - iii. Must provide each individual or family with an acceptable, individual room to sleep which includes adequate space and security for themselves and their belongings.
  - iv. Must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of occupants.
  - v. Must have a water supply free of contamination.
  - vi. Must have in-unit sanitary facilities that are in proper operating condition and are adequate for personal cleanliness and the disposal of human waste.
  - vii. Must provide necessary heating/cooling facilities in proper operating condition.
  - viii. Must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances.
  - ix. Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
  - x. Must provide one working smoke detector and one working carbon monoxide detector in each unit. All smoke and carbon monoxide detectors and alarm systems must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector and one carbon monoxide detector. There must also be a second means of exiting the building in the event of fire or other emergency.

*Minimum HOME-ARP NCS Rehabilitation Standards:* HOME-ARP NCS rehabilitation projects must meet all applicable State and local codes, ordinances, and requirements , or in the absence of such codes, International Residential Code or the International Building Code (as applicable), and must comply with the Lead Safe Housing Rule at [24 CFR Part 35](#). Additionally, PJs must consider the remaining useful life of major systems. PJs are encouraged to use a Capital Needs Assessment to determine the reasonable and necessary investment of HOME-ARP funding in rehabilitation projects and expected cost of ongoing replacement needs during the restricted use period. If HOME-ARP funding will capitalize a replacement reserve, the PJ must determine the remaining useful life of major systems through a Capital Needs Assessment or other PJ inspection documented in writing, in accordance with requirements for capitalized replacement reserve costs in [V.I.E.3](#).

Minimum HOME-ARP NCS New Construction Standards: HOME-ARP NCS projects that are newly constructed must meet all applicable State and local codes, ordinances, and requirements, or in the absence of such codes, the International Residential Code or the International Building Code (as applicable to the type of structure). HOME-ARP funds cannot be used to fund a replacement reserve for newly constructed HOME-ARP NCS.

- b. On-going Property Standards and Inspections: PJs must develop ongoing inspection procedures to verify that HOME-ARP NCS projects meet the minimum HOME-ARP NCS property standards established in this Notice throughout the restricted use period. A PJ's inspection procedures must require annual inspections that are applied consistently to all HOME-ARP NCS projects. When deficiencies are identified, a follow-up inspection to verify that deficiencies are corrected must occur within 6 months. The PJ may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice or work order) rather than reinspection. If life-threatening deficiencies exist, the owner or operator of the HOME-ARP NCS must correct such deficiencies immediately. In such instances, the PJ must re-inspect to verify the deficiency has been corrected within 14 days.

**8. Project Completion:** Project Completion for HOME-ARP NCS means:

- All necessary title transfer requirements and construction work has been performed;
- The project complies with the requirements of this Notice, including the HOME-ARP NCS property standards as evidenced by a final inspection;
- The project is actively operating as a HOME-ARP NCS;
- Final drawdown of HOME-ARP funds has been disbursed; and
- Project completion information is entered into IDIS.

All HOME-ARP NCS projects must be completed within 4 years of the date of commitment of the HOME-ARP funds based on the date of the last signature on the written agreement. If the PJ fails to complete a project within 4 years of project completion, it must comply with the terminated project requirements at [24 CFR 92.205\(e\)\(2\)](#). HOME-ARP NCS rehabilitation and new construction projects must begin operating as active shelters within 6 months after the date of completion of the construction work. If the HOME-ARP NCS project is not in use within 6 months, HUD may require the PJ to submit a schedule for placing the project into operation as an active shelter within a period determined by HUD or may require the PJ to repay the HOME-ARP funds to its HOME-ARP Treasury Account.

- 9. Restricted Use Period:** HOME-ARP NCS projects must comply with the requirements of this Notice for not less than the restricted use period specified in this Notice. PJs must impose the HOME-ARP NCS requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanism approved by HUD. The use restriction should not identify that the property is prioritized for victims of domestic violence, dating violence, sexual assault, stalking or human trafficking. This use restriction must require that the property is operated as HOME-ARP NCS or non-congregate emergency shelter under ESG for the required restricted use period except that HOME-ARP

NCS projects may be converted to permanent affordable housing or CoC permanent housing after being operated as HOME-ARP NCS for the applicable minimum use period prior to conversion as described in [Section VI.E.11](#). If the HOME-ARP NCS is converted, the PJ must amend its use restriction to reflect the change in requirements for the remainder of the restricted use period.

The restricted use period begins at project completion as defined in [Section VI.E.8](#) of this Notice and must be imposed for at least the following periods:

- a. *New Construction*: Newly constructed HOME-ARP NCS units must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 15 years, regardless of the amount of HOME-ARP funds invested in the project.
- b. *Rehabilitation*: HOME-ARP NCS units which receive any amount of HOME-ARP funds for rehabilitation but are not designated as new construction by the PJ's state or local building code requirements must be operated as HOME-ARP NCS units for qualifying populations for a restricted use period of 10 years.
- c. *Acquisition Only*: Units acquired for use as HOME-ARP NCS that do not require rehabilitation for occupancy must serve the qualifying populations for a restricted use period of 10 years.
- d. PJs may impose longer restricted use periods but must require the project remain financially viable for the extended period.

**10. Return of Replacement Reserve**: HOME-ARP funds may capitalize a replacement reserve for HOME-ARP NCS projects performing rehabilitation as described in [Section VI.E.3](#) of this Notice. Any unexpended HOME-ARP funds remaining in a project's replacement reserve at the completion of the restricted use period or upon conversion must be used or returned as follows:

- a. If the HOME-ARP NCS project will continue to operate in accordance with the HOME-ARP NCS requirements and serve qualifying households beyond the HOME-ARP NCS restricted use period demonstrated by enforceable restrictions imposed by the PJ in accordance with [Section VI.E.9](#), the project can retain the replacement reserve to pay reasonable and necessary costs of replacing major systems and their components.
- b. If the HOME-ARP NCS project will not continue to operate in accordance with the HOME-ARP NCS requirements because the NCS is being converted to either CoC permanent housing or permanent affordable housing as described in [Section VI.E.11](#) of this Notice and the HOME-ARP grant is still open, the remaining HOME-ARP funds in the replacement reserve must be returned to the PJ's HOME Investment Trust Fund Treasury account.
- c. If the HOME-ARP NCS grant has expired or is closed out, any remaining HOME-ARP funds in the replacement reserve must be deposited in the PJ's local HOME account,

recorded as a program income receipt in IDIS and used for eligible costs under [24 CFR part 92](#).

**11. Conversion of Non-Congregate Shelter to Rental Housing:** The ARP authorizes the conversion of HOME-ARP NCS units into permanent housing under subtitle C of title IV of McKinney-Vento or permanent affordable housing as described in this section, during the restricted use period. No HOME-ARP funds may be used for conversion. The written agreement between the PJ and the owner of the HOME-ARP NCS project must describe conversion as a possible outcome of the HOME-ARP NCS project; specify the conditions under which conversion will be permitted; and require that the PJ approve any conversion in advance.

- a. Minimum Use Period: All HOME-ARP NCS projects must be operated as NCS for a minimum period of time prior to conversion. The minimum use period prior to conversion varies based on the original HOME-ARP NCS eligible activity undertaken and the amount of funds invested in the project. If the HOME-ARP NCS project involves rehabilitation, the minimum use period prior to conversion is based on the total cost of the rehabilitation as a percentage of the total appraised value of the improved property. A larger investment for rehabilitation will require operation as HOME-ARP NCS for a longer minimum use period prior to conversion.
  - i. Acquisition Only: HOME-ARP NCS activities not requiring rehabilitation for occupancy must be operated as HOME-ARP NCS for no less than 3 years from project completion prior to conversion.
  - ii. Moderate Rehabilitation: Occurs when an NCS HOME-ARP project requires rehabilitation and the total rehabilitation expenditure from all sources of less than 75 percent of the total appraised value of the improved property. HOME-ARP NCS projects that receive moderate rehabilitation must be operated as HOME-ARP NCS for no less than 5 years from project completion prior to conversion.
  - iii. Substantial Rehabilitation: Occurs when an NCS HOME-ARP project requires rehabilitation and the total rehabilitation expenditure from all sources exceeds 75 percent of the total appraised value of the improved property. HOME-ARP NCS projects that receive substantial rehabilitation must be operated as HOME-ARP NCS for no less than 10 years from project completion before conversion.
  - iv. New Construction: Any HOME-ARP NCS project defined by the PJ's state or local code requirements as new construction must be operated as HOME-ARP NCS for no less than 10 years from project completion prior to conversion.

Requirements for conversions vary depending on the type of conversion, as follows:

- b. Permanent Affordable Housing: During the HOME-ARP NCS restricted use period but only after the HOME-ARP NCS minimum use period, a PJ may provide written approval to convert the project from HOME-ARP NCS to permanent affordable housing (e.g., affordable multifamily rental housing, transitional housing) in accordance with the requirements prescribed in the PJ's written agreement with the HOME-ARP NCS owner.



The converted permanent affordable housing project must meet the following requirements:

- i. **Additional HOME-ARP Investment:** The PJ is prohibited from investing additional HOME-ARP funds to pay for the cost of converting the project from HOME-ARP NCS to permanent affordable housing or to pay for operating the project as permanent affordable housing. However, the PJ must determine that adequate financial resources are committed to the project to bring it into compliance with the property standards of [Section VI.B.11](#) of this Notice and maintain the financial feasibility of the project to be operated as permanent affordable housing for the qualifying populations throughout the remaining restricted use period. If permitting conversion of HOME-ARP NCS into permanent affordable housing, a PJ must develop and evaluate the project in accordance with standardized underwriting guidelines for conversion. At minimum, the PJ's underwriting guidelines for conversion must include an examination of the sources and uses of funds for the conversion and a careful review of the project's operating budget, including the assumptions, projections, and reasonably expected increases in expenses throughout the minimum compliance period defined in the section below, to determine that the project will remain financially feasible to serve the qualifying populations for the remainder of the restricted use period.

The PJ may assist households living in affordable rental housing units in converted projects by providing HOME-ARP TBRA in accordance with [Section VI.C](#) of this Notice or financial assistance services in accordance with Section [VI.D.4.c.i.R.](#)

- ii. **Minimum Compliance Period:** The minimum compliance period for converted housing is the period that the housing must continue to comply with the requirements of this Notice and is equal to the balance of the HOME-ARP NCS restricted use period. A PJ may impose a longer compliance period but should plan for the project's financial feasibility for the longer period. The PJ may not use HOME-ARP funds to provide operating assistance, including a capitalized operating reserve, to cover deficits during the minimum or an extended compliance period.

The PJ must amend the use restriction for HOME-ARP NCS to reflect the conversion to permanent affordable housing. The provisions for imposing affordability requirements at [24 CFR 92.252\(e\)\(1\) through \(e\)\(4\)](#) apply to the amended use restriction. In addition, the amended use restriction for the permanent affordable housing must be enforceable to maintain compliance with the requirements of this Notice for the minimum compliance period, including the following:

- (1) The same number of units that were operated as HOME-ARP NCS for qualifying populations must be restricted for and must be occupied by households that meet the definition of a qualifying population at the time of initial occupancy of the permanent affordable housing. The household's contribution toward rent during this period must be affordable in accordance with [Section VI.E.11](#) of this Notice.



- (2) The units must comply with the ongoing property condition standards of [24 CFR 92.251\(f\)](#) throughout the minimum compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by [24 CFR 92.504\(d\)\(ii\)](#).
  - (3) Each household that occupies a HOME-ARP assisted rental unit must have an executed lease that complies with the tenant protections required in [Section VI.B.18](#) of this Notice.
- iii. Property Standards: For the remaining restricted use period, the PJ must require that project owners maintain the housing as decent, safe and sanitary housing in good repair in accordance with the ongoing property condition standards of [24 CFR 92.251\(f\)](#) as demonstrated by an on-site inspection at least once every three years in accordance with [24 CFR 92.504\(d\)\(ii\)](#).
- iv. Tenant Contribution to Rent: The PJ must confirm that the qualifying household's contribution to rent is affordable to the household based on a determination of the household's income. If the household is receiving project-based or tenant-based rental assistance, it cannot contribute towards rent more than is permitted in accordance with the requirements of the applicable program. If a qualifying household cannot contribute to rent, or the contribution is insufficient to cover the unit rent, the PJ may provide HOME-ARP TBRA or supportive services to assist the qualifying household but may not provide operating cost assistance or fund an operating cost assistance reserve.
- v. Tenant Protections: Following conversion, each qualifying household that occupies a permanent affordable housing unit must have an executed lease or sublease that complies with the tenant protections requirements of this Notice.
  - (1) Lease Requirement: There must be a lease between the qualifying household and the owner of the permanent affordable housing project or, if there is a sublease with a qualifying household, a lease between a HOME-ARP sponsor and the owner in accordance with [24 CFR 92.253\(a\)](#).
  - (2) Prohibited Lease Terms: The lease between the qualifying household and the owner, lease between HOME-ARP sponsor and the owner, and sublease between a HOME-ARP sponsor and qualifying household may not contain any of the prohibited lease terms specified in [24 CFR 92.253\(b\)](#).
  - (3) Termination of tenancy: An owner may not terminate the tenancy or refuse to renew the lease of a qualifying household (or of a HOME-ARP sponsor with a sublease with a qualifying household) in a permanent affordable housing unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws, or for other good cause. An increase in the qualifying household's income does not constitute good cause.

To terminate or refuse to renew tenancy, the owner must serve written notice upon the qualifying household and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor, specifying the grounds for the action at least 30 days before termination of tenancy. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the PJ, must notify the PJ in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

- vi. Coordinated Entry and Project-Specific Waitlists: On a project-by-project basis, the PJ must use the method of tenant selection in [Section VI.B.19](#) of this Notice to select qualifying households for occupancy of permanent affordable housing.
- vii. Penalties for Noncompliance: The PJ must repay HOME-ARP funds invested in HOME-ARP NCS that was converted to permanent affordable housing if the permanent affordable housing does not comply with initial or ongoing requirements of this Notice during the compliance period.
- c. CoC Permanent Housing: During the HOME-ARP NCS restricted use period but only after the HOME-ARP NCS minimum use period, a PJ may permit the conversion of a HOME-ARP NCS project to permanent housing or permanent supportive housing under [24 CFR 578.43](#) (acquisition) and/or [24 CFR 578.45](#) (rehabilitation) of the CoC program regulations. Conversions may only occur in accordance with the requirements prescribed in the PJ's written agreement with the HOME-ARP NCS owner. If conversion is approved by the PJ, the HOME-ARP NCS use restrictions must remain in place until the project is approved for CoC funding and the required CoC restrictions are imposed on the property.

Conversion to CoC permanent housing or permanent supportive housing may serve the following eligible households as defined in [24 CFR 578.3](#), subject to any further eligibility conditions that may apply to the use of CoC Program funds to provide rental assistance in the housing or otherwise support the project:

- Chronically homeless individuals
- Homeless individuals or families

PJs are prohibited from investing additional HOME-ARP funds to pay for the cost of converting the project to CoC permanent housing or permanent supportive housing. The CoC designates eligible applicants for grant funds under [24 CFR Part 578](#), which includes nonprofit organizations, States, local governments, and instrumentalities of State or local governments. For-profit entities are not eligible to apply for CoC grants or to be subrecipients of grant funds. Consequently, if a HOME-ARP NCS project owner intends to convert the project to CoC permanent housing or permanent supportive housing during the restricted use period, the PJ is encouraged to pursue partnership and leveraging opportunities with the CoC early in the planning stage of a HOME-ARP NCS

project. Additionally, PJs may provide supportive services or HOME-ARP TBRA to qualifying households that must move because of the conversion. (See [Section VII.F.4.b](#) for more information on relocations involving shelter occupants).

## **F. Nonprofit Operating and Capacity Building Assistance**

A PJ may use up to 5 percent of its HOME-ARP allocation to pay operating expenses of CHDOs and other nonprofit organizations that will carry out activities with HOME-ARP funds. A PJ may also use up to an additional 5 percent of its allocation to pay eligible costs related to developing the capacity of eligible nonprofit organizations to successfully carry out HOME-ARP eligible activities.

PJs may award operating expense assistance or capacity building assistance to a nonprofit organization if it reasonably expects to provide HOME-ARP funds to the organization for any of the eligible HOME-ARP activities within 24 months of the award.

### **1. Eligible Costs**

- a. ***Operating Expense Assistance:*** Operating expenses are defined as reasonable and necessary costs of operating the nonprofit organization. These costs include employee salaries, wages and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment, materials, and supplies.

HOME-ARP funds used for operating expenses must be used for the “**general operating costs**” of the nonprofit organization. These operating costs must not have a particular final cost objective, such as a project or activity, or must not be directly assignable to a HOME-ARP activity or project. For example, HOME-ARP funds for operating expenses may *not* be used for staffing costs to provide supportive services or develop HOME-ARP rental housing (as operating costs to develop HOME-ARP rental housing are paid for by a developer fee which is a project delivery or soft cost). Because ARP does not permit any HOME-ARP funds to be used to operate a shelter, all costs related to operating a non-congregate shelter (e.g., allocable overhead and staffing costs, insurance, utilities) also cannot be paid with HOME-ARP funds.

The actual costs of implementing a specific activity or project, including staff costs to deliver supportive services or administer HOME-ARP TBRA, are considered HOME-ARP project delivery costs or project soft costs and are not eligible costs under Nonprofit Operating and Capacity Building Assistance. HOME-ARP project delivery costs are those allowable costs incurred for implementing and carrying out eligible HOME-ARP projects or activities, such as supportive services. All project delivery costs are allocable to a HOME-ARP project, including direct project and related delivery costs integral to developing the project or providing the activity. HOME-ARP project delivery costs may be paid, if eligible, by HOME-ARP funds provided under a written agreement for the activity or project and must not be paid with nonprofit operating expense or capacity building assistance.

- b. *Capacity Building Assistance*: Capacity building expenses are defined as reasonable and necessary general operating costs that will result in expansion or improvement of an organization's ability to successfully carry out eligible HOME-ARP activities. Eligible costs include salaries for new hires including wages and other employee compensation and benefits; costs related to employee training or other staff development that enhances an employee's skill set and expertise; equipment (e.g., computer software or programs that improve organizational processes), upgrades to materials and equipment, and supplies; and contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations.
2. **Limitations on Assistance**: NAHA and the HOME regulations limit the amount of operating expense assistance that an organization can receive annually. ARP extends this limitation to the capacity building assistance paid with HOME-ARP funds.

In any fiscal year, operating assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, for that fiscal year or \$50,000.

In any fiscal year, capacity building assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described above, or \$50,000.

If an organization receives both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or \$75,000.

To implement the above limitations on assistance, HUD has established separate fund types in IDIS for operating expense assistance and capacity building assistance. This will facilitate accurate tracking and ensure that PJs do not exceed the limits established in NAHA and ARP.

3. **Commitment of Operating Expense and Capacity Building Assistance**: A PJ commits operating expense assistance or capacity building assistance when it enters into a legally binding agreement with the nonprofit organization to provide the assistance.

## VII. OTHER FEDERAL REQUIREMENTS

HOME-ARP funds are federal financial assistance and, therefore, are subject to requirements applicable to such funds. PJs must comply with the following requirements: [24 CFR part 92, subpart H](#), 92.352 – Environmental review; 92.353 – Displacement, relocation, and acquisition; and 92.355 – Lead-based paint.

## **A. Other Federal Requirements and Nondiscrimination**

The requirements in [24 CFR 92.350](#) apply to the HOME-ARP program. PJs must comply with the Federal requirements set forth in [24 CFR part 5, subpart A](#), including: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; drug-free work; and housing counseling and the nondiscrimination requirements at section 282 of NAHA. The requirements in section 282 of NAHA are waived in connection with the use of HOME-ARP funds on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108). PJs must also comply with the Violence Against Women Act (VAWA) requirements set forth in 24 CFR 92.359.

## **B. Affirmative Marketing and Minority Outreach**

The requirements in [24 CFR 92.351](#) apply to HOME-ARP activities.

## **C. National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and Related Laws**

The environmental requirements in [24 CFR 92.352](#) apply to eligible activities under this Notice. The environmental effects of each activity carried out with HOME-ARP funds must be assessed in accordance with the provisions of NEPA and the related authorities listed in HUD's implementing regulations at [24 CFR part 58](#). The applicability of the provisions of [24 CFR part 58](#) is based on the HOME-ARP project as a whole (i.e., all individual project activities, such as acquisition and rehabilitation, aggregated according to the requirements at [24 CFR 58.32](#)), not on the type of the cost paid with HOME-ARP funds. In accordance with the provisions in [24 CFR part 58](#), activities undertaken with HOME-ARP funds are subject to environmental review by a PJ or State recipient. The PJ or State recipient (referred to as the "Responsible Entity" or "RE") must assume responsibility for environmental review, decision making, and action for each activity that it carries out with HOME-ARP funds, in accordance with the requirements at [24 CFR Part 58](#). A state PJ must assume responsibility for approval of Requests for Release of Funds and Certification (RROF/C) submitted by State recipients.

No funds may be committed to a HOME-ARP activity or project before the completion of the environmental review and approval of the RROF/C, as applicable. Neither a HOME-ARP recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance on an activity or project until the environmental review has been completed and HUD or the state has approved the recipient's RROF/C from the RE as applicable. In addition, until the RROF/C have been approved, neither a HOME-ARP recipient nor any participant in the development process may commit non-HUD funds on or undertake a HOME-ARP activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. Therefore, it is important for REs to begin and complete any required environmental reviews as soon as possible.

## **1. HOME-ARP TBRA and Supportive Services**

HOME-ARP TBRA and supportive services as defined at [24 CFR 58.35\(b\)](#) are categorically excluded, not subject to the Federal laws and authorities at [24 CFR 58.5](#) (CENST) or exempt from review under NEPA. A RE may complete a single CENST review categorized under [24 CFR 58.35\(b\)](#) for their supportive services program or their HOME-ARP TBRA program where participants choose their own unit and are not restricted to units within a pre-determined specific project site or sites. There is no need to complete reviews for every unit selected by participants.

## **2. HOME-ARP Rental Housing**

Acquisition of a structure to be used as HOME-ARP rental housing is categorically excluded, subject to the Federal laws and authorities referenced at [24 CFR 58.5](#) (CEST) under [24 CFR 58.35\(a\)\(5\)](#) (with the possibility of converting to exempt under [24 CFR 58.34\(a\)\(12\)](#)) if the structure acquired will be retained for the same use (e.g., residential). Rehabilitation of buildings for residential use with one to four units for HOME-ARP rental housing is CEST under [24 CFR 58.35\(a\)\(3\)\(i\)](#), if the density is not increased beyond four units, and the land use is not changed. Rehabilitation of buildings for use as HOME-ARP multifamily rental housing is CEST [under 24 CFR 58.35\(a\)\(3\)\(ii\)](#) only if:

1. the unit density is not changed more than 20 percent;
2. the project does not involve changes in land use from residential to non-residential; and
3. the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

Rehabilitation for HOME-ARP rental housing that does not meet the thresholds for multifamily residential buildings listed above requires completion of an Environmental Assessment in accordance with [24 CFR Part 58, Subpart E](#). An Environmental Assessment is also required for new construction, demolition, acquisition of vacant land for new construction, and acquisition of non-residential structures for demolition and new construction.

## **3. HOME-ARP NCS**

HOME-ARP NCS activities are subject to environmental review by the RE under [24 CFR part 58](#). Acquisition of a structure to be used as HOME-ARP NCS is CEST under [24 CFR 58.35\(a\)\(5\)](#) (with the possibility of converting to exempt under [24 CFR 58.34\(a\)\(12\)](#)) if the structure acquired will be retained for the same use (e.g., residential). Rehabilitation of a structure for HOME-ARP NCS is CEST if the project meets the thresholds listed at [24 CFR 58.35\(a\)\(3\)\(i\) or \(ii\)](#). Rehabilitation that does not meet these thresholds requires completion of an Environmental Assessment pursuant to [24 CFR part 58, subpart E](#). An Environmental Assessment is also required for new construction, demolition, acquisition of vacant land for new construction, and acquisition of non-residential structures for demolition and new construction.

HOME-ARP NCS projects which may convert to emergency shelter or permanent housing pursuant to Sec. 3204(a)(4)(B) or (C) of the ARP may complete a single environmental review that covers all proposed HUD funding sources and project activities. Conversion to a program using project-based rental assistance is CEST and requires completion of an environmental review. If conversion or other additional HUD funding sources are proposed after the



environmental review has been completed, a CENST review for supplemental assistance under [24 CFR 58.35\(b\)\(7\)](#) can be performed if the review is completed by the same RE that conducted the original review and if re-evaluation is not required by [24 CFR 58.47](#).

The PJ or subrecipient, or any contractor of the PJ or subrecipient, may not acquire, rehabilitate, convert, repair, dispose of, demolish, or construct property for a HOME-ARP NCS project, or commit or expend HUD or non-HUD funds for NCS under HOME-ARP, until the RE has completed an environmental review under [24 CFR part 58](#) and received HUD or state approval of the RROF/C, as applicable.

## **D. Labor Standards**

The requirements in [24 CFR 92.354](#) apply to HOME-ARP activities.

## **E. Lead Hazard Control Requirements**

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at [24 CFR Part 35](#), subparts A, B, J, K, M, and R apply to HOME-ARP-assisted activities.

For HOME-ARP NCS, a project must comply with [24 CFR part 35, Subpart K](#) when the HOME-ARP activity is acquisition only. HOME-ARP NCS projects that involve rehabilitation of pre-1978 facilities, whether the rehabilitation is funded with HOME-ARP or other funds, must comply with the requirements of [24 CFR part 35, Subpart J](#).

## **F. Uniform Relocation Assistance and Real Property Acquisition Policies Act, Section 104(d), and HOME-ARP Displacement, Relocation and Acquisition Program Requirements**

HOME-ARP funding is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and section 104(d) of the Housing and Community Development Act of 1974, in addition to the Displacement, Relocation and Acquisition regulatory requirements of [24 CFR 92.353](#). This Notice also includes HOME-ARP program specific relocation requirements applicable to HOME-ARP-assisted projects. PJs must comply with all applicable requirements, as described in this section.

### **1. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970:**

Costs incurred to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. § 4601 *et seq.*) (URA) are eligible HOME-ARP project costs pursuant to this Notice and [24 CFR 92.206\(f\)](#). The URA establishes minimum requirements for the acquisition of real property and the displacement of persons from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for federally-assisted programs and projects. The URA implementing regulations at [49 CFR part 24](#) establish:



- Requirements for the provision of replacement housing assistance, advisory services, and moving costs to persons displaced as a result of a program or project that receives federal financial assistance;
- Requirements for acquisitions, including the payment of just compensation pursuant to [49 CFR part 24, subpart B](#), and provisions for voluntary acquisitions set forth in [49 CFR 24.101](#).
- Minimum requirements for temporary relocation of persons, businesses, or farms as a result of a project or program that receives federal financial assistance. These requirements are found in [Appendix A, Section 24.2\(a\)\(9\)\(ii\)\(D\)](#).

Additional HUD URA policy and guidance is available in [HUD Handbook 1378](#).

2. **Section 104(d) of the Housing and Community Development Act of 1974:** HOME-ARP is HOME funding and subject to the requirements in section 104(d) of the Housing and Community Development Act of 1974, as amended, (42 USC § 5304(d)), (“section 104(d)”) unless waived, as described in this section and Appendix. Costs incurred to comply with section 104(d) requirements are eligible HOME-ARP project costs under [24 CFR 92.206\(f\)](#). section 104(d) applies to the demolition or conversion, as defined in [24 CFR 42.305](#), of a lower-income dwelling unit in connection with a HOME or Community Development Block Grant Program (CDBG) assisted activity. section 104(d) includes the following requirements:

- A PJ must have a residential anti-displacement and relocation assistance plan (RARAP);
- A PJ must provide relocation assistance to displaced lower-income persons; and
- A PJ must perform one-for-one replacement of lower-income dwellings demolished or converted to a use other than a lower-income dwelling unit. A lower-income dwelling unit is defined in [24 CFR 42.305](#) as a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing, as defined by HUD.

Section 104(d) implementing federal regulations can be found at [24 CFR part 42 Subpart C](#).

#### **HOME-ARP Section 104(d) Waiver / One-for-One Replacement Housing.**

For purposes of , the one-for-one replacement housing requirements of section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (ii) and 42 U.S.C. 5304(d)(3)) and [24 CFR 42.375](#), lower-income dwelling units shall not include single-room occupancy (SRO) units or residential hotel or motel units in jurisdictions where those units are considered dwelling units under state or local law. All other section 104(d) requirements, including but not limited to the requirement that the PJ have and follow a RARAP, remain in effect. (See [24 CFR 92.353\(e\)](#) and [24 CFR part 42, subpart C](#)).

3. **HOME Program Displacement, Relocation and Acquisition Regulations:** In addition to the URA and section 104(d) requirement described above, the HOME program’s Displacement, Relocation and Acquisition regulations at [24 CFR 92.353](#) also apply to projects funded with HOME-ARP funds. Some of these requirements differ from those

of the URA and section 104(d), including but not limited to the expanded temporary relocation protections at [24 CFR 92.353\(b\) and \(c\)](#); optional relocation assistance policies in [24 CFR 92.353\(d\)](#); and the right to return to a building or complex, if feasible, upon completion of a HOME project, in accordance with [24 CFR 92.353\(a\)](#). PJs must follow these program-specific requirements in HOME-ARP assisted projects.

PJs are encouraged to develop optional relocation policies to address individuals that may not be eligible for URA or section 104(d) assistance due to their length of occupancy in a unit, ineligibility of their dwelling unit, or other factors beyond their control. Such policies must be in writing, applied consistently, and must not violate any other federal law or regulation. Costs incurred to comply with [24 CFR 92.353](#), including optional relocation policies, are eligible HOME-ARP project costs under [24 CFR 92.206\(f\)](#).

**4. Additional HOME-ARP Program Relocation Related Requirements:** The following additional HOME-ARP program relocation requirements apply:

- a. *Acquisition and/or rehabilitation of hotels, motels and other non-residential property:* In states where hotels and motels are not considered dwelling units or residential property, the acquisition of non-residential property such as hotels and motels for the production of HOME-ARP NCS units or HOME-ARP rental housing will not make a person occupying those properties eligible for relocation assistance under the URA, section 104(d) or [24 CFR 92.353](#). HOME PJs may provide HOME-ARP assistance, as defined by this Notice, including the provision of HOME-ARP supportive services, HOME-ARP TBRA, the ability to stay in HOME-ARP NCS units, or the ability to rent a HOME-ARP rental unit, if the individuals or families can demonstrate that—
  - i. they have been in continuous residence at the property for 30 or more calendar days, and
  - ii. they are a qualifying household, as defined by this Notice.

Any assistance provided pursuant to this section may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to this Notice. For purposes of HOME-ARP, costs associated with activities under this provision of the Notice may be charged as either project delivery costs or relocation costs eligible under [24 CFR 92.206\(f\)](#).

- b. *Conversion of HOME-ARP NCS:* If HOME-ARP NCS units are occupied and converted to either permanent housing under CoC or permanent affordable housing as described in [Section VI.E.11](#) of this Notice, persons occupying the shelter would not normally be eligible for relocation assistance under the URA, section 104(d) or [24 CFR 92.353](#) because they are not displaced from a dwelling unit. However, since the individuals or families occupying such shelter units are already qualifying households under HOME-ARP, HOME PJs may immediately provide such occupants with HOME-ARP assistance, as defined by this Notice, including the provision of HOME-ARP supportive services, HOME-ARP TBRA, the ability to stay in other HOME-ARP

NCS units, or the ability to rent a HOME-ARP rental unit. Additionally, the PJ may provide the occupants with assistance for moving costs or advisory services, as appropriate, as HOME-ARP administrative costs or under the HOME-ARP supportive services activity in [Section VI.D](#) of this Notice. Any assistance provided pursuant to this section may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to this Notice, as the persons occupying the NCS units were already determined to be qualifying households under the HOME-ARP.

5. **Persons Ineligible for HOME-ARP Assistance and Ineligible for URA, Section 104(d), or assistance pursuant to 24 CFR 92.353:** If a person is required to move as a direct result of a HOME-ARP project and is determined ineligible for HOME-ARP housing assistance under the preceding [Section VII.F.4](#) and also determined ineligible as a displaced person under the URA, section 104(d) or HOME program rules, the PJ may provide such persons advisory services as an eligible HOME-ARP administrative cost, as the PJ determines to be reasonable and necessary.

## **G. Section 3 Economic Opportunities for Low- and Very Low-Income Persons**

Section 3 requirements established at [24 CFR Part 75](#) apply to HOME-ARP-assisted projects.

## **H. Conflicts of Interest**

HOME-ARP is subject to the following conflicts of interest requirements:

1. **Conflicts of Interest:** PJs, State recipients, and subrecipients engaging in any of the activities defined this Notice shall be subject to the conflicts of interest provisions at [24 CFR 92.356](#), including but not limited to the conflicts of interest exception process defined in [24 CFR 92.356\(d\)-\(e\)](#). Owners and developers of HOME-ARP NCS and HOME-ARP rental housing shall be subject to [24 CFR 92.356\(f\)](#).
2. **Organizational Conflicts of Interest:** The provision of any type or amount of HOME-ARP TBRA or supportive services may not be conditioned on an individual's or family's acceptance or occupancy of a shelter or housing unit owned by the PJ; State recipients; the subrecipient; or a parent, affiliate, or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent, affiliate, or subsidiary of the subrecipient, administer financial assistance that includes rental payments, utility deposits, security deposits, or first and last month's rent provided pursuant to this Notice. All contractors of the PJ, State recipients, or subrecipient must comply with the same requirements that apply to subrecipients under this section.
3. **Written Standards of Conduct:** PJs, State recipients, and subrecipients must maintain written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under this Notice and [2 CFR 200.318](#). The written standards of conduct must also provide for internal controls and procedures to require a fair and open selection process for awarding HOME-ARP funds pursuant to this Notice. These standards

must include provisions on if and how Continuum of Care board members may participate in and/or influence discussions or resulting decisions concerning the competition or selection of an award or other financial benefits made pursuant to the HOME-ARP Notice, including internal controls on when funds may be awarded to the organization that the member represents.

4. **Requesting Exceptions to Organizational Conflicts of Interest:** Any request for an exception to the organizational conflicts of interest provisions in this Notice shall be in writing and shall be considered by HUD only after the PJ or State recipient has provided the following:
  - a. A written 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
  - b. An opinion of the PJ's or State recipient's attorney that the interest for which the exception is sought would not violate State or local law.
5. **Granting Exceptions to Organizational Conflicts of Interest:** HUD shall determine whether to grant an exception to the organizational conflicts of interest on a case-by-case basis when it determines that the exception will serve to further the purposes of HOME-ARP. HUD shall consider the following factors, as applicable, in determining whether to grant such an exception:
  - c. 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
  - d. Whether undue hardship will result to the PJ, State recipient, subrecipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
  - e. Whether conditioning approval on changes to the PJ, State recipient, or subrecipient's policies or procedures can adequately address the organizational conflict of interest; and
  - f. Any other factors relevant to HUD's determination, including the timing of the requested exception.

## **VIII. PROGRAM ADMINISTRATION**

### **A. PJ Responsibilities**

The PJ is responsible for managing the day-to-day operations of its HOME-ARP program, ensuring that HOME-ARP 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 PJ of this responsibility.

### **B. Written Agreement Requirements**

Before disbursing any HOME-ARP funds to any entity, the PJ must enter into a written agreement with that entity pursuant to [24 CFR 92.504](#). Similarly, before disbursing any HOME

funds to a State recipient, subrecipient, or contractor which is administering all or a part of the HOME-ARP program on behalf of the PJ, the PJ must also enter into a written agreement with that entity that complies with [24 CFR 92.504](#) and the requirements described below. A written agreement cannot commit to providing HOME-ARP funds after the end of the HOME-ARP budget period.

The written agreement must require compliance with the requirements of this Notice. The content of the written agreement will vary depending upon the role the entity is asked to assume or the type of project undertaken.

This section details basic requirements by activity and the minimum provisions, in addition to those at [24 CFR 92.504](#) that must be included in a written agreement. The written agreement provisions in [24 CFR 92.504](#) that reference the requirements of [24 CFR 92.350](#), [24 CFR 92.351](#), and [24 CFR 92.359](#) are not waived and apply for all HOME-ARP written agreements.

1. **Rental Housing:** The PJ must execute a written agreement with the project owner/developer prior to the expenditure of HOME-ARP funds. The written agreement must comply with [24 CFR 92.504](#) and contain the following additional provisions:
  - a. *Use of HOME-ARP funds for Rental Housing:* The agreement between the owner/developer must describe the address of the project or legal description of the property if a street address has not been assigned to the property, the use of the HOME-ARP 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, including any HOME-ARP funds used to capitalize an operating cost reserve for qualified HOME-ARP units. These items must be in sufficient detail to provide a sound basis for the PJ to effectively monitor performance under the agreement to achieve project completion and compliance with HOME-ARP requirements.
  - b. *Operating Cost Assistance:* If the PJ will provide HOME-ARP funds for operating cost assistance, the agreement must specify whether the PJ will provide assistance through periodic payments or capitalize the operating cost assistance reserve based on the operating deficit projected for the 15-year compliance period. If the PJ is providing ongoing assistance, the amount of assistance must be based on the actual operating deficit associated with the HOME-ARP units restricted for occupancy by qualifying households. The written agreement must specify the frequency of operating assistance payments made to the owner (e.g., monthly, quarterly, etc.) and state that the amount of assistance will be equal to the deficit demonstrated and/or incurred. The written agreement may only provide for HOME-ARP funds to be used for operating assistance payments during the budget period defined in [Section VIII.C.4](#) below. If operating cost assistance will be required beyond the budget period, the PJ should capitalize an operating reserve before the expiration of the budget period for HOME-ARP funds in accordance with [Section VI.B.23](#). If the PJ is capitalizing the operating reserve for the 15-year HOME-ARP compliance period, the amount of assistance must be based on the project's underwriting and the total anticipated operating deficit associated with the HOME-ARP units restricted for occupancy by qualifying households. The written

agreement must specify the amount of the capitalized reserve and the restrictions on its use during the minimum compliance period in [Section VI.B.18](#). Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.

- c. *Sublease/Master Lease of HOME-ARP Units*: If the PJ will permit a project owner to execute a sublease or master lease with a nonprofit organization for HOME-ARP units restricted for occupancy by qualifying households, the agreement must specify the duration of the sublease or master lease, applicable rents, lease requirements and tenant protections.
- d. *On-going compliance*: The agreement must require rental housing assisted with HOME-ARP funds to comply with the on-going requirements of [Section VI.B](#) of this Notice or require repayment in accordance with [Section VI.B.22](#).
- e. *Property Standards*: The agreement must require the housing to meet the property standards required in [24 CFR 92.251](#) paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing and (f) on-going property condition standards.
- f. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements. The owner/developer of rental housing must annually provide the PJ with information on rents and occupancy of HOME-ARP assisted units to demonstrate compliance with this Notice. If the rental project has floating HOME-ARP units, the project owner/developer must provide the PJ with information regarding unit substitution and filling vacancies so that the project remains in compliance with the HOME-ARP occupancy requirements. The agreement must specify the reporting requirements, (including copies of financial statements) to enable the PJ to determine the financial condition and continued financial viability of the project.
- g. *Enforcement of the agreement*: The agreement must provide for a means for the PJ to enforce compliance with HOME-ARP requirements. This means of enforcement may include liens, deed restrictions, covenants running with the land, use restriction, or other mechanism approved by HUD under which the PJ has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.
- h. *Request for disbursement of funds*: The agreement must specify that the owner/developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The owner/developer may request capitalization of a project operating cost assistance reserve for the qualifying units once all necessary title transfer requirements and construction work have been performed. The amount of each request must be limited to eligible costs in the amount needed, as described in [Section VI.B.5.g](#).



- i. *Duration of the agreement*: The agreement must be in effect for at least the 15-year HOME-ARP minimum compliance period.
  - j. *On-site Inspections and Financial Oversight*: The PJ must comply with the on-site inspections and financial oversight requirements of [24 CFR 92.504\(d\)\(1\) and \(2\)](#). In addition, if the PJ will permit the capitalization of a project operating cost assistance reserve, the PJ must, no less than annually, oversee the administration of the operating cost assistance reserve account to verify that the account is appropriately sized and draws from the account are used to cover any deficits associated with units occupied by qualifying households.
  - k. *Tenant Selection*: The written agreement must contain provisions explaining the method of tenant selection to be used in accordance with the requirements of [Section IV.C](#) and [VI.B.20](#) of this Notice. This section must be in sufficient detail to determine which method of tenant selection is being used for the qualifying population (i.e., use of CE, use of CE with other referral methods, or project-specific waiting list), the method of tenant selection for low-income households (See [Section VI.B.20.b](#) and [24 CFR 92.253\(d\)](#)), and any required policies and procedures around the use of a CE or project-specific waiting list. This section must also be in sufficient detail to determine compliance with the PJ's preferences and/or method of prioritization, if any, as well as all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in [24 CFR 5.105\(a\)](#).
2. **TBRA (subrecipient or contractor)**: The requirements at [24 CFR 92.504](#), apply to the use of HOME-ARP funds for TBRA. The written agreement provisions in 24 CFR 92.504 that reference the requirements of [24 CFR 92.350](#), [24 CFR 92.351](#), and [24 CFR 92.359](#) are not waived and still apply for HOME-ARP written agreements. The written agreement must contain the following provisions:
- a. *Use of HOME ARP funds*: At a minimum, the written agreement must describe the amount and use of the HOME-ARP funds, the tasks to be performed, or services to be provided. HOME-ARP funds cannot be provided after the end of the HOME-ARP budget period.
  - b. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements.
  - c. *Duration of agreement and disbursement of funds*: The agreement must specify the duration of the agreement and state that disbursement of funds under the agreement may not be requested until the funds are needed.
  - d. *Compliance with HOME-ARP program requirements*: The written agreement must require compliance with HOME-ARP program requirements for the HOME-ARP TBRA activity as outlined in [Section VI.C](#) of this Notice.



- e. *Rental assistance contract*: There must be a rental assistance contract between the PJ and either the HOME-ARP sponsor, the HOME-ARP TBRA assisted household, or the property owner. The PJ must determine the terms of the rental assistance contract. The rental assistance contract continues until the lease is terminated. If the rental assistance is being provided through a HOME-ARP sponsor, the PJ must determine the term of the rental assistance contract between the PJ and HOME-ARP sponsor.

If HOME-ARP TBRA is provided in coordination with a HOME-ARP sponsor, the PJ must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will be receiving the HOME-ARP TBRA subsidy directly from the PJ. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the TBRA subsidy on behalf of the HOME-ARP TBRA household and the HOME-ARP sponsor's obligation to use the HOME-ARP TBRA payment to pay rent for the unit to the property owner or management agent. If HOME-ARP TBRA is provided in coordination with a HOME-ARP sponsor, the sponsor must enter into a sublease with the HOME-ARP TBRA assisted household that must specify the duration of the sublease, applicable rents, lease requirements and tenant protections, all in accordance with the requirements of this Notice.

- f. *Tenant Selection*: The written agreement must require the owner to comply with the method of tenant selection determined by the PJ and applicable requirements of [Section IV.C](#) and [VI.C.1](#) of this Notice. The written agreement must include a description of the required method of tenant selection for the qualifying populations (i.e., use of CE, use of CE with other referral methods, project-specific waiting list), the method of tenant selection for low-income households (See [Section VI.B.20.b](#) and [24 CFR 92.253\(d\)](#)), and any required policies and procedures around the use of a CE or project-specific waiting list. This section of the written agreement must be in sufficient detail to determine compliance with the PJ's preferences and/or method of prioritization, if any, as well as all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in [24 CFR 5.105\(a\)](#).
3. **Supportive Services (subrecipient or contractor)**: The requirements at [24 CFR 92.504](#), apply to the use of HOME-ARP funds for supportive services. The provisions of the written agreement will depend on the role the entity is asked to assume. At a minimum, the written agreement must contain the following provisions:
- a. *Use of HOME funds*: The written agreement must describe the amount and uses of the HOME-ARP funds, the tasks to be performed, the services to be provided, and include a budget. The written agreement cannot agree to provide HOME-ARP funds after the end of the HOME-ARP budget period.
  - b. *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 PJ in meeting its recordkeeping and reporting requirements as required under [Section VIII.F](#) of this Notice.

- c. *Duration of the agreement and Disbursement of Funds*: The agreement must specify the duration of the agreement, and state that disbursement of funds under the agreement may not be requested until the funds are needed.
  - d. *Compliance with HOME-ARP Program Requirements*: The written agreement must also require compliance with HOME-ARP program requirements for the HOME-ARP supportive services activity as described in [Section VI.D](#) of this Notice.
4. **HOME-ARP Non-Congregate Shelter (owner/developer)**: Written agreements must be executed between the PJ and the owner for all HOME-ARP NCS projects. A legally binding HOME-ARP NCS written agreement must include the date of the signature of each person signing the agreement. PJs are responsible for entering into written agreements before disbursing HOME-ARP funding. Contents of written agreements can vary based on specific needs of the PJ, the owner, and the project. Agreements for the acquisition, development, and rehabilitation of HOME-ARP NCS units must contain the following provisions:
- a. *Use of HOME-ARP funds*: The agreement between the PJ and owner must include the address of the project or legal description of the property if a street address has not been assigned to the property, the use of the HOME-ARP NCS 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 PJ to effectively monitor performance under the agreement to achieve project completion and compliance with HOME-ARP requirements. The written agreement cannot agree to provide HOME-ARP funds after the end of the HOME-ARP budget period.
  - b. *Habitability and Property Standards*: The agreement must require the HOME-ARP NCS project to meet the habitability and property standards as described in [Section VI.E.7](#) of this Notice based on the type of project completed.
  - c. *Project Requirements*: The agreement must require the HOME-ARP NCS project to meet the project requirements as described in this Notice.
  - d. *Other program requirements*: The agreement must require the PJ and owner to carry out the project in compliance with the other Federal requirements of [24 CFR 92 subpart H](#) and [24 CFR 92.505](#).
  - e. *Records and reports*: The agreement must specify the particular records that must be maintained and the information or reports that must be submitted to assist the PJ in meeting its recordkeeping and reporting requirements.
  - f. *Restricted Use Period*: The agreement must require the project to meet the Restricted Use Period as described in [Section VI.E.9](#) of this Notice based on project type.
  - g. *Enforcement of the agreement*: The agreement must provide for a means for the PJ to enforce compliance with HOME-ARP requirements. This means of enforcement may include liens, deed restrictions, covenants running with the land, use restriction, or other

mechanism approved by HUD under which the PJ has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

- h. *Plan of Conversion*: PJs that intend to allow conversion of HOME-ARP NCS projects to other permanent affordable housing as permitted in this Notice must describe conversion as a possible outcome of the HOME-ARP NCS project; specify the conditions under which conversion will be permitted; and require that the PJ approve the terms and conditions of any conversion before the conversion occurs.
- i. *Additional PJ Conditions and Requirements*: PJs may include additional program and project requirements as determined necessary.

5. **Non-Profit Operating and Capacity Building**: The requirements at [24 CFR 92.504\(c\)\(6\)](#), apply to the use of HOME-ARP funds for non-profit operating and capacity building assistance. The written agreement must describe the amounts and uses of HOME-ARP funds for operating expenses or capacity building. If the non-profit organization is not also receiving HOME-ARP funds to carry out a HOME-ARP project, the agreement must provide that the organization is expected to receive funds for a HOME-ARP project within 24 months of the date of receiving the funds for operating or capacity building 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.

When a PJ provides both operating assistance and capacity building assistance to an organization, it must enter into either one written agreement for both types of assistance or separate written agreements for operating expense assistance and capacity building assistance. If a PJ chooses to enter into one written agreement, the PJ must separately identify the scope of assistance, eligible uses and costs, and a budget for each type of funds.

## C. Grants Management

1. **HOME-ARP Grant Agreement**: HUD will make HOME-ARP funds available to the PJ pursuant to a HOME-ARP Grant Agreement, consistent with [Section VIII.C.2](#) below. Subject to the provisions of the grant agreement and requirements in this Notice, HUD will obligate HOME-ARP funds to the PJ upon execution of the agreement by both parties. In the grant agreement, the PJ agrees that funds invested in affordable housing under this Notice are repayable if the housing no longer meets the requirements of this Notice during the compliance period or the NCS no longer meets the requirements of this Notice during the restricted use period. The PJ also agrees to assume all responsibility for environmental review, decision making, and actions, as specified and required in regulation at [24 CFR 92.352](#) and [24 CFR Part 58](#). The PJ agrees to comply with [24 CFR 92.505](#) and applicable Uniform Administrative Requirements at [2 CFR part 200](#), as amended. The PJ agrees to comply with requirements established by the Office of Management and Budget (OMB) concerning the unique entity identifier and System for Award Management (SAM) requirements in [Appendix I](#) to 2 CFR part 200, as amended, and the Federal Funding Accountability and Transparency Act (FFATA) in [Appendix A](#) to 2 CFR part 170. The PJ

agrees to comply with the federal nondiscrimination and equal opportunity requirements at [24 CFR 92.350](#) and affirmative marketing requirements in [24 CFR 92.351](#) and the VAWA requirements set forth in [24 CFR 92.359](#). The HOME-ARP grant is obligated when the HUD Authorized Official signs the memorandum obligating HOME-ARP grants. The HOME-ARP Grant Agreement must be signed by the CPD Field Office Director and counter-signed by the PJ's authorized signatory. Once the CPD division in the local field office receives the fully executed HOME-ARP Grant Agreement, it will send the agreement to HUD's CFO Accounting Office for processing. As described in [Section VIII.C.2](#) of this Notice, funds will become available to the PJ in IDIS once HUD's CFO Accounting Office processes the grant.

2. **Access to Administrative Set-aside Funds:** Upon issuance of this Notice, HUD will obligate all HOME-ARP grants to PJs through the signing of the HOME-ARP obligating memorandum, after which each HOME-ARP Grant Agreement must be signed by both parties. After obligation, HUD will permit the PJ to use 5 percent of its award for eligible administrative and planning costs under [Section VI.A](#) of this Notice. **The PJ may not expend any funds for non-administrative and planning costs before the HOME-ARP allocation plan is accepted by HUD as described in [Section V.D.2 and 3](#) of this Notice.** HUD will make the remaining HOME-ARP grant funds available to the PJ once HUD accepts the HOME-ARP allocation plan. If the PJ does not submit a HOME-ARP allocation plan or if the PJ's plan is not accepted within a reasonable period of time, as determined by HUD, any costs incurred or HOME-ARP funds expended by the PJ will be considered ineligible costs and must be repaid with non-Federal funds in accordance with guidance from HUD.
3. **HOME-ARP Grant Number:** The PJ's HOME-ARP grant number is similar to its HOME grant number with the exception of the source type code. All HOME-ARP grants have the program identifier "M" and the source year of the grant "21." The different source type codes are identified in the table below.

Source Type Description	HOME Source Type Code	HOME-ARP Source Type Code
HOME Consortium	DC	DP
Metropolitan City	MC	MP
State	SG	SP
Insular Area	ST	IP
Urban County	UC	UP

The unique grantee identifier portion of the grant number will be the same for HOME-ARP grants as it is for HOME grants. See examples of HOME-ARP grant numbers with the different source type codes in the table below.

<b>Participating Jurisdiction</b>	<b>HOME Grant Number</b>	<b>HOME-ARP Grant Number</b>
Maryland	M21SG240100	M21SP240100
Baltimore	M21MC240200	M21MP240200

4. **Budget Period:** The budget period for HOME-ARP grants begins on the Federal Award Date, which is the date of the HUD Authorized Official's signature specified on the HOME-ARP Grant Agreement. The budget period for HOME-ARP grants ends on September 30, 2030. The PJ may not expend any HOME-ARP funds after September 30, 2030. After September 30, 2030, any HOME-ARP funds remaining in the PJ's HOME Investment Trust Fund Treasury account will be cancelled and not available for obligation or expenditure for any purpose (per [31 U.S.C. 1552](#)).
5. **Period of Performance:** The period of performance for HOME-ARP grants begins on the Federal Award Date, which is the date of the HUD Authorized Official's signature specified on the HOME-ARP Grant Agreement. The period of performance for HOME-ARP grants ends on September 30, 2030.
6. **Audit:** Audits of the PJ, State recipients, and subrecipients must be conducted in accordance with [2 CFR part 200, subpart F](#).
7. **Closeout:** HOME-ARP funds will be closed out in accordance with [2 CFR part 200, subpart D](#). The PJ will use HUD's data system to closeout HOME-ARP grants once all HOME-ARP funds have been expended, all HOME-ARP activities are completed in accordance with the requirements of this Notice, and the proper beneficiary data has been entered. In order to closeout its HOME-ARP grants, the PJ must not have any open CPD monitoring findings or audits related the HOME-ARP funds. HUD will provide closeout guidance and instructions at a later date.

## **D. Applicability of Uniform Administrative Requirements.**

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

Where regulations in [24 CFR part 92](#) refer to specific regulations of [2 CFR part 200](#) that were or are renumbered or revised by amendments to [2 CFR part 200](#), the requirements that apply to the

use of HOME-ARP funds are the applicable requirements in [2 CFR part 200](#), as amended, notwithstanding the renumbered regulatory reference.

## E. Financial Management

1. **The HOME Investment Trust Fund**: HUD will establish a HOME-ARP Investment Trust Fund Treasury account (Treasury account) for a PJ's HOME-ARP funds. The Treasury account includes all HOME-ARP funds allocated to the PJ by formula and any HOME-ARP funds repaid by the PJ.

The PJ must establish a HOME-ARP Investment Trust Fund local account (local account) as described in [24 CFR 92.500](#). The PJ may use either a separate local account or, a subsidiary account within its general fund (or other appropriate fund) as the local account. The PJ may not use the same local account for HOME-ARP that it uses for its HOME local account. The local account includes deposits of HOME-ARP funds disbursed from the Treasury account. The local account must be interest-bearing.

HUD will reduce or recapture any HOME-ARP funds that are in the Treasury account that are not expended (drawn down) by September 30, 2030. Due to end-of-year financial system closeouts that begin before this date and prevent electronic access to the payment system, requests to draw down the funds must be made at least 7 full business days before this date so that the funds still can be drawn from the Treasury account through IDIS.

2. **Program Income**: Program Income means gross income received by the PJ generated from the use of HOME-ARP funds during the grant period of performance. This includes, but is not limited to, principal and interest payments from a loan made with HOME-ARP funds, or other income or fees received from project owners in connection with HOME-ARP funds, and interest earned by the PJ on program income before its disposition.

Program income earned as a result of the use of HOME-ARP funds is HOME program income and must be used in accordance with the requirements of [24 CFR part 92](#). All program income must be recorded in IDIS. Program income must be deposited in the PJ's HOME-ARP local account (unless the PJ allows a State recipient or subrecipient to retain the program income for additional HOME projects pursuant to such terms and conditions in the written agreement and this Notice). The PJ must enter HOME-ARP program income retained by the State recipient or subrecipient as a HOME program income receipt in IDIS and subgrant the program income to the State recipient or subrecipient that retained the program income. The PJ is responsible to report on the use of its program income in IDIS, including program income it allowed a State recipient or subrecipient to retain.

3. **Repayments**: Any HOME-ARP funds used for costs that are not eligible under this Notice, funds invested in a project that is terminated before completion, either voluntarily or otherwise, or funds invested in HOME-ARP rental housing and NCS that does not meet the requirements in this Notice for the applicable period specified in this Notice must be repaid by the PJ to its Treasury account. If the funds are repaid after September 30, 2030, they will be recaptured by the U.S. Department of Treasury and the PJ will not be able to re-use the



funds for eligible HOME-ARP activities. HOME-ARP funds may not be repaid to the PJ's local account.

4. **Integrated Disbursement and Information System (IDIS)**: The PJ will use IDIS to administer its HOME-ARP funds. The PJ will request disbursements of HOME-ARP funds from its Treasury account and collect and report information on the use of HOME-ARP funds through IDIS. (For purposes of reporting in IDIS, a HOME-ARP project is an activity.) The PJ must report all program income in IDIS.

The requirements of [24 CFR 92.502\(c\)\(3\)](#) do not apply to HOME-ARP funds.

In accordance with this Notice, a HOME-ARP written agreement providing HOME-ARP funds to a project or the CHDO/nonprofit must be signed and dated by:

- a. the PJ and project owner for HOME-ARP rental and HOME-ARP NCS;
- b. the PJ and service provider for HOME-ARP supportive services;
- c. the PJ and landlord, tenant, and/or HOME-ARP sponsor, as applicable, for HOME-ARP TBRA; and,
- d. the PJ and CHDO/nonprofit organization for HOME-ARP Operating Expenses and Capacity Building Assistance.

This must occur before any HOME-ARP funds are disbursed. Federal funds cannot be drawn from the Treasury account in advance of the need to pay an eligible cost. Consequently, HOME-ARP funds cannot be drawn from the U.S. Treasury and placed in escrow or advanced in lump sums to State recipients, subrecipients, project owners, service providers, or landlords or tenants, except funds drawn down for a HOME-ARP rental project for an operating cost assistance reserve or reserve for replacement pursuant to [Section VI.B.5.g.](#) of this Notice or a HOME-ARP NCS project for a replacement reserve pursuant to [Section VI.E.](#)

Once funds are drawn from the PJ's Treasury account, they must be expended for an eligible HOME-ARP cost within 15 days. Any interest earned within the 15-day period may be retained by the PJ as HOME program income and recorded in IDIS as a program income receipt. Any funds that are drawn down and not expended for eligible costs within 15 days of the disbursement must be returned to HUD for deposit in the PJ's Treasury account. Interest earned after 15 days belongs to the United States and must be remitted to the United States as provided in [2 CFR 200.305\(b\)\(9\)](#), except interest amounts up to \$500 per year may be retained for the PJ's administrative expenses.

Additional HOME-ARP funds may be committed to a project up to one year after project completion.



HUD will govern access to IDIS by other entities participating in the HOME program (e.g., State recipients). Only PJs and State recipients (if permitted by the State) may request disbursement.

## **F. Recordkeeping**

Each PJ must establish and maintain sufficient records to enable HUD to determine whether the PJ has met the requirements of this Notice. At a minimum, the following records are needed:

### **1. Program Records:**

- a. Records evidencing that all HOME-ARP funds used by a PJ for TBRA, supportive services, and acquisition and development of non-congregate shelter units benefit individuals and families in qualifying populations.
- b. Records evidencing that not less than 70 percent of affordable rental housing units acquired, rehabilitated, and/or constructed with HOME funds by a PJ are restricted for occupancy by households in the qualifying populations.
- c. Records documenting compliance with the 15 percent limitation on administrative and planning costs.
- d. Records documenting compliance with the 5 percent limitation on CHDO and non-profit operating and capacity building costs.
- e. The underwriting and subsidy layering guidelines adopted in accordance with [Section VI.B.10](#) of this Notice that support the PJ's HOME-ARP allocation plan certification.
- f. If existing debt is refinanced for multifamily rehabilitation projects, the HOME-ARP refinancing guidelines established in the HOME-ARP in the HOME-ARP Allocation Plan.
- g. If HOME-ARP funds are used for TBRA, records supporting the PJ's written selection policies and criteria; supporting documentation for preferences for specific categories of qualifying individuals; and records supporting the rent standard and minimum tenant contribution established in accordance with [Section VI.C.7 and 8](#) of this Notice.
- h. Confidentiality.
  - i. The PJ's written policies and procedures for maintaining confidentiality of qualifying households as individuals or families fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with [Section VIII.H](#).
  - ii. The PJ's written policies and procedures for maintaining confidentiality in compliance with the VAWA protections contained in [24 CFR Part 5, Subpart L](#).

- 2. Project Records:** PJs are required to retain the following records for HOME-ARP-assisted projects, as specified by activity type.
- a. A full description of each project assisted with HOME-ARP funds, including the location (address of project), form of HOME-ARP assistance, and the units, families, or qualifying households assisted with HOME-ARP funds, subject to confidentiality requirements in this Notice.
  - b. 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-ARP-eligible development costs of each HOME-ARP-assisted unit as defined in this Notice.
  - c. Records (i.e., written agreements) demonstrating compliance with the written agreement requirements in [Section VIII.B](#) of this Notice.
  - d. Records (e.g., inspection reports) demonstrating that each HOME-ARP rental project meets the property standards in [Section VI.B.11](#) of this Notice at project completion and through the applicable minimum compliance period. In addition, during a HOME-ARP rental project's minimum compliance period, records demonstrating compliance with the property standards and financial oversight pursuant to [24 CFR 92.504\(d\)](#) and the operating cost assistance reserve management and oversight required by [Section VI.B.23](#) of this Notice.
  - e. Records (e.g., inspection reports) demonstrating that each unit occupied by a qualifying household receiving HOME-ARP TBRA, meets the housing quality standards of [Section VI.C.9](#) of this Notice at initial occupancy and throughout the household's term of assistance.
  - f. Records (e.g., inspection reports) demonstrating that each NCS project meets the property and habitability standards of [Section VI.E.7](#) of this Notice at project completion and throughout the applicable restricted use period.
  - g. Records demonstrating that each qualifying household is eligible for HOME-ARP assistance based on the requirements of the ARP and [Section IV](#) of this Notice.
  - h. Records demonstrating that each household qualifying as homeless, records that meet the requirements in [24 CFR 576.500\(b\)\(1\), \(2\), \(3\), or \(4\)](#), as applicable (except that youth aged 24 and under must not be required to provide third-party documentation to show they are homeless to receive any shelter, housing, or services for which ESG or CoC Program funds may be used to supplement the HOME-ARP assistance).
  - i. Records demonstrating that each household qualifying as "at risk of homelessness," records that meet the requirements in [24 CFR 576.500\(c\)\(1\) or \(2\)](#), as applicable, and include the following documentation of annual income:

- i. Income evaluation form containing the minimum requirements specified by HUD and completed by the recipient or subrecipient; and
  - ii. Source documents for the assets held by the household and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);
  - iii. To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the household received over the most recent period for which representative data is available; or
  - iv. To the extent that source documents and third-party verification are unobtainable, the written certification by the household of the amount of income the household received for the most recent period representative of the income that the household is reasonably expected to receive over the 3-month period following the evaluation.
- j. Records demonstrating compliance with the household income requirements in accordance with [Section VI.B.12](#) of this Notice for each HOME-ARP rental project.
- k. Records demonstrating that each HOME-ARP rental and NCS project meets the minimum compliance period or restricted use period described in [Sections VI.B.18](#) and [VI.E.9](#) respectively, of this Notice.
- l. Records demonstrating that for each HOME-ARP rental housing unit or for each household receiving HOME-ARP TBRA, compliance with the tenant protection requirements of [Sections VI.B.19](#) and [VI.C.2](#), respectively, of this Notice. For HOME-ARP TBRA or rental projects under a master lease, the PJ must retain records demonstrating that a master lease for housing leased by a HOME-ARP sponsor and each sublease between a qualifying household and HOME-ARP sponsor complies with the tenant and participant protections of [24 CFR 92.253](#) and this Notice. Records must be kept for each household.
- m. Records demonstrating compliance with the return of the HOME-ARP rental capitalized operating cost assistance reserve and/or the NCS replacement reserve at the end of the compliance or restricted use period in accordance with [Sections VI.B.24](#) and [VI.E.10](#) respectively, of this Notice.
- n. Records demonstrating that each HOME-ARP rental and each NCS project meets the underwriting and subsidy layering or due diligence requirements of [Section VI.B.10](#) or [VI.E.6](#) of this Notice.
- o. Records demonstrating that each HOME-ARP rental housing project meets the rent limitations of [Sections VI.B.13](#) and [VI.B.15](#) of this Notice for the 15-year minimum compliance period. Records must be kept for each household assisted.

- p. Records demonstrating that each multifamily HOME-ARP rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with [24 CFR 92.206\(b\)](#).
- q. Records demonstrating that a site and neighborhood standards review was conducted for each HOME-ARP rental housing project involving new construction under [Section VI.B](#) of this Notice to determine that the site meets the requirements of [24 CFR 983.57\(e\)\(2\) and \(e\)\(3\)](#), in accordance with [24 CFR 92.202](#).
- r. Records demonstrating that any conversion of HOME-ARP NCS complies with the requirements established by [Section VI.E](#) of this Notice, including that conversion of NCS only occurred after the end of the applicable minimum use period defined in [Section VI.E.11](#).
- s. For all HOME-ARP NCS projects the following documents must be maintained, as applicable:
  - i. Purchase contract, closing documents, settlement statement and title work for acquisitions.
  - ii. Appraisal or other estimation of value to justify acquisition expenditure.
  - iii. Architectural and engineering contracts and completed designs, plans, and specifications for rehabilitation and new construction activities.
  - iv. Invoices, pay requests, and proof of payment for all project expenditures.
  - v. Proof of insurance.
  - vi. Project and program audits.
- t. For all HOME-ARP Supportive Services projects pursuant to McKinney-Vento or Homelessness Prevention Supportive Services:
  - i. Records, where applicable, demonstrating compliance with the termination of assistance requirement as described in [Section VI.D.5](#) of this Notice.
  - ii. Records of all solicitations of and agreements with subrecipients and contractors, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable including any findings and corrective actions required.
  - iii. Records of all procurement contracts and documentation of compliance with the procurement requirements in [2 CFR part 200, subpart D](#), as revised by [Section VIII.D](#) of this Notice.
  - iv. Records evidencing the use of the written procedures required under [Section VI.D.2](#) and records evidencing compliance with [Section IV.C.2](#) of this Notice.

- v. Records of all leases, subleases, and financial assistance agreements for the provision of rental payments, documentation of payments made by the PJ to owners, HOME-ARP sponsor, or qualifying households for the provision of financial assistance for rental payments, and supporting documentation for these payments, including dates of occupancy by qualifying individuals and families.
- vi. Records that document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.
- vii. Records of the types of services provided under the PJ's program and the amounts spent on these services.
- viii. Records demonstrating subrecipient compliance with the recordkeeping requirements in [Section VIII.F](#) of this Notice.
- u. For all HOME-ARP Housing Counseling Services projects as defined in [24 CFR part 5](#), each participating housing counseling agency must maintain a recordkeeping and reporting system in accordance with [24 CFR 214.315](#) and [24 CFR 214.317](#). The system must permit HUD to easily access all information needed for a performance review.
- v. For all HOME-ARP-assisted nonprofit operating expense and capacity building assistance activities:
  - i. Records concerning the use of funds for nonprofit operating expense and capacity building assistance must be maintained to enable HUD to determine whether the PJ has met the requirements of [Section VI.F](#) of this Notice.
  - ii. Written agreements between the PJ and the nonprofit organization providing nonprofit operating expense assistance or capacity building assistance must be retained for five years after the agreement terminates.

### **3. Financial records:**

- a. Records, in accordance with [2 CFR 200.302](#), identifying the source and application of HOME-ARP funds. Identification must include, as applicable, the Assistance Listing program title and number (formerly Catalogue of Federal Domestic Assistance), Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
- b. Records concerning the HOME-ARP Investment Trust Fund Treasury account and local account required to be established and maintained by this Notice, including deposits, disbursements, balances, supporting documentation and any other information required by IDIS.
- c. Records identifying the source and application of program income and repayments.
- d. Records demonstrating adequate budget control and other records required by [2 CFR 200.302](#), including evidence of periodic account reconciliations.

**4. Program administration records:**

- a. Records demonstrating compliance with the written agreements required by [Section VIII.B](#) of this Notice.
- b. Records demonstrating compliance with the applicable uniform administrative requirements required by [Section VIII.D](#) of this Notice.
- c. Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.

**5. Records concerning other Federal requirements:**

- a. Equal opportunity and fair housing records.
  - i. 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-ARP funds.
  - ii. Documentation that the PJ submitted a certification that it will affirmatively further fair housing consistent with HUD's Interim Final Rule entitled Restoring Affirmatively Furthering Fair Housing Definitions and Certifications (86 FR 30779, June 10, 2021) (codified at 24 CFR 5.151 and 5.152;), [available at https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications](https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications).
  - iii. Records demonstrating compliance with the nondiscrimination and equal opportunity requirements of [24 CFR 92, Subpart H](#).
- b. Affirmative marketing and MBE/WBE records.
  - i. Records demonstrating compliance with the affirmative marketing procedures and requirements of [24 CFR 92.351](#) and this Notice.
  - ii. 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-ARP 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.
- c. Records demonstrating compliance with the environmental review requirements of [24 CFR 92.352](#), [24 CFR part 58](#), and this Notice including flood insurance requirements.

- d. Records demonstrating compliance with the requirements of [24 CFR 92.353](#) and the provisions of [Section VII.F](#) of this Notice regarding displacement, relocation, and real property acquisition, including but not limited to:
  - i. project occupancy lists identifying the name and address of all persons occupying the real property on the date described in [24 CFR 92.353\(c\)\(2\)\(i\)\(A\)](#), moving into the property on or after the date described in [24 CFR 92.353\(c\)\(2\)\(i\)\(A\)](#), and occupying the property upon completion of the project;
  - ii. lists of all individuals or families occupying hotels and motels and other nonresidential properties acquired, rehabilitated, and/or demolished and newly constructed to become HOME-ARP NCS or HOME-ARP rental housing that qualify for assistance under this Notice as members of a qualifying population, as well as records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the closure of the nonresidential properties because of HOME-ARP activities
  - iii. lists of all individuals or families occupying HOME-ARP NCS that were converted during the required use period that qualify for assistance under this Notice, as well as records indicating whether moving costs or advisory services were provided as part of HOME-ARP administrative costs or under the HOME-ARP supportive services activity in [Section VI.D](#) of this Notice, and records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the conversion of the HOME-ARP NCS units.
  - iv. Documentation that the PJ has and followed a RARAP in accordance with [24 CFR 92.353](#) and [24 CFR 42.325](#).
- e. Records demonstrating compliance with the labor requirements of [24 CFR 92.354](#), including contract provisions and payroll records.
- f. Records demonstrating compliance with the lead-based paint requirements of [24 CFR part 35](#), subparts A, B, J, K, M and R, as applicable.
- g. Records supporting compliance with conflict of interest requirements in [24 CFR 92.356](#), as revised by [Section VII.H](#) of this Notice, as well as documentation of any exceptions granted by HUD or a state PJ, as applicable, to the conflict of interest provisions in [24 CFR 92.356](#), as revised by [Section VII.H](#) of this Notice.
- h. Records demonstrating compliance with debarment and suspension requirements in [2 CFR part 2424](#).
- i. Records concerning intergovernmental review, as required by [24 CFR 92.357](#).
- j. Records of emergency transfers requested under [24 CFR 5.2005\(e\)](#) and [24 CFR 92.359](#) pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of those requests.



- k. 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).
6. **State Recipients and Subrecipients:** A PJ that distributes HOME-ARP funds to State recipients or subrecipients must require the State recipients or subrecipients to keep the records required by paragraphs 1. program records, 2. project records, 3. financial records, 4. program administration records, and 5. records concerning other federal requirements of [Section VIII.F](#) of this Notice, and such other records as the PJ determines to be necessary to enable the PJ to carry out its responsibilities under this Notice. The PJ need not duplicate the records kept by the State recipients or subrecipients. The PJ must keep records concerning its annual review of the performance and compliance of each State recipient and subrecipient as required under [24 CFR 92.504\(a\)](#).
7. **Period of record retention:** All records pertaining to HOME-ARP funds must be retained for five years, except as provided below.
- a. For HOME-ARP 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.
  - b. For HOME-ARP TBRA projects, records must be retained for five years after the period of rental assistance terminates.
  - c. Written agreements must be retained for five years after the agreement terminates.
  - d. Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with [24 CFR 92.353](#).
  - e. 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.
8. **Access to records:** The PJ must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws and any other applicable grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

The PJ, subrecipient, contractor, or owner may create a program participant identifier code or number that can be used on a file and maintained internally, in such a way that the number itself does not inadvertently identify the program participant, (i.e., no use of initials, date of birth, or other pieces of information that might suggest the identity of the program participant). The “key” or “cypher” for the program participant identifier code would itself be confidential and would not leave the provider. In the circumstance of HUD programs, the

Unique Personal Identification Number which is generated within the comparable database could be used with auditors to identify records of services to distinct individuals, subject to the below requirement.

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 PJ, state recipients, and subrecipients, in order to make audits, examinations, excerpts, and transcripts. If a provider of services or operator of an NCS is subject to state or local laws or other federal grant programs that require that HUD not be given access to records detailing PII of victims, then auditors or evaluators may be given access to representative files without any sharing of individual identifying information.

## **G. Reporting and Performance Reports.**

The PJ must submit reports in a format and at such time as prescribed by HUD. In addition, HUD and Office of the Inspector General (OIG) staff must be given access, upon reasonable notice, to all information related to the selection, award, and use of HOME-ARP funds.

Each PJ must enter the required HOME-ARP data elements timely in IDIS.

1. For HOME-ARP rental activities under [Section VI.B](#) of this Notice, the PJ must enter complete project completion information when it completes the activity in IDIS, except the assisted units can be marked vacant until they are occupied by eligible households.
2. For HOME-ARP NCS activities under [Section VI.E](#) of this Notice, the PJ must enter complete project completion information when it completes the activity in IDIS. In addition, the PJ must report the disposition of any HOME-ARP-assisted NCS activity that is converted to another eligible use at the time of conversion.
3. For HOME-ARP TBRA activities under [Section VI.C](#) of this Notice, the PJ must report beneficiary information in IDIS at the time assistance is provided.
4. For HOME-ARP Supportive Services activities under [Section VI.D](#) of this Notice, the PJ must report in IDIS quarterly, by the 30<sup>th</sup> day after the end of each calendar quarter, on the number of homeless and not homeless households assisted with supportive services and housing counseling, including the race and ethnicity, household size, and household type of the households assisted.

HUD will issue guidance about reporting on HOME-ARP activities in the PJ's consolidated annual performance and evaluation report (CAPER) required under [24 CFR 91.520](#), at a later date.

## **H. Confidentiality Requirements**

1. All entities assisted by HOME-ARP funds must develop, implement, and maintain written procedures to require that –

- a. All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential;
  - b. The address or location of any NCS or HOME-ARP rental housing exclusively for individuals fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as necessary where making the address or location public does not identify occupancy of the NCS or HOME-ARP rental housing, when necessary to record use restrictions or restrictive covenants in accordance with [Section VI.B](#) or [VI.E](#), or with written authorization of the person or entity responsible for the operation of the NCS or HOME-ARP rental housing; and
  - c. The address or location of any program participant that is a fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as provided under a privacy policy of the PJ consistent with state and local laws and any other grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.
2. Documenting status of a qualifying population that is fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault, or human trafficking:
- a. If an individual or family qualifies because the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking then acceptable evidence includes an oral or written statement by the qualifying individual or head of household seeking assistance that they are fleeing that situation. An oral statement may be documented by either –
    - i. a written certification by the individual or head of household; or
    - ii. a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance.

The written documentation need only include the minimum amount of information indicating that the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking and need not include any additional details about the conditions that prompted the individual or family to seek assistance.

## **IX. PERFORMANCE REVIEWS**

HUD will review the performance of each PJ in carrying out its responsibilities for the use of HOME-ARP funds and its compliance with the requirements of this Notice. Such reviews may take the form of remote or on-site monitoring, review of IDIS data or reports, assessment of documents requested from the PJ, subrecipient, or other entity carrying out HOME-ARP activities, and inquiries resulting from external audit reports, media reports, citizen complaints,

or other sources of relevant information. HUD may also review a PJ's timely use of HOME-ARP funds for eligible activities, including the progress of expenditures for individual projects or activities, the requirement to place a project in service in accordance with requirements in this Notice, and compliance of HOME-ARP rental housing and NCS with the 4-year deadline for completing projects.

If HUD preliminarily determines that a PJ has not met a requirement of this Notice or an applicable requirement of the HOME regulations at [24 CFR Part 92](#), HUD will communicate its determination in writing and provide the PJ with the opportunity to demonstrate, based on substantial facts, documentation, and data, that it has done so. HUD may extend any time period it provided to the PJ to demonstrate its compliance if upon request of the PJ, HUD determines that it is infeasible for the PJ to provide a full response within the prescribed period.

If the PJ fails to demonstrate to HUD's satisfaction that it has met the requirement, HUD will take corrective or remedial action in accordance with this section or [24 CFR 92.552](#).

## **A. Corrective and Remedial Actions**

Corrective or remedial actions for a performance deficiency (e.g., failure to meet a provision of this Notice or an applicable provision of [24 CFR Part 92](#)) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence. HUD may impose corrective or remedial actions including but not limited to the following:

1. HUD may instruct the PJ to submit and comply with proposals for action to correct, mitigate and prevent a performance deficiency, including:
  - a. Preparing and following a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;
  - b. Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;
  - c. Canceling or revising activities likely to be affected by the performance deficiency, before expending HOME-ARP funds for the activities;
  - d. Reprogramming HOME-ARP funds that have not yet been expended from affected activities to other eligible activities;
  - e. Reimbursing its HOME-ARP grant in any amount not used in accordance with the requirements of this Notice;
  - f. Suspending disbursement of HOME-ARP funds for affected activities; and
  - g. Establishing procedures to ensure compliance with HOME-ARP requirements.

2. HUD may also:

- a. Change the method of payment from an advance to a reimbursement basis and may require supporting documentation to be submitted for HUD review for each payment request before payment is made;
- b. Determine the PJ to be high risk and impose special conditions or restrictions on the use of HOME-ARP funds in accordance with [2 CFR 200.208](#); and
- c. Take other remedies that may be legally available, including remedies under [2 CFR 200.339](#) and [200.340](#).

## **B. Sanctions**

The requirements at [24 CFR 92.552](#) apply to HOME-ARP funds, except that the provision at [24 CFR 92.552\(a\)\(2\)\(iv\)](#) related to failure to comply with matching contribution requirements shall not apply.

## **X. FINDING OF NO SIGNIFICANT IMPACT**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at [24 CFR part 50](#), which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funding Opportunities web page at: [https://www.hud.gov/program\\_offices/spm/gmomgmt/grantsinfo/fundingopps](https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps).

**Exhibit B - Waiver and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program**



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
WASHINGTON, DC 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR  
COMMUNITY PLANNING AND DEVELOPMENT

**MEMORANDUM FOR:** All Community Planning and Development Directors

**FROM:** James Arthur Jemison, II, Principal Deputy Assistant Secretary, D

**SUBJECT:** Waivers and Alternative Requirements For Implementation  
of the HOME American Rescue Plan (HOME-ARP) Program

**JAMES  
JEMISON**  
ON

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## **I. SUMMARY**

Section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) (“**ARP**”) authorizes the Secretary of HUD to waive or specify alternative requirements for any provision of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) (“**NAHA**”) or regulation for the administration of \$5 billion in funds appropriated to the HOME Investment Partnerships Program (“**HOME-ARP**”), other than requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of HOME-ARP funds.

Title II of NAHA is the authorizing statute for the HOME Investment Partnerships Program (HOME) and applicable HOME regulations are at 24 CFR part 92. Consolidated plan requirements for the use of HOME funds are in title I of NAHA with applicable regulations in 24 CFR part 91.

This Appendix describes waivers and alternative requirements, consistent with ARP, imposed on all HOME-ARP awards by the CPD Notice entitled “Requirement for the Use of Funds in the HOME-American Rescue Plan Program”, (the “**HOME-ARP Notice**”). The Secretary has determined that each waiver and alternative requirement described in this HOME-ARP Notice is necessary to expedite or facilitate the use of HOME-ARP funds. A participating jurisdiction may request additional waivers and alternative requirements from HUD to address specific needs related to its use of HOME-ARP funds. References to “HOME-ARP Notice” in this Appendix mean all sections of the HOME-ARP Notice and this Appendix.

Pursuant to the Secretary’s HOME-ARP statutory authority, the Secretary is waiving the following provisions of NAHA and HOME regulations and imposing the alternative requirements as described below.

## **II. OVERALL REQUIREMENTS**

- A. Compliance with HOME-ARP Notice.** The requirements in 24 CFR part 92, as revised by this Appendix apply to HOME-ARP. All references to compliance with requirements of or in “this part” in 24 CFR part 92 shall mean compliance with the



requirements in “24 CFR part 92, as revised by this Appendix to the HOME-ARP Notice,” unless specifically stated otherwise in this Appendix.

- B. Substitution of “HOME-ARP” for “HOME.”** All references to “HOME” throughout 24 CFR part 92 shall mean “HOME-ARP” for the use of HOME-ARP funds unless otherwise stated in the HOME-ARP Notice.
- C. Use of “the Act” and “title II of NAHA.”** The definition of “Act” is not revised, however “title II of NAHA” and “Act” are used interchangeably throughout this Appendix and 24 CFR part 92 and means the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 *et seq.*
- D. Substitution of “nonprofit organization” for “community housing development organization.”** All references to “community housing development organization” or “CHDO” in 24 CFR part 92, except the definition of CHDO in 24 CFR 92.2, are waived and revised to “nonprofit organization.”
- E. Matching Contribution Requirements.** The requirements of 24 CFR 92.218 through 24 CFR 92.222 and any other requirements for matching contributions in 24 CFR part 92 shall not apply to HOME-ARP funds, as subsection (c)(1) of ARP states that the underlying statutory requirement at section 220 of NAHA (42 U.S.C. 12750) does not apply to HOME-ARP funds.
- F. Set-aside for Community Housing Development Organizations (CHDOs).** The requirements of 24 CFR 92.300, 92.301, 92.302, 92.303, 92.452, 92.504(c)(3)(x), and 92.504(c)(7) and any other requirements for amounts set-aside for CHDOs shall not apply to HOME-ARP funds as subsection (c)(1) of ARP states that the underlying statutory requirements at section 231 of NAHA (42 U.S.C. 12771) do not apply to HOME-ARP funds. In addition, the statutory requirements in sections 232, 233, and 234 of NAHA (42 U.S.C. 12772, 12773, and 12774(a)) for the use of set-aside funds for CHDOs are waived.
- G. Expiration of right to draw funds.** The requirements of 24 CFR 92.500(d) and any other requirements for the 24-month deadline for the commitment of funds shall not apply to HOME-ARP funds as subsection (c)(1) of ARP states that the underlying statutory requirement at section 218(g) of NAHA (42 U.S.C. 12748) does not apply to HOME-ARP funds.
- H. Homebuyer activities/Existing homeowner requirements.** All statutory requirements for homebuyer or existing homeowner activities in NAHA are waived for the use of HOME-ARP funds because homebuyer/existing homeowner assistance is not an eligible activity under HOME-ARP. Specifically, HUD waives the requirements in sections 212(a)(1), 215(b), 254 of NAHA (42 U.S.C. 12742(a)(1), 12745, 12804) for homeownership, homebuyer, and owner-occupied activities, including the development of affordable housing for homeownership and homeowner rehabilitation. Requirements in 24 CFR 92.205, 24 CFR 92.206, 24 CFR 92.207, 24 CFR 92.217, 24 CFR 92.251(c)(3), 24 CFR 92.254, 24 CFR 92.255, 24 CFR 92.258, and 92.504(c)(3)(ii)(B) applicable to homeownership activities shall not apply and are waived.

**I. Other Support for State and Local Housing Strategies and Specified Model**

**Program.** The statutory requirements in section 213 (42 U.S.C. 12743), sections 241 to 245 of NAHA (42 U.S.C. U.S.C. 12781-12785), and sections 251 to 260 (42 U.S.C. 12801-12810) do not apply to HOME-ARP and are waived.

**J. References to the Appendix:** All references to “Appendix” shall mean “the Appendix of the HOME-ARP Notice, which may be amended from time to time by HUD” and is made part of the HOME-ARP Notice.”

**III. WAIVERS AND ALTERNATIVE REQUIREMENTS****A. SUBPART A - GENERAL**

The definitions in 24 CFR 92.2 apply to the use of HOME-ARP funds except that HUD waives 24 CFR 92.2 and imposes the following revised definitions as alternative requirements:

**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), as revised by this Appendix, and the HOME-ARP Notice. 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-ARP 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-ARP funds to produce affordable housing, acquire and develop non-congregate shelter, provide tenant-based rental assistance, or provide supportive services;
- (ii) With a nonprofit organization carrying out HOME-ARP activities to provide funds for operating expenses, in accordance with the HOME-ARP Notice;
- (iii) To develop the capacity of nonprofit organizations in the jurisdiction carrying out HOME-ARP activities, in accordance with the HOME-ARP Notice; or
- (iv) To commit to a specific local project, as defined in paragraph (2) of this definition and HOME-ARP Notice.

(2) *Commit to a specific local project* means:

- (i) *Rental Housing.* (A) 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-ARP 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.

(B) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is acquiring the property with HOME-ARP 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.

(C) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is providing HOME-ARP funds to a purchaser to acquire rental housing, the participating jurisdiction (or State recipient or subrecipient) and the purchaser have executed a written agreement under which HOME-ARP assistance will be provided for the purchase of rental housing and the property title will be transferred to the purchaser within six months of the agreement date.

(ii) *Non-Congregate Shelter.* (A) 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-ARP assistance will be provided to the owner for an identifiable project for which development is reasonably expected to begin within 12 months of the date of commitment.

(B) If the project consists of acquisition (without rehabilitation or new construction) of a property and the participating jurisdiction (or State recipient or subrecipient) is either acquiring the property with HOME-ARP funds or providing HOME-ARP funds to a purchaser to acquire the property for use as a non-congregate shelter that is reasonably expected to operate within six months of the date the commitment, the participating jurisdiction (or State recipient or subrecipient) and the property owner or purchaser have executed a legally binding contract for sale of an identifiable property and the property title will be transferred from the property owner to the participating jurisdiction (or State recipient or subrecipient) or purchaser.

(iii) *Tenant-based rental assistance.* 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, the tenant, or the sponsor of the qualifying household in accordance with the provisions of the HOME-ARP Notice.

(iv) *Supportive Services.* If the project consists of providing supportive services, the participating jurisdiction (or State recipient, or subrecipient) has entered into a legally binding written agreement or contract with the contractor or subrecipient providing services to qualifying households in accordance with the HOME-ARP Notice.

**HOME-ARP funds** mean funds made available under Section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) through allocations.

**Housing** includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing does not include emergency shelters, congregate or non-congregate 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).

**Program income.** Program income means gross income received by the participating jurisdiction, State recipient, or a subrecipient directly generated from the use of HOME-ARP funds. When program income is generated by housing or shelter that is only partially assisted with HOME-ARP funds, the income shall be prorated to reflect the percentage of HOME-ARP 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-ARP funds;
- (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-ARP funds, 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-ARP funds;
- (4) Proceeds from the sale of loans made with HOME-ARP funds;
- (5) Proceeds from the sale of obligations secured by loans made with HOME-ARP funds;
- (6) Interest earned on program income pending its disposition;
- (7) Any other interest or return on the investment of HOME-ARP funds permitted under §92.205(b) or the HOME-ARP Notice; and,
- (8) Any operating cost assistance or replacement reserve funds returned to the participating jurisdiction after the required compliance or use period, in accordance with the HOME-ARP Notice.

**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-ARP funds as a single undertaking under 24 CFR part 92 and the HOME-ARP Notice. The project includes all the activities associated with the site and building.

For HOME-ARP tenant-based rental assistance or supportive services, project means assistance to a qualifying individual or family.

**Project completion** means that all necessary title transfer requirements and construction work, if applicable, have been performed; the project complies with the requirements of the HOME-ARP Notice and applicable requirements of this part, as revised by this Appendix, (including the property standards); 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), project completion occurs upon completion of construction and before occupancy.

For HOME-ARP tenant-based rental assistance or supportive services, project completion means the final drawdown has been disbursed for the project.

**Subrecipient** means a public agency or nonprofit organization selected by the participating jurisdiction to receive HOME-ARP funds to administer all or some of the participating jurisdiction's HOME-ARP programs. A public agency or nonprofit organization that receives HOME-ARP funds solely as a developer or owner of a housing project or non-congregate shelter is not a subrecipient. The participating jurisdiction's selection of a subrecipient is not subject to the procurement procedures and requirements.

All other definitions in 92.2 applicable to HOME-ARP remain unchanged.

## **B. SUBPART B - ALLOCATION FORMULA**

1. **Formula Allocation.** ARP required the Secretary to allocate HOME-ARP funds pursuant to section 217 of NAHA (42 U.S.C. 12747) to grantees that received allocations in fiscal year (FY) 2021 pursuant to that same formula, within 30 days of enactment of ARP. Therefore, section 216(1) (42 U.S.C. 12746(1)) which requires the allocation of funds provided under title II of NAHA in 20 days from the date of enactment of the appropriation and sections 216(10) (42 U.S.C. 12746(10)) and 217(a)(4) (42 U.S.C. 12747(a)(4)) which provide for a threshold reduction do not apply. The requirements in 24 CFR 92.50 and 92.60 apply only to the extent that they do not conflict with this ARP statutory requirement. All regulatory requirements related to the participation threshold amount do not apply to HOME-ARP.

### **INSULAR AREAS**

2. **Program description.** The requirements in 24 CFR 92.61 are waived to the extent they apply to HOME-ARP funds and HUD imposes the alternative requirement that insular areas must comply with the requirements for participating

jurisdictions for the HOME-ARP allocation plan in the HOME-ARP Notice, unless stated otherwise in the HOME-ARP Notice.

3. **Review of program description and certifications.** The requirements for the HOME-ARP allocation plan for participating jurisdictions in the HOME-ARP Notice apply to insular areas, therefore 24 CFR 92.62 is waived to the extent that it conflicts with the following alternative requirements:

(a) Review of HOME-ARP allocation plan. The responsible HUD Field Office will review an insular area's HOME-ARP allocation plan and will approve the plan unless the insular area has submitted a substantially incomplete HOME-ARP allocation plan; has submitted a HOME-ARP allocation plan that is inconsistent with the purposes of ARP; has failed to submit information sufficient to allow HUD to make the necessary determinations that the HOME-ARP allocation plan complies with the requirements in the HOME-ARP Notice; or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs.

An insular area's allocation plan is inconsistent with ARP if it allocates HOME-ARP funds for uses other than a HOME-ARP eligible activity, as described in the HOME-ARP Notice. An insular area's HOME-ARP allocation plan is substantially incomplete if the insular area does not complete the required public participation or consultation or fails to describe those efforts in the plan; if the insular area fails to include the required elements outlined in the HOME-ARP Notice, including the amount of HOME-ARP funds for each eligible HOME-ARP activity type; the insular area fails to identify and describe the responsibilities of the subrecipient or contractor administering all of its HOME-ARP award, if applicable; or HUD rejects the insular area's certifications as inaccurate.

If the insular area has not submitted information in its HOME-ARP allocation plan that is satisfactory to HUD to demonstrate compliance with HOME-ARP allocation plan requirements; or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, the insular area may be required to furnish such further information or assurances as HUD may consider necessary to find the HOME-ARP allocation plan and certifications satisfactory. The HUD Field Office shall work with the insular area to achieve a complete and satisfactory plan.

(b) Review period. Within thirty days of receipt of the HOME-ARP allocation plan, the HUD Field Office will notify the insular area if determinations cannot be made based on the information submitted that the HOME-ARP allocation plan complies with HOME-ARP allocation plan requirements, or if the proposed projects or activities are beyond currently demonstrated capability as demonstrated by past performance in housing and community development programs. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information or to revise the proposed projects or activities in its HOME-ARP allocation plan.

(c) HOME Investment Partnership Agreement. Upon issuance of the HOME-ARP Notice, HUD will obligate all HOME-ARP grants to insular areas through the signing of the HOME-ARP Grant Agreements by both parties. After obligation, HUD will permit the insular area to use 5 percent of its award for eligible administrative and planning costs in accordance with the HOME-ARP Notice. After submission and acceptance of the insular area's HOME-ARP allocation plan, the remainder of the HOME-ARP funds will be made available to the insular area for expenditure.

**4. Amendments to program description.** HUD waives 24 CFR 92.63 and imposes the following alternative requirement for insular areas:

Insular areas must make a substantial amendment to its HOME-ARP allocation plan for a change in the method of distributing funds; to carry out an activity not previously described in the plan; to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan; a change in the guidelines that apply to HOME-ARP funds for other forms of investment (24 CFR 92.61(b)(6)), minority and women business outreach program (24 CFR 92.61(b)(7)), or refinancing (24 CFR 92.61(b)(8)); or a change in the tenure type of the project or activities; or a funding increase to a project or activity of \$100,000 or 50% (whichever is greater). Participating jurisdictions must make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission. Upon completion, participating jurisdictions must submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan as described in Section V.D.

The HUD Field Office will notify the insular area if its HOME-ARP allocation plan, as amended, does not permit a determination that the HOME-ARP allocation plan complies with the requirements in the HOME-ARP Notice, or if the level of proposed projects or eligible



activities is not within the management capability demonstrated by past performance in housing and community development programs, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information to revise the proposed projects or activities in its HOME-ARP allocation plan.

**5. Applicability of HOME-ARP requirements to insular areas.** The requirements in 24 CFR 92.64 are revised to impose the alternative requirement that insular areas are subject to the same HOME-ARP requirements in the HOME-ARP Notice as participating jurisdictions, and applicable regulatory requirements for insular areas that are not revised by the HOME-ARP Notice. The following exceptions in 24 CFR 92.64, as revised, still apply to insular areas.

- (1) Subpart K (Program Administration): References to HOME Investment Trust Fund in 24 CFR 92.500(b), as revised by the HOME-ARP Notice shall be "HOME account" for insular areas. The requirements in 24 CFR 92.502(c) *Local Account* do not apply to insular areas, and instead insular areas must comply with Treasury Circular No. 1075 (31 CFR part 205) and 2 CFR 200.305.
- (2) Section 92.504 (Participating jurisdiction responsibilities; written agreements; on-site inspections) applies, except that the written agreement must require compliance with the requirements in the HOME-ARP Notice, including the Appendix.
- (3) Subpart L (Performance Reviews and Sanctions). Section 92.552 does not apply. Instead, 24 CFR 92.65 applies.

Exceptions in 92.64(a)(1), (4), and (5) do not apply to HOME-ARP for insular areas and are waived. The requirements in 24 CFR 92.64(b), (c), and (d) for insular areas are not revised.

**6. Reallocation.** Section 217 of NAHA (42 U.S.C. 12747(d)) and the regulation at 24 CFR 92.66 for the reallocation of funds for insular areas are waived so that any HOME-ARP funds which are reduced or recaptured from an insular area's allocation will be reallocated by HUD in accordance with 24 CFR part 92, subpart J, as revised by this Appendix.

## **C. SUBPART C - CONSORTIA; DESIGNATION AND REVOCATION OF DESIGNATION AS A PARTICIPATING JURISDICTION**

**1. Continuous designation as a participating jurisdiction.** 24 CFR 92.106 is waived and revised to the alternative requirement that once a State or unit of general local government is designated a participating jurisdiction for HOME-ARP, it must remain a HOME-ARP participating jurisdiction for its HOME-ARP period of performance and the requirements of 24 CFR 92.102 through 92.105 do not apply, unless HUD

revokes the designation in accordance with 24 CFR 92.107, as revised by this Appendix. Once allocated HOME-ARP funds, a HOME-ARP participating jurisdiction does not have to be a participating jurisdiction under the HOME program to remain a participating jurisdiction under the HOME-ARP program.

2. **Revocation of designation as a participating jurisdiction.** The requirements in 24 CFR 92.107(a) apply to HOME-ARP. The requirements in 92.107(b) and (c) are waived. Reallocation requirements in 92.107(c) are replaced with the alternative requirements for 24 CFR part 92, Subpart J, as revised by this Appendix.

#### **D. SUBPART D - SUBMISSION REQUIREMENTS**

1. **Submission requirements.** HUD waives requirements associated with a comprehensive housing affordability strategy in sections 105 (42 U.S.C. 12705), 106 (42 U.S.C. 12706), 107 (42 U.S.C. 12707), and 216 (42 U.S.C. 12746) of NAHA and 24 CFR 92.150 and imposes the following alternative requirement:

After the date of the HOME-ARP Notice, the participating jurisdiction may execute the HOME-ARP grant agreement with HUD to obligate the participating jurisdiction's HOME-ARP allocation. After obligation and prior to acceptance of a participating jurisdiction's HOME-ARP allocation plan by HUD, the participation jurisdiction may incur eligible administrative and planning costs in accordance with 24 CFR 92.207, as revised by this Appendix and may expend up to 5 percent of its HOME-ARP funds for eligible administrative and planning costs.

The participating jurisdiction must submit a HOME-ARP allocation plan and related documents in accordance with the HOME-ARP Notice, including the requirements for the content of the HOME-ARP allocation plan, the process of developing and submitting the plan, certifications, consultation, public participation, HUD review, identification of subrecipient or contractor administering all of a participating jurisdiction's HOME-ARP award and its responsibilities, if applicable, and amendments. After a participating jurisdiction's HOME-ARP allocation plan has been accepted by HUD, in accordance with the HOME-ARP Notice, a participating jurisdiction may use its HOME-ARP funds on all eligible costs, including eligible project costs.

If the participating jurisdiction does not submit a HOME-ARP allocation plan or if the participating jurisdiction's plan is not accepted within a reasonable period of time, as determined by HUD, all HOME-ARP costs incurred by the participating jurisdiction (or its subrecipient or contractor) will be ineligible costs and any HOME-ARP funds expended by the participating jurisdiction must be repaid to the HOME Investment Trust Fund Treasury account, in accordance with guidance from HUD.

#### **E. SUBPART E - PROGRAM REQUIREMENTS**

- 1. Distribution of assistance.** The requirements in section 222 of NAHA (42 U.S.C. 12752) and 24 CFR 92.201 are waived to the extent necessary to impose the following alternative requirements:
- a. Local.* Each participating jurisdiction must, insofar as is feasible, distribute HOME-ARP funds geographically within its boundaries and among different categories of need of qualifying populations, according to the priorities identified in its approved HOME-ARP allocation plan. The participating jurisdiction may only invest its HOME-ARP funds in eligible projects within its boundaries, or in jointly funded projects within the boundaries of contiguous local jurisdictions which serve qualifying populations in both jurisdictions. For a HOME-ARP rental or non-congregate shelter project to be jointly funded, both jurisdictions must make a financial contribution to the project.
  - b. State.* Each State participating jurisdiction is responsible for distributing HOME-ARP funds throughout the State according to the State's assessment of the geographical distribution of the needs of the qualifying populations within the State, as identified in the State's approved HOME-ARP allocation plan. The State must distribute HOME-ARP funds to rural areas in amounts that take into account the non-metropolitan share of the State's total qualifying populations and objective measures of rural need, such as poverty and homelessness data, as set forth in the State's approved HOME-ARP allocation plan. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need. A State that uses State recipients to perform program functions shall require that the State recipients use HOME-ARP funds in accordance with the HOME-ARP Notice and other applicable laws. A State may fund projects on Indian reservations located within the State provided that the State includes Indian reservations in its consolidated plan and HOME-ARP allocation plan.

### **ELIGIBLE AND PROHIBITED ACTIVITIES**

- 2. New Eligible Activities.** In addition to the activities contained in 24 CFR 92.205 and the NAHA, subsection (a)(1) of ARP has defined the following new eligible activities:
- (1) Supportive services to qualifying households that are not already receiving supportive services, including supportive services activities listed in section 401(29) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(29)); housing counseling; and homeless prevention services; and
  - (2) The acquisition and development of non-congregate shelter units.

For purposes of implementing the new eligible activities under ARP, HUD has determined that the new eligible activities are not subject to the requirements in

section 212 of NAHA (42 U.S.C. 12742) and imposes the requirements for the new eligible activities in the HOME-ARP Notice. As such, the waivers and alternative requirements in this Appendix shall not apply to the above-activities unless specified in the HOME-ARP Notice.

3. **Eligible activities.** HUD is providing a waiver of the requirements of section 212(a)(1) and (3) of NAHA (42 U.S.C. 12742(a)(1) and (3)), section 215(b) of NAHA (42 U.S.C. 12745), 24 CFR 92.205(a)(1)-(4), (b)-(e), and 24 CFR 92.209 as follows:
  - (1) *Ineligible activities.* Homeownership and owner-occupied activities, including assistance to homebuyers, development of affordable housing for homeownership, and homeowner rehabilitation, shall not be eligible activities in which HOME-ARP funds may be invested.
  - (2) *Costs associated with eligible activities.* HUD is waiving and imposing an alternative requirement to 24 CFR 92.205(a)(1) because the regulation specifies that eligible costs are those set forth in 24 CFR 92.206 through 24 CFR 92.209. The alternative requirement is that eligible costs shall be those costs set forth in 24 CFR 92.206 through 24 CFR 92.209, as modified by the waivers and alternative requirements in this Appendix.
  - (3) *Applicability of forms of assistance, minimum amount of assistance, multi-unit projects, and related limited waivers.* As homeownership activities are not eligible activities for HOME-ARP funds, 24 CFR 92.205(b)-(d) are waived to the extent that they applied to assisting homebuyers, homeowners, or the development of housing for homeownership purposes.
  - (4) *Waiver and alternative requirement of regulations for terminated projects.* As participating jurisdictions are required to have a HOME-ARP Investment Trust Fund Treasury account instead of the local HOME Investment Trust Fund, HUD is providing a limited waiver and alternative requirement of the requirements of 24 CFR 92.205(e) to the extent that 24 CFR 92.252(e) specifies that funds must be paid into the participating jurisdiction's HOME Investment Trust Fund. HOME-ARP funds repaid pursuant to 24 CFR 92.252(e) and the HOME-ARP Notice shall be repaid to the participating jurisdiction's HOME-ARP Investment Trust Fund Treasury account.
4. **Eligible project costs.** HUD waives 24 CFR 92.206 to the extent that it conflicts with the eligible costs for eligible activities identified in the HOME-ARP Notice. In addition, HUD waives 24 CFR 92.206(d)(5) and imposes the following alternative requirement:

For new construction or rehabilitation of HOME-ARP rental housing for qualifying populations, the cost of funding operating cost assistance during the

project's compliance period or a capitalized operating cost assistance reserve in accordance with requirements in section VI.B of the HOME-ARP Notice is an eligible cost.

For new construction or rehabilitation of HOME-ARP rental housing units for low-income households, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up for HOME-ARP units for low-income households (not to exceed 12 months), is an eligible cost. An initial operating deficit reserve may only be used to pay the share of operating expenses, scheduled payments to a replacement reserve, and debt service of the HOME-ARP rental housing units for low-income households. The initial operating deficit reserve must be included in the project's underwriting and the participating jurisdiction must review and approve the initial operating deficit reserve amount in accordance with the participating jurisdiction's standardized underwriting guidelines. The initial operating deficit reserve must be based on a participating jurisdiction's analysis of projected operating deficits attributable to the HOME-ARP units for low-income households during the period of project rent-up (not to exceed 12 months) and remaining after expected rental revenue and operating expenses are calculated according to the projected lease-up schedule. Any HOME-ARP funds placed in an initial operating deficit reserve that remain unexpended after the period of project rent-up may be retained for reserves for replacement for HOME-ARP units if permitted by the participating jurisdiction.

HUD also waives 92.206(d)(6) to impose the following alternative requirement:

Staff and overhead costs of the participating jurisdiction are those costs directly related to carrying out the project or activity, such as work specifications preparation, loan processing inspections, and other services related to assisting tenants and occupants. Although these project delivery costs may be charged as project costs, these costs cannot be charged to or paid by qualifying households or low-income families.

- 5. Eligible administrative and planning costs.** Subsection (a)(2) of ARP provides that notwithstanding sections 212(c) and (d)(1) of NAHA (42 U.S.C. 12742(c) and (d)(1)), a participating jurisdiction or insular area may use up to fifteen percent of its HOME-ARP allocation for payment of administrative and planning costs of the HOME-ARP program. Therefore, HUD waives sections 212(c) and (d)(1) of NAHA (42 U.S.C. 12742(c) and (d)(1)) and the requirements in 24 CFR 92.207 to the extent it conflicts with the following alternative requirement:

A participating jurisdiction may incur and expend up to fifteen percent of its HOME-ARP allocation for eligible administrative and planning costs. From the obligation date of the participating jurisdiction's HOME-ARP award, as identified in the HOME-ARP Grant Agreement, until the date of HUD's acceptance of the

participating jurisdiction's HOME-ARP allocation plan, a participating jurisdiction may incur and expend up to five percent of its HOME-ARP allocation for eligible administrative and planning costs, in accordance with the requirements in the HOME-ARP Notice.

HOME-ARP funds for may not be used to pay costs attributable to the regular HOME Program, including administrative and planning costs..

A participating jurisdiction may provide all or a portion of its HOME-ARP administrative and planning funds to subrecipients and contractors that are administering activities on behalf of the participating jurisdiction (e.g., CoC entity, other non-Federal entity), in accordance with the requirements in the HOME-ARP Notice. However, from the obligation date of the HOME-ARP funds in the HOME-ARP Grant Agreement and prior to HUD's acceptance of the participating jurisdiction's HOME-ARP allocation plan, a subrecipient or contractor to the participating jurisdiction may only incur and expend HOME-ARP funds for eligible administrative and planning costs if the subrecipient or contractor is responsible for the participating jurisdiction's entire HOME-ARP award and has executed a HOME-ARP written agreement that complies with 24 CFR 92.504, as revised by this Appendix. A participating jurisdiction must identify subrecipient or contractor that is responsible for the use of the participating jurisdiction's entire HOME-ARP award and describe the subrecipient or contractor's responsibilities in its HOME-ARP allocation plan, in accordance with the HOME-ARP Notice.

All costs must comply with the Cost Principles contained in subpart E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200, as amended.

If the participating jurisdiction does not submit a HOME-ARP allocation plan or if the participating jurisdiction's plan is not accepted within a reasonable period of time, as determined by HUD, all HOME-ARP costs incurred by the participating jurisdiction will be ineligible costs and any HOME-ARP funds expended by the participating jurisdiction must be repaid to the participating jurisdiction's HOME Investment Trust Fund Treasury account, in accordance with 24 CFR 92.503, as revised by this Appendix. Moreover, if the participating jurisdiction's HOME-ARP allocation plan does not identify or include a description of the responsibilities of the subrecipient or contractor that is responsible for the participating jurisdiction's entire HOME-ARP award, if applicable, the administrative and planning costs incurred or expended by the subrecipient or contractor will also be ineligible and any HOME-ARP funds expended by the participating jurisdiction or the contractor or subrecipient must be repaid to the participating jurisdiction's HOME Investment Trust Fund Treasury account.

Reasonable administrative and planning costs for the HOME-ARP program include:

a. *General management, oversight, and coordination.* Reasonable costs of overall HOME-ARP program management, coordination, monitoring, and evaluation. Such HOME-ARP costs include, but are not limited to, necessary expenditures for the following:

1. Salaries, wages, and related costs of the participating jurisdiction's staff. If a participating jurisdiction charges costs to this category, the participating jurisdiction may either include the entire salary and related costs allocable to the HOME-ARP program of each person whose primary responsibilities with regard to the HOME-ARP program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes any HOME-ARP program administrative assignments. A participating jurisdiction may only use one of these two methods. HOME-ARP program administration includes:

- i. Developing systems and schedules for complying with HOME-ARP program requirements, including systems to prevent a duplication of benefits among beneficiaries of HOME-ARP activities;
- ii. Developing interagency agreements and agreements with entities receiving HOME-ARP funds;
- iii. Monitoring HOME-ARP activities for progress and compliance with HOME-ARP program requirements;
- iv. Preparing HOME-ARP reports and other documents related to the HOME-ARP program for submission to HUD;
- v. Coordinating the resolution of audit and monitoring findings on any HOME-ARP activities;
- vi. Evaluating HOME-ARP program results against stated objectives in the HOME-ARP allocation plan, and
- vii. Managing or supervising persons whose primary responsibilities with regard to the HOME-ARP program include such assignments as those described above.

2. Travel costs incurred for official business in carrying out the HOME-ARP program.

3. HOME-ARP administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services.

4. Other costs for goods and services required for administering the HOME-ARP program, such as: rental or purchase of equipment,



insurance, information systems necessary to track and implement beneficiaries of HOME-ARP activities in accordance with the requirements of this Notice, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

5. Costs of administering HOME-ARP TBRA and HOME-ARP supportive services programs.

b. *Staff and overhead.* Staff and overhead costs of the participating jurisdiction related to administering a HOME-ARP project or activity, such as work specifications preparation, loan processing, inspections, lead-based paint evaluations (visual assessments, inspections, and risk assessments) and other services related to assisting potential owners, tenants; and staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship. These costs may be charged as administrative costs, at the discretion of the participating jurisdiction; however, these costs (except housing counseling) cannot be charged to or paid by qualifying or low-income individuals and families.

c. *Public information.* The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME-ARP funds.

d. *Fair Housing.* Activities to affirmatively further fair housing (AFFH) in accordance with 24 CFR 5.151 and the participating jurisdiction's certification in accordance with 24 CFR 5.152. (HUD's Interim Final Rule entitled, "Restoring Affirmatively Furthering Fair Housing Definitions and Certifications," (86 FR 30779, issued on Jun. 10, 2021) as amended, established the AFFH definition at 24 CFR 5.151 and the certification requirements in 24 CFR 5.152 and became effective on July 31, 2021. Available at

<https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.

d. *Indirect costs.* Indirect costs may be charged to the HOME-ARP program under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E, as amended.

e. *Preparation of HOME-ARP allocation plan.* Preparation of the HOME-ARP allocation plan as required in the HOME-ARP Notice. Preparation includes the costs of public hearing, consultations, and publications.

f. *Other Federal requirements.* Costs of complying with the applicable Federal requirements in 24 CFR part 92, subpart H. HOME-ARP project-specific environmental review costs may be charged as administrative or project costs in

accordance with 24 CFR 92.206(d)(8) and is at the discretion of the participating jurisdiction.

- 6. Eligible community housing development organization (CHDO) operating expense and capacity building costs.** Subsection (a)(3) of ARP provides that notwithstanding sections 212(a) and (g) of the Act (42 U.S.C. 12742(a) and (g)), a participating jurisdiction or insular area may use up to an additional five percent of its allocation for the payment of operating expenses of community housing development organizations and nonprofit organizations carrying out activities under the HOME-ARP Notice, but only if such funds are used to develop the capacity of the community housing development organization or nonprofit organization in the jurisdiction or insular area to carry out activities authorized under the HOME-ARP Notice; and the community housing development organization or nonprofit organization complies with the limitation on assistance in section 234(b) of NAHA (42 U.S.C. 12774(b)). Therefore, HUD waives sections 212(a) and (g) of the Act (42 U.S.C. 12742(a) and (g)) and 24 CFR 92.208 to the extent they conflict with ARP and the requirements in the HOME-ARP Notice for Nonprofit Operating and Capacity Building Assistance and imposes the following alternative requirements:

A participating jurisdiction may use up to 5 percent of its HOME-ARP allocation to pay operating expenses of community housing development organizations and other nonprofit organizations that will carry out activities with HOME-ARP funds. A participating jurisdiction may also use up to an additional 5 percent of its allocation to pay eligible costs related to developing the capacity of eligible nonprofit organizations to successfully carry out HOME-ARP eligible activities. Participating jurisdictions may award operating expense assistance or capacity building assistance to a nonprofit organization if it reasonably expects to provide HOME-ARP funds to the organization for the eligible HOME-ARP activities of development and support of rental housing, tenant-based rental assistance, acquisition and development of non-congregate shelter, or supportive services within 24 months of the award.

1. *Operating Expense Assistance:* Operating expenses are defined as reasonable and necessary costs of operating the nonprofit organization. These costs include employee salaries, wages and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment, materials, and supplies. HOME-ARP funds used for operating expenses must be used for the general operating costs of the nonprofit organization. These operating costs must not have a particular final cost objective, such as a project or activity, or must not be directly assignable to a HOME-ARP activity or project.

2. *Capacity Building Assistance:* Capacity building expenses are defined as reasonable and necessary general operating costs that will result in expansion or improvement of an organization's ability to successfully carry out for eligible HOME-ARP activities. Eligible costs include salaries for new hires including wages and other employee compensation and benefits; costs related to employee training or other staff development that enhances an employee's skill set and expertise; equipment (e.g., computer software or programs that improve organizational processes), upgrades to materials, and supplies; and contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations.
3. *Ineligible Costs:*
  - (a) No costs related to operating a non-congregate shelter (e.g., allocable overhead and staffing costs, insurance, utilities, etc.) are eligible costs under the HOME-ARP program.
  - (b) The actual costs of implementing a specific activity or project, including staff costs of the community housing development organization or nonprofit organization to deliver supportive services or administer HOME-ARP tenant-based rental assistance, are considered HOME-ARP project delivery costs or project soft costs and are not eligible operating expense and capacity building costs.
4. *Limitations on Assistance:* In any fiscal year, operating assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described in the HOME-ARP Notice, for that fiscal year or \$50,000. Likewise, in any fiscal year, capacity building assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization, as described in the HOME-ARP Notice for that fiscal year or \$50,000. If an organization receives both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or \$75,000.

**7. Troubled HOME-assisted rental housing projects.** HUD waives 24 CFR 92.210.

**8. Pre-award costs.** The requirements in 24 CFR 92.212 are waived and HUD imposes the alternative requirement that HOME-ARP funds cannot be used for pre-award costs.

**9. HOME Funds and Public Housing.** HUD is waiving 24 CFR 92.213(d) to the extent that it requires that HOME funds must be used in accordance with 24 CFR part 92 and the rent requirements in 24 CFR 92.252. Instead, as an alternative requirement, HOME funds must be used in accordance with 24 CFR part 92, as revised by this Appendix and the HOME-ARP Notice, including the rent requirements contained in each.

**10. HOME prohibited activities and fees.** HUD is waiving provisions in 24 CFR 92.214 and providing alternative requirements related to prohibited activities and fees, as follows:

- (1) *Operating Cost Assistance.* 24 CFR 92.214(a)(6) is waived, and 24 CFR 92.214(a)(1) is waived to the extent that it conflicts with the following alternative requirements:
  - a. A participating jurisdiction may pay ongoing operating assistance or capitalize an operating cost assistance reserve for HOME-ARP-assisted units restricted for occupancy by qualifying populations in a project where the participating jurisdiction determines in its underwriting that the reserve is necessary to maintain the HOME-ARP units' long-term operational feasibility. However, HOME-ARP funds cannot be used for both a capitalized operating cost assistance reserve and ongoing payments for operating cost assistance during the minimum compliance period. The allowable amount of the reserve shall not exceed the amount determined by the participating jurisdiction to be necessary to provide operating cost assistance for HOME-ARP units restricted for occupancy by qualifying populations for the 15-year HOME-ARP minimum compliance period.
  - b. The operating cost assistance reserve for HOME-ARP units for qualifying households must be held by the project owner in a separate interest-bearing account and sized, based on an analysis of projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units' share of operating costs. Funds in a capitalized operating cost assistance reserve can only be drawn to address operating deficits associated with HOME-ARP units restricted for occupancy by the qualifying populations. The participating jurisdiction must, no less than annually, review the operating cost assistance reserve account to determine that the account is appropriately sized based on the projected operating deficits of units restricted for occupancy by qualifying households. A participating jurisdiction must use the definition of operating costs in the HOME-ARP Notice in its calculation of operating deficits to determine the amount of HOME-ARP funds needed for an operating cost assistance reserve or when providing operating cost assistance. The participating jurisdiction may require the project owner to

enter into a deposit account control agreement for the operating cost assistance reserve where the participating jurisdiction must approve disbursements from the account.

- c. The participating jurisdiction must require the project owner to request written approval from the participating jurisdiction prior to disbursing funds from the project operating cost assistance reserve. The participating jurisdiction must review each requested distribution from the operating cost assistance reserve, including supporting documentation, to determine that the distribution is reasonable and necessary to cover the operating deficit associated with units occupied by qualifying households.
- d. A participating jurisdiction may provide operating cost assistance to a HOME-ARP rental project to cover an operating deficit associated with HOME-ARP units restricted for occupancy by qualifying households except for when an operating cost assistance reserve is already established for the project. Operating cost assistance reserve and operating cost assistance cannot be provided beyond the HOME-ARP budget period, as described in Section VIII.C.3 of the HOME-ARP Notice. Unexpended operating cost assistance reserve amounts remaining at the end of the minimum compliance period of the HOME-ARP units must be returned in accordance with Section VI.B.23 of the HOME-ARP Notice. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, a participating jurisdiction may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion

(2) *Eligible Costs for Operating Cost Assistance.* 24 CFR 92.206 and 24 CFR 92.214(a)(9) are waived to the extent that they conflict with the following alternative requirement.

- a. For purposes of the operating cost assistance, operating costs include costs for administrative expenses, property management fees, insurance, utilities, property taxes, and maintenance of a unit that is designated as a HOME-ARP-assisted unit and required to be occupied by a qualifying household. Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project.
- b. Project administrative expenses include payroll costs, which are gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits; employee education, training, and travel; advertising; and general administrative costs which are costs for goods and services required for administration of

the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance, and other administrative costs that are reasonable and customary for the general administration of a rental unit occupied by qualifying populations. HOME-ARP permits the pro-rated staffing costs of a Resident Services Coordinator to be included in the operating costs allocated to a HOME-ARP unit for low-income or qualifying households if such costs are not already paid by another source. Typically, the role of a Resident Services Coordinator is to arrange community activities for residents and link residents to outside service agencies as needed.

- c. Property management fee includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. A management agent must cover its costs of supervising and overseeing operations of a HOME-ARP unit out of the fee they receive.
- d. A reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a reserve for replacement of major systems included in the operating costs allocated to a HOME-ARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A reserve for replacement allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOME-ARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period.

Supportive services costs are not eligible operating costs of HOME-ARP units, however, qualifying households occupying HOME-ARP rental units may receive supportive services through the HOME-ARP supportive services eligible activity.

- (3) *Prohibited fees.* 24 CFR 92.214(b) is waived only to the extent that it conflicts with the alternative requirement that a participating jurisdiction may allow such occupancy fees or charges that are customary and reasonable if such fees or charges comply with 24 CFR 578.77(b).

**11. Alternative requirements for Tenant-based rental assistance.** The requirements of section 212(a)(3) (42 U.S.C. 12742(a)(3)), 24 CFR 92.209, 24 CFR 92.252(d), and 24 CFR 92.504(c)(5) are waived. The following alternative requirements apply:

- (1) *General Requirements.* HOME-ARP funds may be used to provide tenant-based rental assistance to qualifying households (“**HOME-ARP TBRA**”).

HOME-ARP TBRA is a form of rental assistance that is attached to the household and not a particular rental unit. Therefore, the HOME-ARP TBRA assisted household may choose to move to another unit with continued HOME-ARP TBRA as long as it continues to meet the program eligibility requirements. If a HOME-ARP TBRA assisted household chooses to move, the rental assistance contract terminates and a new rental assistance contract for the new unit will be executed according to HOME-ARP TBRA requirements. The HOME-ARP TBRA assisted household must notify the participating jurisdiction before moving in order to receive continued HOME-ARP TBRA.

- a. *Tenant Selection.* Only individuals and families in the qualifying populations are eligible to receive HOME-ARP TBRA assistance. Consistent with the alternative requirements listed below and Section IV.C of the HOME-ARP Notice, a participating jurisdiction may use a continuum of care's coordinated entry process, a coordinated entry process and other referral agencies, or a waitlist to select qualifying households for HOME-ARP TBRA. Participating jurisdictions may establish a system of preferences that includes a preference for one or more of the qualifying populations, such as homeless. Preferences for one or more of the qualifying populations must be disclosed in the HOME-ARP allocation plan, as provided in the HOME-ARP Notice and this Appendix. The participating jurisdiction must select qualifying households for HOME-ARP TBRA in accordance with written tenant selection policies and criteria that are based on local housing needs established in the HOME-ARP allocation plan. The participating jurisdiction must follow written tenant selection policies and criteria that:
  - b. Limit eligibility to households that meet one of the HOME-ARP qualifying populations definitions in accordance with HOME-ARP requirements. Preferences for households in one or more of the HOME-ARP qualifying populations, if any, must comply with the preferences and/or method of prioritization in the participating jurisdiction's HOME-ARP allocation plan and the participating jurisdiction's policies and procedures, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
  - c. If the participating jurisdiction selects TBRA applicants off a waiting list, it must provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable.
  - d. Give prompt written notification to any rejected applicant of the grounds for any rejection, and
  - e. Comply with the VAWA requirements as described in 24 CFR 92.359.



- f. Finally, the participating jurisdiction may offer, in conjunction with HOME-ARP TBRA assistance, a simultaneous award of services in accordance with Section VI.D of the HOME-ARP Notice, as well as provide particular types of other nonmandatory services that may be most appropriate for persons with a special need or a particular disability.

- (2) *Tenant Protections.* Participating jurisdictions must verify that there is an executed lease between the qualifying household that receives HOME-ARP TBRA and the owner of the rental unit or a between a qualifying household that receives HOME-ARP TBRA and a HOME-ARP sponsor with a sublease between the qualifying households and the HOME-ARP sponsor, in accordance with 24 CFR 92.253(a). A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitate the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP tenant-based rental assistance by a qualifying household. Participating jurisdictions may permit a HOME-ARP sponsor, as defined in Section VI.B.18 of the Notice, to execute a lease or master lease with a project owner. The HOME-ARP sponsor must then sublease a unit to a qualifying household. The lease between the qualifying household and the rental unit owner or the sublease between the HOME-ARP sponsor and the qualifying household cannot contain any of the prohibited lease terms specified in 24 CFR 92.253(b).
- (3) *Eligible Costs.* Eligible costs under HOME-ARP TBRA include rental assistance, security deposit payments, and utility deposit assistance to qualifying households. HOME-ARP funds may be used to pay for up to 100% of these eligible costs. A participating jurisdiction may use HOME-ARP TBRA funds to provide loans or grants to qualifying households for security deposits for rental units regardless of whether the participating jurisdiction provides any other HOME-ARP TBRA assistance. The amount of funds that may be provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Utility deposit assistance is an eligible cost only if rental assistance or a security deposit payment is provided with HOME-ARP TBRA. Costs of inspecting the housing are also eligible as costs of HOME-ARP TBRA. Administration of HOME-ARP TBRA is eligible only under general management oversight and coordination at 24 CFR 92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible project costs under HOME tenant-based rental assistance.
- (4) *Ineligible Costs.* HOME-ARP TBRA may not be used to pay for the homebuyer program as defined at [24 CFR 92.209\(c\)\(2\)\(iv\)](#).
- (5) *Portability of Assistance.* A participating jurisdiction may require the HOME-ARP TBRA assisted household to use HOME-ARP TBRA within the

participating jurisdiction's boundaries or may permit the household to use the assistance outside its boundaries consistent with the requirements in [24 CFR 92.209\(d\)](#).

- (6) *Term of Rental Assistance Contract.* The participating jurisdiction must determine the maximum term of the rental assistance contract. The rental assistance contract continues until the end of the rental assistance contract term, as determined by the participating jurisdiction, or until the lease or sublease is terminated, whichever occurs first. The term of the rental assistance contract may be renewed, subject to the availability of HOME-ARP funds. The term of the rental assistance contract must begin on the first day of the term of the lease or sublease.
- (7) *Maximum Subsidy.* The participating jurisdiction must establish policies for the allowable maximum subsidy, which may differ from the maximum subsidy requirements at [24 CFR 92.209\(h\)](#). Participating jurisdictions may provide up to 100 percent subsidy for rent, security deposit payments, and utility bills. The participating jurisdiction must also establish policies for determining any household contribution to rent based on a determination of the qualifying household's income.
- (8) *Rent Standard.* Consistent with 24 CFR 92.209(h)(3), participating jurisdictions must also establish a rent standard for HOME-ARP TBRA by unit size that is based upon local market conditions or the Section 8 Housing Choice Voucher program under 24 CFR part 982. The participating jurisdiction must determine whether the rent for a HOME-ARP TBRA household complies with the rent standard established by the participating jurisdiction for the HOME-ARP program and must disapprove a lease if the rent does not meet the participating jurisdiction's rent standard for HOME-ARP TBRA.
- (9) *Housing Quality Standards.* Housing occupied by a household receiving HOME-ARP TBRA must comply with all housing quality standards required in [24 CFR 982.401](#) (or successor inspection standards issued by HUD) unless the tenant is residing in a HOME or HOME-ARP unit, in which case the participating jurisdiction may defer to initial and ongoing inspection standards.
- (10) *Program Operation.* The participating jurisdiction may operate HOME-ARP TBRA itself or may contract with a PHA or other entity with the capacity to operate a rental assistance program. In either case, the participating jurisdiction or entity operating the program must approve the lease. HOME-ARP TBRA may be provided through an assistance contract with (1) an owner that leases a unit to a qualifying household; (2) the qualifying household, or (3) an owner and the qualifying household in a tri- party contract. In the case of HOME ARP TBRA provided in coordination with a HOME ARP sponsor, as described below, the participating jurisdiction may require that payments are made directly to the

HOME-ARP sponsor that will make rental payments to the owner on behalf of the qualifying household or require payments directly to the owner of the unit.

- (11) *HOME ARP TBRA with a HOME ARP Sponsor.* HOME ARP-TBRA may be provided in coordination with a HOME-ARP TBRA sponsor. A HOME-ARP TBRA sponsor is a nonprofit organization that provides housing or services to HOME-ARP TBRA qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA on behalf of a qualifying household. A HOME-ARP sponsor may make rental subsidy payments and a security deposit payment on behalf of a qualifying household. Under HOME-ARP TBRA, a qualifying household may reside in housing leased by a HOME-ARP sponsor if there is a sublease that complies with HOME-ARP lease requirements between the HOME-ARP sponsor and the qualifying household.
- (12) *Rental Assistance Contract.* There must be a rental assistance contract between the participating jurisdiction and at least one of the following.
- i. HOME-ARP sponsor;
  - ii. Qualifying household; or
  - iii. Owner of the housing.

Rental subsidy payments are made on behalf of the HOME ARP-TBRA household pursuant to a rental assistance contract. The rental assistance contract continues until the lease is terminated. Regardless of the role of the sponsor, the household has the right to continued HOME-ARP TBRA assistance if it chooses to move from the unit.

The HOME-ARP sponsor may only receive the TBRA subsidy directly from the participating jurisdiction on behalf of the qualifying household if the rental assistance contract is between the HOME-ARP sponsor and the participating jurisdiction or the HOME-ARP sponsor and the participating jurisdiction have entered into a written agreement as outlined below. The HOME-ARP sponsor must make rental subsidy payments to the owner on behalf of the qualifying household per the terms and conditions of the HOME-ARP TBRA contract or written agreement with the participating jurisdiction. When the HOME-ARP TBRA qualifying household moves to a new rental unit, the HOME-ARP sponsor is not required to continue its sponsor relationship with the HOME-ARP TBRA assisted household for the new rental unit but may do so with the consent of the HOME-ARP TBRA household.

The participating jurisdiction must establish policies and procedures regarding termination of HOME-ARP TBRA assistance for qualifying households who are absent from the rental unit where a HOME-ARP sponsor is leasing the rental unit and subleasing to the qualifying household or providing HOME-ARP TBRA rental subsidy payments on behalf of the household.

- (13) *Lease and Sublease.* Participating jurisdictions must verify that each household that receives HOME-ARP TBRA assistance has an executed lease that complies with the tenant protection requirements of the HOME-ARP Notice. The lease agreement may be between the project owner and the HOME-ARP TBRA household, or participating jurisdictions may permit a HOME-ARP sponsor to execute a lease for an individual unit or a master lease with an owner for more than one unit restricted for occupancy by HOME-ARP TBRA households. If the lease agreement is between the HOME-ARP sponsor and owner, the HOME-ARP sponsor must execute a sublease agreement with a HOME-ARP TBRA household. The sublease between the HOME-ARP sponsor and the HOME-ARP TBRA household must meet the tenant protection requirements of the HOME-ARP Notice.
- (14) *Written Agreement with HOME-ARP Sponsor.* The participating jurisdiction must enter into a written agreement with the HOME-ARP sponsor if the HOME-ARP TBRA rental assistance contract is not with the HOME-ARP sponsor and the HOME-ARP sponsor will receive the HOME-ARP TBRA subsidy directly from the participating jurisdiction on behalf of the qualifying household. The written agreement must specify the requirements for the HOME-ARP sponsor receiving the HOME-ARP TBRA subsidy on behalf of the qualifying household and the HOME-ARP sponsor's obligation to provide the HOME-ARP TBRA payment to the owner for the unit's required rent.

## **INCOME TARGETING**

**12. Alternative requirement to HOME rental income targeting requirements.** HUD is waiving section 215(a)(1)(B) and (C) of NAHA (42 U.S.C. 12745(a)(1)(B) and (C)) and 24 CFR 92.216. For HOME-ARP rental units, the following alternative requirements shall apply:

- (1) *30% Requirement.* Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds by the participating jurisdiction may be restricted to households that are low-income as defined in 24 CFR 92.2. These units may only be located in projects containing HOME-ARP units restricted for occupancy by qualifying households. The remainder of the total HOME-ARP rental units assisted with HOME-ARP funds by the participating jurisdiction must be restricted for occupancy by qualifying households in accordance with the HOME-ARP Notice.
- (2) *Low-Income Households.* The HOME-ARP rental units occupied by low-income households must be occupied by low-income households and bear a rent no greater than the lesser of -
- a. the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or

- b. a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit).

13. **HOME tenant-based rental assistance income targeting requirements.** HUD is waiving section 212(a)(3)(A)(ii) of NAHA (42 U.S.C. 12742(a)(3)(A)(ii)) and 24 CFR 92.216 requirements for income targeting of HOME tenant-based rental assistance and imposing an alternative requirement that all persons assisted with HOME-ARP TBRA must be qualifying households upon admission.

## **F. SUBPART F - PROJECT REQUIREMENTS**

1. **Maximum per-unit subsidy amount and the waiver and alternative requirement for underwriting and subsidy layering.** The requirements of 24 CFR 92.250(a) shall not apply to HOME-ARP funds because subsection (c)(1) of ARP states that the underlying statutory requirements for cost limits in section 212(e) of NAHA (42 U.S.C. 12742(e)) do not apply to HOME-ARP funds. Additionally, the underwriting and subsidy layering requirements in 24 CFR 92.250(b) shall not apply to HOME-ARP rental project activities and are waived. Lastly, the requirements of section 212 of NAHA (42 U.S.C. 12742) and 24 CFR 92.214(a) are waived to the extent that they conflict with the alternative requirements below. HUD is specifying the following alternative requirements:

- (1) *Underwriting and Subsidy Layering Guidelines.* Participating jurisdictions must develop standardized underwriting guidelines for HOME-ARP rental projects. These guidelines must provide for underwriting that accommodates and is appropriate for different types of projects. All participating jurisdictions are required to develop and implement standardized underwriting guidelines for HOME-ARP that require the following:
  - a. An examination of the sources and uses of funds for the project and a determination that costs are reasonable. In examining a project's proposed sources and uses, a participating jurisdiction must determine the amount of HOME-ARP development subsidy required to fill the gap between other committed funding sources and the cost to develop the project.
  - b. An assessment of the current market demand for the proposed project. For HOME-ARP units for qualifying households, a market assessment is not required. Rather, the participating jurisdiction can demonstrate that there is unmet need among qualifying populations for the type of housing proposed through Continuum of Care data, public housing and affordable housing waiting lists, point-in-time surveys, housing inventory count, or other relevant data on the need for permanent housing for the qualifying populations. For projects containing units restricted for occupancy by low-income households

or market-rate households, the participating jurisdiction must conduct a market assessment in accordance with 24 CFR 92.250(b)(2). A third-party market assessment completed by the developer or another funder meets this requirement, but the participating jurisdiction must review the assessment and acknowledge in writing that it accepts the assessment's findings and conclusions. The market assessment and the participating jurisdiction's written acknowledgement must be retained for recordkeeping purposes.

- c. Review of and determination that the developer's experience and financial capacity are satisfactory based on the size and complexity of the project. When assessing the developer, the participating jurisdiction must review, at minimum, prior experience with similar projects and the current capacity to develop the proposed project. When determining whether the developer has the financial capacity to undertake the project, the participating jurisdiction should examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.
- d. Firm written financial commitments for the project.
- e. A careful review of the project's operating budget, including the assumptions, projections of a project's net operating income, and reasonably expected increases in revenue and expenses during the minimum compliance period, to determine if any HOME-ARP-funded operating cost assistance is necessary and if applicable, an operating cost assistance reserve is sized appropriately. Operating income of the project must be sufficient to cover operating expenses through the minimum compliance period. For HOME-ARP units for qualifying households, the proforma or projections should include any anticipated ongoing operating cost assistance or draws from an operating cost assistance reserve, if applicable, that will offset operating deficits associated with those units to demonstrate sufficient operating support. If project-based vouchers or project-based rental assistance will be awarded, this analysis must include that rental assistance revenue because operating cost assistance cannot be used for units for qualifying households with project-based vouchers or project-based rental assistance. A participating jurisdiction's underwriting standards may permit projects to generate reasonable net operating income throughout the minimum compliance period. However, HOME-ARP operating cost assistance may only be used to offset operating deficits, in accordance with the requirements of the HOME-ARP Notice. Net operating income resulting from HOME-ARP operating cost assistance is not permitted and must be prohibited in the written agreement between the participating jurisdiction and the owner.

- f. An assessment of the project's overall viability through the minimum compliance period based on the households (i.e. qualifying households, low-income households, market-rate households) it will serve.
- (2) *Developer Fee.* A developer fee is a permitted development cost under the HOME-ARP program, but the participating jurisdiction must review the fee and determine that it is reasonable. A participating jurisdiction may set limits on the developer fee and other fees (e.g., asset management fee, property management fee) to be paid by HOME-ARP funds that differ from other funding sources (e.g., Low-Income Housing Tax Credit underwriting standards).
  - (3) *Underwriting and Subsidy Layering Review Standards.* Before the HOME-ARP funds can be committed to a HOME-ARP rental project, participating jurisdictions must evaluate the project to determine the amount of HOME-ARP capital subsidy and operating cost assistance necessary to provide quality affordable housing that meets the requirements of the HOME-ARP Notice and is financially viable for the minimum 15-year HOME-ARP compliance period. The participating jurisdiction must evaluate the project in accordance with underwriting and subsidy layering guidelines it has developed for HOME-ARP projects.
  - (4) *Underwriting and Subsidy Layering Commitment Requirements.* The participating jurisdiction's project underwriting must include an in-depth review of underlying project assumptions, development sources and uses, and projected operating income and expenses, and the project's long-term financial viability to determine the project's need for HOME-ARP assistance while preventing over-subsidization of the project. Participating jurisdictions must take a holistic approach to underwriting that examines the overall feasibility of the entire project to determine that the property will be financially sustainable for the duration of the 15-year HOME-ARP compliance period.

For projects that will receive operating cost assistance through a capitalized operating cost assistance reserve or on-going operating cost assistance for a specific period, the on-going operating cost assistance or operating cost assistance reserve must be included in the underwriting. Unless placed into an operating cost assistance reserve, operating cost assistance committed to a project for a specific period cannot be provided beyond the budget period, as described in Section VIII.C.4 of the HOME-ARP Notice. HOME-ARP units that have commitments for project-based rental assistance must be underwritten with the projected rental assistance and not with operating cost assistance. An operating cost assistance reserve must be sized based on an analysis of projected operating deficits remaining after the expected payments toward rent by qualifying households are applied to the HOME-ARP unit's share of actual operating costs. However, the participating jurisdiction, through its underwriting, must also determine that the HOME-ARP capital and operating subsidies do not result in over-subsidization of the project.



- 2. Property Standards.** The property standards in 24 CFR 92.251 shall apply to all HOME-ARP rental activities except that –

The requirements in 24 CFR 92.251(c)(3) shall not apply and are waived because homeownership is not an eligible activity for HOME-ARP funds.

HOME-ARP rental units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504(d)(1)(ii).

- 3. Lease-up of HOME-ARP rental units.** The requirement in 24 CFR 92.252 that states that 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 is waived. Instead, as an alternative requirement, if the HOME-ARP units are not occupied by eligible qualifying households or low-income households, in accordance with the unit restrictions, within six months following project completion, the participating jurisdiction, as applicable, must submit to HUD information on its efforts to coordinate with a CoC, homeless service providers, social service and other public agencies to fill units for qualifying households or must submit marketing information and, if appropriate, a marketing plan to fill units for low-income households. The participating jurisdiction must repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households within 12 months of project completion.

- 4. Rent limitations, initial rent schedule, and utility allowances for HOME-ARP rental housing.** The requirements in 24 CFR 92.252(a)-(d) are waived and the following alternative requirements shall apply.

- (1) *Rent limitations for units restricted for occupancy by Qualifying Households.* In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis.

Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a very low-income household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

The rent limits for HOME-ARP qualifying populations include the rent plus the utility allowance established pursuant to Section VI.B.13.d of the HOME-ARP Notice.

- (2) *Rent limitations – low-income households.* HOME-ARP rental units occupied by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives assistance from a Federal tenant-based rental assistance (e.g. housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program). The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to Section VI.B.13.d of the HOME-ARP Notice.

- (3) *Rent limitations – Single Room Occupancy (SRO) Units.* A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental activities, a SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's designation as a SRO cannot be inconsistent with the building's zoning and building code classification.

If the SRO units have both sanitary and food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established pursuant to Section VI.B.13.d of the HOME-ARP Notice.

- (4) *Initial Rent Schedule and Utility Allowance.* The participating jurisdiction must establish maximum allowances for utilities and services and update the allowances annually. The participating jurisdiction may adopt the utility allowance schedule of the PHA.
- The participating jurisdiction must review and approve the HOME-ARP rents proposed by the owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the participating jurisdiction must determine that the rent for the unit does not exceed the maximum rent minus the monthly allowance for utilities and services.

**5. Affordability requirements and limited waiver and alternative requirement to period of affordability requirements.** The requirement that affordability

restrictions must remain in place for the amount of time in the table specifying the minimum period of affordability in 24 CFR 92.252(e) is waived. HUD is specifying that as an alternative requirement, HOME-ARP-assisted rental units must comply with the requirements of the HOME-ARP Notice in serving the qualifying households and, to the extent applicable, low-income households, for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the development activity being undertaken. Additionally, HUD is specifying the following alternative requirements to the use restriction requirements in 24 CFR 92.252(e)(1):

- (1) Units restricted for occupancy by qualifying populations must be occupied by households that meet the definition of a qualifying population at the time of initial occupancy. The household's contribution toward rent during this period must be affordable in accordance with the HOME-ARP Notice. The rents for these units must comply with the rent limitations established in the HOME-ARP Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income and whose contribution to rent complies with the requirements in Section VI.B.15 of the HOME-ARP Notice.
- (2) Units available for low-income households must be continuously occupied by households who are income eligible. The rents for these units must comply with the rent limitations established in the HOME-ARP Notice, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income.
- (3) If a project-based rental assistance Housing Assistance Payments (HAP) contract is awarded to a HOME-ARP rental project, a participating jurisdiction must impose a minimum compliance period that is the greater of 15 years or the term of the HAP contract. Participating jurisdictions are also encouraged to extend restrictions for occupancy of the HOME-ARP units in accordance with the requirements in this section to match eligible HAP contract renewals.

**6. Adjustment of HOME rent limits for an existing project.** The requirements of 24 CFR 92.252(g) are waived.

**7. Tenant income restrictions and tenant rental contribution requirements for HOME-ARP rental projects and limited waiver and alternative requirements.** The requirements at 24 CFR 92.203 and 24 CFR 92.252(h) and (i) shall apply except that they are waived to the extent that they differ from the following alternative requirements:

- (1) *Household income at Initial Occupancy – Qualifying Households.* The participating jurisdiction must require all HOME-ARP rental units be restricted for occupancy by eligible households throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP rental

units solely by meeting the definition of one of the qualifying populations (i.e. HOME-ARP does not impose income restrictions on units restricted for qualifying populations). If there is no income requirement in the qualifying population's definition, a participating jurisdiction is not required to perform an initial determination of household income except as necessary to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restrictions (e.g., LIHTC).

- (2) *Household income in Subsequent Years – Qualifying Households.* Each year during the compliance period, starting 1 year after initial occupancy, the participating jurisdiction must use the definition of annual income as defined in 24 CFR 5.609 to examine the income of qualifying households to determine the household's contribution to rent. For low-income households, the participating jurisdiction must use the definition of annual income as defined in 24 CFR 5.609 to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution.
- a. *Qualifying populations.* - For purposes of establishing the qualifying household's rental contribution after initial occupancy, a participating jurisdiction must examine a HOME-ARP qualifying household's income using 24 CFR 92.203(a)(1)(i) or (iii), starting 1 year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the participating jurisdiction. A project owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.
  - b. *Over-income – Temporary noncompliance.* HOME-ARP-assisted units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.
  - c. *Changes in income – Qualifying households.* A household that met the definition of one of the HOME-ARP qualifying populations at initial

occupancy and whose annual income at the time of income re-certification is above 50 percent of median income for the area but at or below 80 percent of the median income for the area must pay the rent specified in 24 CFR 92.252(a).

- d. *Changes in income – Low-income Households or Qualifying households.* A household that is not low-income at the time of income re-certification (i.e., whose income is above 80 percent of the median income for the area) must pay rent that complies with the over income regulatory requirements at 24 CFR 92.252(i)(2).
- e. *Household income – Low-income Households.* In accordance with 24 CFR 92.252(h), the income of each low-income household must be determined initially in accordance with 24 CFR 92.203(a)(1)(i), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the participating jurisdiction. An owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.
- f. *Alternative Requirement for Households Assisted by Other Programs.* Notwithstanding the alternative requirements specified above or the provisions of 24 CFR 92.203, if a family is applying for or living in a HOME-ARP-assisted rental unit, and the unit is assisted by a Federal or State project based rental subsidy then a participating jurisdiction must accept the public housing agency, section 8 project owner, or Continuum of Care recipient or subrecipient's determination of the family's annual income and adjusted income under that program's and does not need to obtain source documentation in accordance with 24 CFR 92.203(a)(1) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP-assisted rental unit, and the family is assisted by a Federal tenant-based rental assistance program (e.g., housing choice vouchers, etc.) then a participating jurisdiction may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under 24 CFR 92.203(a)(1).

- 8. Tenant selection in HOME-ARP rental housing projects.** Except for affirmative marketing requirements in 24 CFR 92.351 and VAWA requirements, the requirements in 24 CFR 92.252(k) and 24 CFR 92.253(d) are waived to the extent that they differ from the following alternative requirements.

(1) *Use of Coordinated Entry System or Project-Specific Waitlists.* In accordance with Section IV.C of the HOME-ARP Notice, participating jurisdictions must determine whether an owner may use a Continuum of Care's Coordinated Entry System, a Continuum of Care's Coordinated Entry and other referral sources, or a project-specific waitlist to select qualifying households for HOME-ARP units restricted for occupancy by qualifying populations in accordance with the HOME-ARP Notice. The participating jurisdiction may also use a waiting list to receive referrals from a CoC CE and other referral agencies for a project or activity, where a CoC CE or other referral agency refers an applicant that is placed on the waiting list for that project or activity in chronological order. Participating jurisdictions will make this determination on a project-by-project basis. Regardless of which method is selected, in all cases, the participating jurisdiction must use a project-specific waitlist when selecting households to occupy units restricted for occupancy by low-income households. Any preferences among qualifying households must be disclosed in the HOME-ARP allocation plan through the participating jurisdiction's public participation process in accordance with Section V.C of the HOME-ARP Notice. The written agreement between the participating jurisdiction and the project owner must specify the method the owner must use for selecting qualifying households for admission to HOME-ARP units.

The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that.

- a. Limit eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements. Preference for households must comply with the participating jurisdiction's preferences and the participating jurisdiction's policies and procedures for applying the preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
- b. Do not exclude an applicant with a voucher under the Section 8 Housing Choice Voucher Program (24 CFR 982), or an applicant participating in a HOME, HOME-ARP or other Federal, state, or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document.

- c. Limit eligibility or gives a preference to a particular qualifying population or segment of the qualifying 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 HOME-ARP allocation plan). A preference for households in one or more of the HOME-ARP qualifying populations must comply with the participating jurisdiction's determined preference(s) and the participating jurisdiction's policies and procedures for applying the preference(s), if any;
- d. Any limitation or preference must not violate nondiscrimination requirements in [24 CFR 92.350](#). If the participating jurisdiction requires the use of a project-specific waitlist to select qualifying households and/or low-income households for occupancy of HOME-ARP units, provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable.
- e. Give prompt written notification to any rejected applicant of the grounds for any rejection, and
- f. Complies with the VAWA requirements as described in 24 CFR 92.359.

(2) *Use of preferences for Qualifying Households.* Any preferences for qualifying households must be disclosed in the HOME-ARP allocation plan through the participating jurisdiction's public participation process. The written agreement between the participating jurisdiction and the project owner must specify the method the owner must use for prioritizing applicants for admission to HOME-ARP units.

**9. Tenant protections in HOME-ARP rental units.** The requirements of Section 225 of NAHA (42 U.S.C. 12755) and 24 CFR 92.253(a)-(c) shall apply to HOME-ARP rental projects except to the extent that they differ from the following alternative requirements:

- (1) *Use of Master Leases.* Section 225 of NAHA (42 U.S.C. 12755) and 24 CFR 92.253(a) are waived to the extent that they are interpreted as barring an owner from leasing a unit to a nonprofit organization that would sublease that unit to a qualifying household or to the extent that it is interpreted as barring an owner of a HOME-ARP unit from executing a master lease with a nonprofit organization for HOME-ARP units restricted for occupancy by qualifying households. As an alternative requirement, an owner may execute a lease or master lease with a nonprofit organization, known as a HOME-ARP sponsor. A HOME-ARP



sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP rental unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. Participating jurisdictions may permit a HOME-ARP sponsor to lease a HOME-ARP unit from an owner or execute a master lease with the owner of a HOME-ARP project for HOME-ARP units restricted for occupancy by qualifying households. The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to the qualifying household. The sublease between the HOME-ARP sponsor and the qualifying household must comply with the rent limitations and tenant protection requirements of this Notice

- (2) *Termination of tenancy.* HUD is applying the requirements of 24 CFR 92.253(c) to termination of tenancy and, as an alternative requirement, also applying the protections of 24 CFR 92.253(c) to termination of Master Leases that effectuate the tenancy of qualifying households. HUD is also specifying the following alternative requirement for termination of tenancy for qualifying households in projects that capitalized operating cost assistance reserves or where there is a current contract for the participating jurisdiction to provide operating cost assistance to the project. In those cases, an owner may not terminate the tenancy or refuse to renew the lease of a qualifying household because of the household's inability to pay rent during the compliance period. A qualifying household's inability to pay rent shall mean that the qualifying household cannot pay more than 30 percent of the qualifying household's income toward rent, based on an income determination made by the participating jurisdiction in the last 30 days.

To terminate or refuse to renew tenancy for any household occupying a HOME-ARP unit, the owner must serve written notice upon the tenant (and the HOME-ARP sponsor if the lease is between an owner and sponsor), specifying the grounds for the action at least 30 days before termination of tenancy. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the participating jurisdiction, must notify the participating jurisdiction in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

- (3) *Prohibited Lease Terms.* The requirements in 24 CFR 92.253(b) that prohibit owners from placing certain terms in their lease agreements shall continue to apply. HUD is also specifying an alternative requirement that the prohibited lease terms in 24 CFR 92.253(b) may not be placed into a sublease between a HOME-ARP sponsor and a qualifying household.

## **G. SUBPART G - COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS**

The requirements in sections 232, 233, 234(a) of NAHA (42 U.S.C. 12772, 12773, 12774(a)) and 24 CFR 92.300, 92.301, 92.302, and 92.303 are waived and do not apply to HOME-ARP.

## **H. .SUBPART H - OTHER FEDERAL REQUIREMENTS**

1. **Nondiscrimination, affirmative marketing, and minority outreach program requirements.** The requirements of 24 CFR 92.350 and 24 CFR 92.351 shall apply to all HOME-ARP activities, including Non-Congregate Shelter and Supportive Services activities. Section 3205, subsection (d)(4) of the ARP states that the Secretary may not waive or specify alternative requirements for any provision or regulation related to fair housing or nondiscrimination.
2. **Environmental review requirements and labor standards.** The requirements of 24 CFR 92.352 and 24 CFR 92.354 shall apply to all eligible HOME-ARP activities, including Non-Congregate Shelter and Supportive Services activities. Subsection (d)(4) of ARP states that the Secretary may not waive or specify alternative requirements to labor standards and environment.
3. **Applicability of lead-based paint requirements.** The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, J, K, M, and R apply to HOME-ARP-assisted activities.

For the HOME-ARP Non-Congregate Shelter activity, a project must comply with 24 CFR part 35, Subpart K when the HOME-ARP activity is acquisition only. HOME-ARP NCS projects that involve rehabilitation of pre-1978 facilities, whether the rehabilitation is funded with HOME-ARP or other funds, must comply with the requirements of 24 CFR part 35, Subpart J.

4. **Conflicts of interest requirements.** The requirements of 24 CFR 92.356 shall apply to all participating jurisdictions, State recipients, and subrecipients engaging in any HOME-ARP activities. For purposes of implementing HOME-ARP provisions for Non-Congregate Shelters, owners and developers of HOME-ARP Non-Congregate Shelters shall be subject to 24 CFR 92.356(f). The following alternative requirements shall apply to all participating jurisdictions, State recipients, and subrecipients engaging in any HOME-ARP activities.

- (1) *Written Standards of Conduct.* Consistent with current regulations, participating jurisdictions, State recipients, and subrecipients must maintain written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under the HOME-ARP Notice and 2 CFR 200.318. In addition to current regulatory requirements, HUD is requiring that all participating jurisdictions, State recipients and subrecipients maintain written standards of conduct that also provide for internal controls and procedures to ensure a fair and open selection process for awarding HOME-ARP funds pursuant to the HOME-ARP Notice. These standards must include provisions on if and how Continuum of Care board members may participate in and/or influence discussions or resulting decisions concerning the competition or selection of an

award or other financial benefits made pursuant to the HOME-ARP Notice, including internal controls on when funds may be awarded to the organization that the member represents.

- (2) *Organizational Conflicts of Interest.* The provision of any type or amount of HOME-ARP TBRA or supportive services may not be conditioned on an individual's or family's acceptance or occupancy of a shelter or housing unit owned by the participating jurisdiction; State recipients; the subrecipient; or a parent, affiliate, or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent, affiliate, or subsidiary of the subrecipient, administer financial assistance that includes rental payments, utility deposits, security deposits, and/or first and last month's rent pursuant to the HOME-ARP Notice. All contractors of the participating jurisdiction, State recipients, or subrecipient must comply with the same requirements that apply to subrecipients under this section.
- (3) *Requesting Exceptions to Organizational Conflicts of Interest.* Any request for an exception to the organizational conflicts of interest provisions in the HOME-ARP Notice shall be in writing and shall be considered by HUD only after the participating jurisdiction or State recipient has provided the following:
  - a. A written 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
  - b. 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.
- (4) *Granting Exceptions to Organizational Conflicts of Interest.* HUD shall determine whether to grant an exception to the organizational conflicts of interest on a case-by-case basis when it determines that the exception will serve to further the purposes of HOME-ARP. HUD shall consider the following factors, as applicable, in determining whether to grant such an exception:
  - a. 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;
  - b. Whether undue hardship will result to the participating jurisdiction, State recipient, subrecipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
  - c. Whether conditioning approval on changes to the participating jurisdiction, State recipient, or subrecipient's policies or procedures can adequately address the organizational conflict of interest; and
  - d. Any other factors relevant to HUD's determination, including the timing of the requested exception.

5. **Applicability of displacement, relocation, and acquisition requirements and waiver of one-for-one replacement requirements.** The requirements of 24 CFR 92.353, which also implement the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, (42 U.S.C. 4201 et seq.) (URA), the URA's implementing requirements at 49 CFR part 24, and section 104(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5304) and its implementing regulations at 24 CFR part 42, shall apply to all projects receiving HOME-ARP funds except for the following waiver and alternative requirement.. For purposes of the one-for-one replacement housing requirements of section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (ii) and 42 U.S.C. 5304(d)(3)) and [24 CFR 42.375](#), lower-income dwelling units shall not include single-room occupancy (SRO) units or residential hotel or motel units in jurisdictions where those units are considered dwelling units under state or local law
6. **Regulations on consultant activities.** The requirements of 24 CFR 92.358 are not waived.
7. **Violence Against Women Act Requirements.** The requirements of 24 CFR 92.359 are not waived.

#### **I. SUBPART I - TECHNICAL ASSISTANCE**

**Applicability of requirements on provision of Technical Assistance in support of HOME-ARP activities.** The requirements of 24 CFR 92.400 are waived and shall not apply to the extent that they restrict the Department's ability to provide Technical Assistance funds allocated to the Department under subsection(d)(2) of ARP without competition, and to the extent that their application of Subpart C of NAHA (42 U.S.C. 12781 et seq.) would restrict capacity building to affordable housing activities rather than the broader set of eligible HOME-ARP activities.

#### **J. SUBPART J - REALLOCATIONS**

**Reallocation of HOME-ARP Funds.** The requirements of section 216 of NAHA (42 U.S.C. 12746), section 217 of NAHA (42 U.S.C. 12747), 24 CFR 92.66, 24 CFR 92.107, 24 CFR 92.450, 24 CFR 92.451(a), 24 CFR 92.452, 24 CFR 92.453 and 24 CFR 92.454 shall not apply to HOME-ARP funds and are waived to the extent they differ from the following alternative requirements for reallocations:

- (1) *Participating Jurisdictions.* For any participating jurisdiction that refuses to accept its allocation of HOME-ARP funds, does not have its HOME-ARP allocation plan accepted by HUD, or has its designation revoked during the period of availability of HOME-ARP funds, HUD shall reallocate the participating jurisdiction's unspent HOME-ARP funds to the State jurisdiction in accordance with 24 CFR 92.451(b) and (c).
- (2) *State Jurisdictions.* For any State jurisdiction that refuses to accept its allocation of HOME-ARP funds, does not have its HOME-ARP allocation plan accepted by HUD, or has its designation revoked during the period of availability of HOME-ARP funds, HUD shall reallocate the State jurisdiction's unspent HOME-ARP funds in

accordance with 24 CFR 92.451(b) and (c). *Insular areas.* For any insular area that refuses to accept its allocation of HOME-ARP funds, does not have its HOME-ARP allocation plan accepted by HUD, or has its designation revoked during the period of availability of HOME-ARP funds, HUD shall reallocate the insular area's unspent HOME-ARP funds proportionally to the remaining insular areas participating in the HOME-ARP program.

- (3) *Annual Reallocation.* Reallocations of funds pursuant to the above waivers and alternative requirements shall be performed annually, if practicable.

## **K. SUBPART K - PROGRAM ADMINISTRATION**

1. **The HOME Investment Trust Fund.** The requirements in 24 CFR 92.500 apply to HOME-ARP, except 92.500(b) is waived and the following alternative requirement is imposed:

(b) *Treasury Account.* The United States Treasury account of the HOME Investment Trust Fund includes funds allocated to the participating jurisdiction under HOME-ARP and funds reallocated to the participating jurisdiction under subpart J of 24 CFR part 92.

The requirements in section 218(c)(2) of NAHA (42 U.S.C. 12748(c)(2)), 24 CFR 92.500(c)(2), (d)(1)(i)-(iii), and (d)(2) are waived and do not apply to HOME-ARP.

2. **HOME Investment Partnership Agreement.** The requirements in 24 CFR 92.501 are waived and the following alternative requirements are imposed:

Allocated and reallocated HOME-ARP funds will be made available pursuant to a HOME-ARP Grant Agreement. The agreement requires that HOME-ARP funds invested in HOME-ARP activities are repayable if the activity does not comply with the requirements in the HOME-ARP Notice and any subsequent amendments.

After the date of the HOME-ARP Notice, the participating jurisdiction and HUD may enter into a HOME-ARP Grant Agreement for the use of its HOME-ARP allocation pursuant to the HOME-ARP Notice. After the obligation date identified in the HOME-ARP Grant Agreement, a participating jurisdiction may use up to 5 percent of its HOME-ARP award for eligible administrative and planning costs in 24 CFR 92.207. The participating jurisdiction may not incur any costs or expend any funds for costs other than administrative and planning costs before the HOME-ARP allocation plan is accepted by HUD as described in the HOME-ARP Notice.

If the participating jurisdiction does not submit a HOME-ARP allocation plan, if the participating jurisdiction's plan is not accepted within a reasonable period of time, as determined by HUD, or if the subrecipient or contractor administering a participating jurisdiction's entire HOME-ARP award is not included in the

HOME-ARP allocation plan, in accordance with the HOME-ARP Notice, all HOME-ARP costs incurred by the participating jurisdiction (or its subrecipient or contractor) are ineligible costs and any HOME-ARP funds expended by the participating jurisdiction must be repaid to the participating jurisdiction's HOME Investment Trust Fund Treasury account, in accordance with guidance from HUD.

3. **Program disbursement and information system.** The requirements in 24 CFR 92.502(b) are waived to the extent they conflict with the alternative requirement that HOME-ARP investments for acquisition, new construction, or rehabilitation of housing or non-congregate shelter, the provision of tenant-based rental assistance, and the provision of supportive services must be set up as projects in the Integrated Disbursement and Information System. The requirements in 24 CFR 92.502(c)(3) are waived and do not apply to HOME-ARP.
4. **Program income and repayments.** A participating jurisdiction must comply with the requirements for program income and repayments in the HOME-ARP Notice. The requirements in 24 CFR 92.503 apply to the use of HOME-ARP funds, except that the requirements in 92.503(a)(2), (b)(3), (c)(3), (c)(4), and (d) are waived and the following alternative requirements apply:
  - (1) *Program income.* If a jurisdiction is not a participating jurisdiction in HOME or HOME-ARP when the HOME-ARP program income is received, the funds must be remitted to HUD and reallocated, in accordance with 24 CFR 92.454 and the HOME-ARP Notice.
  - (2) *Repayments.* A participating jurisdiction must repay HOME-ARP funds to the HOME Investment Trust Fund Treasury account. If the jurisdiction is not a participating jurisdiction for HOME or HOME-ARP at the time the repayment is made, the funds must be remitted to HUD and reallocated, in accordance with 24 CFR 92.454 and the HOME-ARP Notice.
5. **Participating jurisdiction responsibilities; written agreements; on-site inspection.** HUD waives 24 CFR 92.504, except for those provisions that reference the requirements of 24 CFR 92.350, 24 CFR 92.351, and 24 CFR 92.359, and imposes the following alternative requirements for 92.504:
  - (a) *Responsibilities.* The participating jurisdiction is responsible for managing the day-to-day operations of its HOME-ARP program, ensuring that HOME-ARP 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 HOME-ARP Notice, to ensure that the requirements of this part are met.

(b) *Executing a written agreement.* Before disbursing any HOME-ARP funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME-ARP funds to any entity, a State recipient, subrecipient, or contractor which is administering all or a part of the HOME-ARP 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 the HOME-ARP Notice.

(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. The written agreement must contain the applicable minimum provisions for a written agreement in the HOME-ARP Notice based on the project or activity (e.g., HOME-ARP rental housing, non-congregate shelter, tenant-based rental assistance, or supportive services) and the basic requirements and minimum provisions by role described in this section.

(1) *State recipient.* The provisions in the written agreement between the State and a State recipient will depend on the program functions that the State specifies the State recipient will carry out in accordance with 24 CFR 92.201(b). The written agreement must require the State recipient to comply with State's requirements, including underwriting, refinancing guidelines, and applicable requirements described in the HOME-ARP Notice.

(i) *Use of the HOME-ARP funds.* The agreement with a State recipient must describe the amount and use of the HOME-ARP funds to administer one or more HOME-ARP programs, including the type and number of projects to be funded, tasks to be performed, a schedule for completing the tasks, duration of the agreement, and a budget for each program. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction or State to effectively monitor performance under the agreement.

(ii) *Affordability.* The agreement must require projects assisted with HOME-ARP funds to meet the requirements of the HOME-ARP Notice, as applicable, and must require repayment of the funds if the project does not meet the requirements for the specified time period.

(iii) *Program income.* The agreement must state if program income is to be remitted to the State or to be retained by the State recipient for additional eligible activities.

(iv) *Uniform administrative requirements.* The agreement must require the State recipient or subrecipient to comply with applicable uniform

administrative requirements described in 24 CFR 92.505, as revised by this Appendix to the HOME-ARP-ARP Notice.

(v) *Project requirement.* The agreement must require compliance with requirements in the HOME-ARP Notice, in accordance with the type of project assisted. The agreement must state whether the State is permitting a preference for a qualifying population or segment of a qualifying population. The written agreement must contain provisions requiring the method of tenant selection to be used in accordance with the requirements of the HOME-ARP Notice.

(vi) *Other program requirements.* The agreement must require the State recipient to carry out each activity in compliance with the HOME-ARP Notice and all Federal laws and regulations described in subpart H of 24 CFR part 92, except that the State recipient does not assume the State's responsibilities for release of funds under 24 CFR 92.352 and the intergovernmental review process in 92.357 does not apply to the State recipient. If HOME-ARP funds are provided, the agreement must set forth all obligations the State imposes on the State recipient in order to meet the VAWA requirements under 24 CFR 92.359, including notice obligations and any obligations with respect to the emergency transfer plan (including whether the State recipient must develop its own plan or follow the State's plan).

(vii) *Affirmative marketing.* The agreement must specify the State recipient's affirmative marketing responsibilities in accordance with 24 CFR § 92.351.

(viii) *Requests for disbursement of funds.* The agreement must specify that the State recipient may not request disbursement of HOME-ARP funds under this 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 State recipient requests funds from the State.

(ix) *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 State in meeting its recordkeeping and reporting requirements.

(x) *Enforcement of the agreement.* The agreement must provide for a means of enforcement of affordable housing or non-congregate shelter requirements by the State or the intended beneficiaries, if the State recipient will be the owner at project completion of the affordable housing or non-congregate shelter. The means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The



applicable requirements as described in the HOME-ARP Notice must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the HOME-ARP requirements. The agreement must specify that, in accordance with 2 CFR 200.338, suspension or termination may occur if the State recipient materially fails to comply with any term of the agreement. The State may permit the agreement to be terminated in whole or in part in accordance with 2 CFR 200.339.

(xi) *Written agreement.* Before the State recipient provides funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, HOME-ARP owners, sponsors, or tenants (or landlords) receiving tenant-based rental assistance, or contractors who are providing services to the State recipient, the State recipient must have a written agreement with such entities that meets the requirements of this section and the HOME-ARP Notice.

(xii) *Duration of the agreement.* The duration of the agreement will depend on which functions the State recipient performs (e.g., whether the State recipient or the State has responsibility for monitoring rental projects for the period of affordability) and which activities are funded under the agreement. The duration of the agreement must comply with the requirements of the HOME-ARP Notice.

(xiii) *Fees.* The agreement must prohibit the State recipient and its subrecipients, community housing development organizations, and nonprofit organizations from charging servicing, origination, processing, inspection, or other fees for the costs of administering a HOME-ARP program, except as permitted by 24 CFR 92.214, as revised by the Appendix to the HOME-ARP Notice.

(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-ARP programs to produce affordable housing, non-congregate shelter, or provide tenant-based rental assistance or supportive services. The agreement must set forth and require the subrecipient to follow the participating jurisdiction's requirements, including requirements for underwriting, refinancing guidelines, and requirements described in the HOME-ARP Notice.

The agreement between the participating jurisdiction and the subrecipient must include:

(i) *Use of the HOME-ARP funds.* The agreement with a subrecipient must describe the amount and use of the HOME-ARP-ARP funds to administer one or more HOME-ARP-ARP programs, including the type and number of projects to be funded, tasks to be performed, a schedule for completing

the tasks, duration of the agreement, and a budget for each program. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction or State 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 State recipient or subrecipient to comply with applicable uniform administrative requirements described in 24 CFR 92.505 as revised by this Appendix.

(iv) *Other program requirements*. The agreement must require the subrecipient to carry out each activity in compliance with HOME-ARP Notice and all Federal laws and regulations described in subpart H of 24 CFR part 92, except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under 24 CFR 92.352 and the intergovernmental review process in 24 CFR 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-ARP funds are committed to a project. If HOME-ARP funds are being provided, the agreement must set forth all obligations the participating jurisdiction imposes on the subrecipient in order to meet the VAWA requirements under 24 CFR 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 24 CFR 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-ARP funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME-ARP 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-ARP funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, HOME-ARP owners, sponsors, tenants (or landlords) receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement that meets the requirements of this section and the HOME-ARP Notice. The agreement must state if repayment of HOME-ARP funds or recaptured HOME-ARP 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-ARP program, except as permitted by 24 CFR 92.214, as revised by this Appendix.

(3) *For-profit or nonprofit housing owner, sponsor, or developer (other than single-family owner-occupant).* The participating jurisdiction may preliminarily award HOME-ARP 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-ARP funds to the project must meet the requirements of “commit to a specific local project” in the definition of “commitment” in 24 CFR 92.2, as revised by this Appendix and contain the following:

(i) *Use of the HOME-ARP 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-ARP 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-ARP requirements.

(ii) *Affordability*. The agreement must require projects assisted with HOME-ARP funds to meet the requirements of the HOME-ARP Notice, as applicable, and must require repayment of the funds if the project does not meet the requirements for the specified time period.

(iii) *Project requirements*. The agreement must require compliance with requirements in the HOME-ARP Notice, in accordance with the type of project assisted. The agreement must state whether the State is permitting a preference for a qualifying population or segment of a qualifying population. The written agreement must contain provisions requiring the method of tenant selection to be used in accordance with the requirements of the HOME-ARP Notice.

(iv) *Property standards*. The agreement must require the housing or shelter to meet the property standards established in the HOME-ARP Notice upon project completion. The agreement must also require owners of rental housing or shelter assisted with HOME-ARP funds to maintain the project in compliance with the HOME-ARP Notice for the duration of the affordability period.

(v) *Other program requirements*. The agreement must require the owner or developer to carry out each project in compliance with the following requirements of the HOME-ARP Notice:

(A) The agreement must specify the owner or developer's affirmative marketing responsibilities as enumerated by the participating jurisdiction in accordance with 24 CFR 92.351.

(B) The federal requirements and nondiscrimination established in 24 CFR 92.350.

(C) Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with 24 CFR 92.353 and the HOME-ARP Notice.

(D) The labor requirements in 24 CFR 92.354.

(E) The conflicts of interest provisions prescribed in the HOME-ARP Notice.

(F) If HOME-ARP funds are being provided, the agreement must set forth all obligations the participating jurisdiction imposes on the owner in order to meet the VAWA requirements under 24 CFR 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.

(vii) *Enforcement of the agreement.* The agreement must provide for a means of enforcement of the HOME-ARP rental housing or non-congregate shelter 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 applicable requirements in the HOME-ARP Notice 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) omitted

(x) *Duration of the agreement.* The agreement must specify the duration of the agreement in accordance with the HOME-ARP Notice. If the project assisted under this agreement is rental housing, the agreement must be in effect through the compliance period required by the participating jurisdiction, but in no case less than the minimum compliance period in the HOME-ARP Notice.

(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.

(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-ARP programs or specific services for one or more programs, the contract must include at a minimum the following provisions:

(i) *Use of the HOME-ARP funds.* The agreement must describe the use of the HOME-ARP 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 24 CFR part 92 and the HOME-ARP Notice that are applicable to the participating jurisdiction, except 24 CFR 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 24 CFR 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 24 CFR 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 in accordance with the HOME-ARP Notice. Generally, the duration of a contract should not exceed two years.

(5) *HOME-ARP owner tenant receiving tenant-based rental or security deposit assistance.* When a participating jurisdiction provides assistance to a HOME-ARP owner, sponsor, or tenant, the written agreement, including the rental assistance contract or security deposit contract, must comply with the HOME-ARP Notice.

(6) *Community housing development organization or nonprofit organization receiving assistance for operating expenses.* The agreement must describe the use of HOME-ARP 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 or nonprofit organization is not also receiving funds for a HOME-ARP project, the agreement must provide that the community housing development organization or nonprofit 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) waived and omitted.

(8) *Technical assistance provider to develop the capacity of community housing development organizations or nonprofit 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-ARP funds, including a budget, a period of performance, and a schedule for completion.

(9) *Supportive Services Providers.* If participating jurisdictions are using a supportive services provider, participating jurisdictions must document in their written agreement with supportive service providers whether they are authorizing McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three. Only the supportive services that are authorized in the written agreement may be provided to program participants and only program participants that are eligible for those supportive services may be served. As such, supportive services providers must demonstrate through their documentation that the individuals served were eligible to receive the supportive services that were authorized under the written agreement in order for those costs to be eligible

While all qualifying households are eligible to receive supportive services under this activity, the participating jurisdiction must establish requirements for documenting eligible costs for an individual or family in a qualifying population (as defined in Section IV.A of this Notice) as McKinney-Vento supportive services, homelessness prevention services, or Housing Counseling.

If a person is homeless, then the person is eligible to be provided the supportive services as McKinney-Vento supportive services for the costs allowable in Section VI.D.4.c below. If a person is housed and the supportive services are intended to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing to achieve stability in that housing then the person is eligible for homelessness prevention services for the costs allowable in Section VI.D.4.c.i below. Housing Counseling services may be provided regardless of whether a person is homeless or currently housed.

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

(1) *Inspections.* The participating jurisdiction must inspect each rental housing project at project completion and during the compliance period to determine that the project meets the property standards of 24 CFR 92.251. The participating jurisdiction must inspect each non-congregate shelter at project completion and as needed, during the restricted use period, to determine that the project meets the property standards, in accordance with the HOME-ARP Notice.

(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-ARP rental housing or non-congregate shelter to determine that all contracted work has been completed and that the project complies with the property standards, as described in the HOME-ARP Notice.

(ii) *Ongoing periodic inspections of HOME-ARP-assisted rental housing.* During the period of affordability, the participating jurisdiction must perform on-site inspections of HOME-ARP assisted rental housing to determine compliance with the property standards of 24 CFR 92.251 and to verify the information submitted by the owners in accordance with the requirements of 24 CFR 92.252, as revised by this Appendix and the HOME-ARP Notice. The inspections must be in accordance with the inspection procedures that the participating jurisdiction establishes to meet the inspection requirements of 24 CFR 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 compliance period.

(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 24 CFR 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 24 CFR 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-ARP- 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 24 CFR 92.251.

(D) Inspections must be based on a statistically valid sample of units appropriate for the size of the HOME-ARP-assisted project, as set forth by HUD through notice. For projects with one-to-four HOME-ARP-assisted units, participating jurisdiction must inspect



100 percent of the HOME-ARP-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-ARP-assisted units.

(iii) *Annual inspections.* Tenant based rental assistance (TBRA). All housing occupied by tenants receiving HOME-ARP 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-ARP-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-ARP-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.

6. **Applicability of uniform administrative requirements.** The requirements of 24 CFR 92.505 apply to the use of HOME-ARP funds, except HUD waives 24 CFR 92.505 to the extent that it conflicts with the following:

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

Where regulations in 24 CFR part 92 refer to specific regulations of 2 CFR part 200 that were or are renumbered or revised by amendments to 2 CFR part 200, the requirements that apply to the use of HOME-ARP funds are the applicable requirements in 2 CFR part 200, as amended, notwithstanding the renumbered regulatory reference.

7. **Confidentiality.** 24 CFR 92.504 and 24 CFR 92.508(a)(3) are waived only to the extent that they conflict with the following alternative requirements:

*Confidentiality Requirements.* The participating jurisdiction, subrecipients, owners, contractors, must develop, implement, and maintain written procedures to require that –

- All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential;

- The address or location of any NCS or HOME-ARP rental housing exclusively for individuals fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as necessary where making the address or location public does not identify occupancy of the NCS or HOME-ARP rental housing, when necessary to record use restrictions or restrictive covenants in accordance with Section VI.B or VI.E, or with written authorization of the person or entity responsible for the operation of the NCS or HOME-ARP rental housing; and
- The address or location of any program participant that is a fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as provided under a privacy policy of the participating jurisdiction consistent with state and local laws and any other grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

Documenting status of a qualifying population that is fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault, or human trafficking:

- If an individual or family qualifies because the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking then acceptable evidence includes an oral or written statement by the qualifying individual or head of household seeking assistance that they are fleeing that situation. An oral statement may be documented by either –
  - a written certification by the individual or head of household; or
  - a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance.

The written documentation need only include the minimum amount of information indicating that the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking and need not include any additional details about the conditions that prompted the individual or family to seek assistance.

All entities assisted by HOME-ARP funds must develop, implement, and maintain written procedures to require that –

- a. All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential;
- b. The address or location of any NCS or HOME-ARP rental housing exclusively for individuals fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as necessary where making the address or location public does not identify

occupancy of the NCS or HOME-ARP rental housing, when necessary to record use restrictions or restrictive covenants in accordance with Section VI.B or VI.E, or with written authorization of the person or entity responsible for the operation of the NCS or HOME-ARP rental housing; and

- c. The address or location of any program participant that is a fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be made public, except as provided under a privacy policy of the participating jurisdiction consistent with state and local laws and any other grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

Documenting status of a qualifying population that is fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault, or human trafficking:

- a. If an individual or family qualifies because the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking then acceptable evidence includes an oral or written statement by the qualifying individual or head of household seeking assistance that they are fleeing that situation. An oral statement may be documented by either –
  - i. a written certification by the individual or head of household; or
  - ii. a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance.

The written documentation need only include the minimum amount of information indicating that the individual or family is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking and need not include any additional details about the conditions that prompted the individual or family to seek assistance.

## 8. **Recordkeeping.**

Each participating jurisdiction must establish and maintain sufficient records to enable HUD to determine whether the participating jurisdiction has met the requirements of the HOME-ARP Notice. The recordkeeping requirements in 24 CFR 92.508 apply to HOME-ARP, except 92.508(a)(2) for program records, (a)(3) for project records, (a)(4) for financial records, and 92.508(c) for period of record retention are waived and HUD imposes the following alternative requirements for program, project, financial, and period of record retention:

### (1) Program Records:

- a. Records evidencing that all HOME-ARP funds used by a participating jurisdiction for TBRA, supportive services, and acquisition and development of non-congregate shelter units benefit individuals and families in qualifying populations.

- b. Records evidencing that not less than 90 percent of affordable rental housing units acquired, rehabilitated, and/or constructed with HOME funds by a participating jurisdiction are occupied by households in the qualifying populations.
  - c. Records documenting compliance with the 15 percent limitation on administrative and planning costs.
  - d. Records documenting compliance with the 5 percent limitation on CHDO and non-profit operating and capacity building costs.
  - e. The underwriting and subsidy layering guidelines adopted in accordance with Section VI.B.10 of the HOME-ARP Notice that support the participating jurisdiction's HOME-ARP allocation plan certification.
  - f. If existing debt is refinanced for multifamily rehabilitation projects, the HOME-ARP refinancing guidelines established in the HOME-ARP Allocation Plan.
  - g. If HOME-ARP funds are used for TBRA, records supporting the participating jurisdiction's 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 Section VI.C.7 and 8 of the HOME-ARP Notice.
  - h. Confidentiality.
    - i. The participating jurisdiction's written policies and procedures for maintaining confidentiality of qualifying households as individuals or families fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with Section VIII.H
    - ii. The participating jurisdiction's written policies and procedures for maintaining confidentiality in compliance with the VAWA protections contained in [24 CFR Part 5, Subpart L](#).
- (2) Project Records: participating jurisdictions are required to retain the following records for HOME-ARP-assisted projects, as specified by activity type.
- a. A full description of each project assisted with HOME-ARP funds, including the location (address of project), form of HOME-ARP assistance, and the units, families, or qualifying households assisted with HOME-ARP funds, subject to the confidentiality requirements in the HOME-ARP Notice and this Appendix.
  - b. 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-ARP-eligible development costs of each HOME-ARP-assisted unit as defined in the HOME-ARP Notice.

- c. Records (i.e., written agreements) demonstrating compliance with the written agreement requirements in Section VIII.B. of the HOME-ARP Notice.
- d. Records (e.g., inspection reports) demonstrating that each HOME-ARP rental project meets the property standards in Section VI.B.11 of the HOME-ARP Notice at project completion and through the applicable minimum compliance period. In addition, during a HOME-ARP rental project's minimum compliance period, records demonstrating compliance with the property standards and financial oversight pursuant to 24 CFR 92.504(d) and the operating cost assistance reserve management and oversight required by Section VI.B.22 of the HOME-ARP Notice.
- e. Records (e.g., inspection reports) demonstrating that each unit occupied by a qualifying household receiving HOME-ARP TBRA, meets the housing quality standards of Section VI.C.9 of the HOME-ARP Notice at initial occupancy and throughout the household's term of assistance.
- f. Records (e.g., inspection reports) demonstrating that each NCS project meets the property and habitability standards of Section VI.E.7., of the HOME-ARP Notice at project completion and throughout the applicable restricted use period.
- g. Records demonstrating that each qualifying household is eligible for HOME-ARP assistance based on the requirements of the ARP and Section IV of the HOME-ARP Notice.
- h. Records demonstrating that each household qualifying as homeless, records that meet the requirements in 24 CFR 576.500(b)(1), (2), (3), or (4), as applicable (except that youth aged 24 and under must not be required to provide third-party documentation to show they are homeless to receive any shelter, housing, or services for which ESG or CoC Program funds may be used to supplement the HOME-ARP assistance) ;
- i. Records demonstrating that each household qualifying as "at risk of homelessness," records that meet the requirements in 24 CFR 576.500(c)(1) or (2), as applicable, and include the following documentation of annual income:
  - (i) Income evaluation form containing the minimum requirements specified by HUD and completed by the recipient or subrecipient; and
  - (ii) Source documents for the assets held by the household and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);
  - (iii) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits

- administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the household received over the most recent period for which representative data is available; or
- (iv) To the extent that source documents and third party verification are unobtainable, the written certification by the household of the amount of income the household received for the most recent period representative of the income that the household is reasonably expected to receive over the 3-month period following the evaluation.
  - j. Records demonstrating compliance with the household income requirements in accordance with Section VI.B.12 of the HOME-ARP Notice for each HOME-ARP rental project.
  - k. Records demonstrating that each HOME-ARP rental and NCS project meets the minimum compliance period or restricted use period described in Sections VI.B.17 and VI.E.9 respectively, of the HOME-ARP Notice.
  - l. Records demonstrating that for each HOME-ARP rental housing unit or for each household receiving HOME-ARP TBRA, compliance with the tenant protection requirements of Sections VI.B.18 and VI.C. 2, respectively, of the HOME-ARP Notice. For HOME-ARP TBRA or rental projects under a master lease, the participating jurisdiction must retain records demonstrating that a master lease for housing leased by a HOME-ARP sponsor and each sublease between a qualifying household and HOME-ARP sponsor complies with the tenant and participant protections of 24 CFR 92.253 and the HOME-ARP Notice. Records must be kept for each household.
  - m. Records demonstrating compliance with the return of the HOME-ARP rental capitalized operating cost assistance reserve and/or the NCS replacement reserve at the end of the compliance or restricted use period in accordance with Sections VI.B.23 and VI.E.10 respectively, of the HOME-ARP Notice.
  - n. Records demonstrating that each HOME-ARP rental and each NCS project meets the underwriting and subsidy layering or due diligence requirements of Section VI.B.10 or VI.E.6 of the HOME-ARP Notice.
  - o. Records demonstrating that each HOME-ARP rental housing project meets the rent limitations of Sections VI.B.13 and VI.B.15 of the HOME-ARP Notice for the 15-year minimum compliance period. Records must be kept for each household assisted.
  - p. Records demonstrating that each multifamily HOME-ARP rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with 24 CFR 92.206(b).
  - q. Records demonstrating that a site and neighborhood standards review was conducted for each HOME-ARP rental housing project involving new

construction under Section VI.B. of the HOME-ARP Notice to determine that the site meets the requirements of 24 CFR 983.57(e)(2) and (e)(3), in accordance with 24 CFR 92.202.

- r. Records demonstrating that any conversion of HOME-ARP NCS complies with the requirements established by Section VI.E. of the HOME-ARP Notice, including that conversion of NCS only occurred after the end of the applicable minimum use period defined in Section VI.E.11.
- s. For all HOME-ARP NCS projects the following documents must be maintained, as applicable:
  - (i) Purchase contract, closing documents, settlement statement and title work for acquisitions.
  - (ii) Appraisal or other estimation of value to justify acquisition expenditure.
  - (iii) Architectural and engineering contracts and completed designs, plans, and specifications for rehabilitation and new construction activities.
  - (iv) Invoices, pay requests, and proof of payment for all project expenditures.
  - (v) Proof of insurance.
  - (vi) Project and program audits.
- t. For all HOME-ARP Supportive Services projects pursuant to McKinney-Vento or Homelessness Prevention Supportive Services:
  - (i) Records demonstrating which types of Supportive Services the participating jurisdiction is offering program participants.
  - (ii) Records, where applicable, demonstrating compliance with the termination of assistance requirement as described in section VI.D.5. of the HOME-ARP Notice.
  - (iii) Records of all solicitations of and agreements with subrecipients and contractors, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable including any findings and corrective actions required.
  - (iv) Records of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR part 200, subpart D, and Section VIII.D of the HOME-ARP Notice.
  - (v) Records evidencing the use of the written procedures required under Section VI.D.2 and records evidencing compliance with Section IV.C.2.
  - (vi) Records of all leases, subleases, and financial assistance agreements for the provision of rental payments, documentation of payments made by the participating jurisdiction to owners, HOME-ARP sponsor, or qualifying households for the provision of financial assistance for rental payments, and supporting documentation for these payments, including dates of occupancy by qualifying individuals and families.

- (vii) Records that document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.
  - (viii) Records of the types of services provided under the participating jurisdiction's program and the amounts spent on these services.
  - (ix) Records demonstrating subrecipient compliance with the recordkeeping requirements in Section VIII.F. of the HOME-ARP Notice.
  - u. For all HOME-ARP Housing Counseling Services projects as defined in 24 CFR part 5, each participating housing counseling agency must maintain a recordkeeping and reporting system in accordance with 24 CFR 214.315 and 24 CFR 214.317. The system must permit HUD to easily access all information needed for a performance review.
  - v. For all HOME-ARP-assisted nonprofit operating expense and capacity building assistance activities:
    - (i) Records concerning the use of funds for nonprofit operating expense and capacity building assistance must be maintained to enable HUD to determine whether the participating jurisdiction has met the requirements of Section VI.F. of the HOME-ARP Notice.
    - (ii) Written agreements between the participating jurisdiction and the nonprofit organization providing nonprofit operating expense assistance or capacity building assistance must be retained for five years after the agreement terminates.
- (3) Financial records:
- a. Records, in accordance with [2 CFR 200.302](#), identifying the source and application of HOME-ARP funds. Identification must include, as applicable, the Assistance Listing program title and number (formerly Catalogue of Federal Domestic Assistance), Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
  - b. Records concerning the HOME Investment Trust Fund Treasury account and local account required to be established and maintained by the HOME-ARP Notice, including deposits, disbursements, balances, supporting documentation and any other information required by IDIS.
  - c. Records identifying the source and application of program income and repayments.
  - d. Records demonstrating adequate budget control and other records required by [2 CFR 200.302](#), including evidence of periodic account reconciliations.
- (4) Program administration records:
- a. Records demonstrating compliance with the written agreements required by Section VIII.B. of the HOME-ARP Notice.



- b. Records demonstrating compliance with the applicable uniform administrative requirements required by Section VIII.D. of the HOME-ARP Notice.
  - c. Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.
- (5) Records concerning other Federal requirements:
- a. Equal opportunity and fair housing records.
    - (i) 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-ARP funds.
    - (ii) Documentation that the participating jurisdiction submitted a certification that it will affirmatively further fair housing consistent with 24 CFR 5.152 (HUD's Interim Final Rule entitled "[Restoring Affirmatively Furthering Fair Housing Definitions and Certifications](#)," (86 FR 30779, June 10, 2021), as amended established the AFFH definition, codified at 24 CFR 5.151 and the AFFH certification, codified at 24 CFR 5.152, available at. <https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>)
    - (iii) Records demonstrating compliance with the nondiscrimination and equal opportunity requirements of 24 CFR 92, Subpart H.
  - b. Affirmative marketing and MBE/WBE records.
    - (i) Records demonstrating compliance with the affirmative marketing procedures and requirements of [24 CFR 92.351](#).
    - (ii) 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-ARP 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.
  - c. Records demonstrating compliance with the environmental review requirements of [24 CFR 92.352](#), [24 CFR part 58](#), and the HOME-ARP Notice including flood insurance requirements.
  - d. Records demonstrating compliance with the requirements of [24 CFR 92.353](#) and the provisions of Section VII.F. of the HOME-ARP Notice regarding

displacement, relocation, and real property acquisition, including but not limited to:

- (i) project occupancy lists identifying the name and address of all persons occupying the real property on the date described in [24 CFR 92.353\(c\)\(2\)\(i\)\(A\)](#), moving into the property on or after the date described in [24 CFR 92.353\(c\)\(2\)\(i\)\(A\)](#), and occupying the property upon completion of the project;
  - (ii) lists of all individuals or families occupying hotels and motels and other nonresidential properties acquired, rehabilitated, and/or demolished and newly constructed to become HOME-ARP NCS or HOME-ARP rental housing that qualify for assistance under the HOME-ARP Notice as members of a qualifying population, as well as records indicating whether such persons were assisted by the HOME-ARP program by the participating jurisdiction following the closure of the nonresidential properties because of HOME-ARP activities
  - (iii) lists of all individuals or families occupying HOME-ARP NCS that were converted during the required use period that qualify for assistance under the HOME-ARP Notice, as well as records indicating whether moving costs or advisory services were provided as part of HOME-ARP administrative costs or under the HOME-ARP supportive services activity in Section VI.D of the HOME-ARP Notice, and records indicating whether such persons were assisted by the HOME-ARP program by the participating jurisdiction following the conversion of the HOME-ARP NCS units.
  - (iv) Documentation that the participating jurisdiction has and followed a RARAP in accordance with [24 CFR 92.353](#) and [24 CFR 42.325](#).
- i. Records demonstrating compliance with the labor requirements of [24 CFR 92.354](#), including contract provisions and payroll records.
  - j. Records demonstrating compliance with the lead-based paint requirements of [24 CFR part 35](#), subparts A, B, J, K, M and R, as applicable.
  - k. Records supporting compliance with conflict of interest requirements in [24 CFR 92.356](#), as revised by Section VII.H. of the HOME-ARP Notice, as well as documentation of any exceptions granted by HUD or a state participating jurisdiction, as applicable, to the conflict of interest provisions in [24 CFR 92.356](#), as revised by Section VII.H. of the HOME-ARP Notice.
  - l. Records demonstrating compliance with debarment and suspension requirements in [2 CFR part 2424](#).
  - m. Records concerning intergovernmental review, as required by [24 CFR 92.357](#).

- n. Records of emergency transfers requested under [24 CFR 5.2005\(e\)](#) and [24 CFR 92.359](#) pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of those requests.
  - o. 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).
- (6) State Recipients and Subrecipients: A participating jurisdiction that distributes HOME-ARP funds to State recipients or subrecipients must require the State recipients or subrecipients to keep the records required by paragraphs 1. program records, 2. project records, 3. financial records, 4. program administration records, and 5. records concerning other federal requirements of this Section of the Notice, and such other records as the participating jurisdiction determines to be necessary to enable the participating jurisdiction to carry out its responsibilities under the HOME-ARP Notice. The participating jurisdiction need not duplicate the records kept by the State recipients or subrecipients. The participating jurisdiction must keep records concerning its annual review of the performance and compliance of each State recipient and subrecipient as required under [24 CFR 92.504\(a\)](#).
- (7) Period of record retention: All records pertaining to HOME-ARP funds must be retained for five years, except as provided below.
- a. 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.
  - b. For HOME-ARP TBRA projects, records must be retained for five years after the period of rental assistance terminates.
  - c. Written agreements must be retained for five years after the agreement terminates.
  - d. Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with [24 CFR 92.353](#).
  - e. 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.
- (8) Access to records: The participating jurisdiction must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent

with applicable state and local laws and any other applicable grant conditions from other federal grant programs regarding privacy and obligations of confidentiality.

The participating jurisdiction, subrecipient, contractor, or owner may create a program participant identifier code or number that can be used on a file and maintained internally, in such a way that the number itself does not inadvertently identify the program participant, (i.e. no use of initials, date of birth, or other pieces of information that might suggest who the program participant is.) The “key” or “cypher” for the program participant identifier code would itself be confidential and would not leave the provider. In the circumstance of HUD programs, the Unique Personal Identification Number which is generated within the comparable database could be used with auditors to identify records of services to distinct individuals, subject to the below requirement.

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. If a provider of services or operator of an NCS is subject to state or local laws or other federal grant programs that require that HUD not be given access to records detailing PII of victims, then auditors or evaluators may be given access to representative files without any sharing of individual identifying information.

9. **Performance reports.** Requirements in 24 CFR 92.509 are waived and HUD imposes the requirements in the Reporting and Performance Reports section in the HOME-ARP Notice as an alternative requirement.

The participating jurisdiction must submit reports in a format and at such time as prescribed by HUD. In addition, HUD and Office of the Inspector General (OIG) staff must be given access, upon reasonable notice, to all information related to the selection, award, and use of HOME-ARP funds.

Each participating jurisdiction must enter the required HOME-ARP data elements timely in IDIS.

1. For HOME-ARP rental activities, the participating jurisdiction must enter complete project completion information when it completes the activity in IDIS, except the assisted units can be marked vacant until they are occupied by eligible households.

2. For HOME-ARP NCS activities, the participating jurisdiction must enter complete project completion information when it completes the activity in IDIS. In addition, the participating jurisdiction must report the disposition of any HOME-ARP-assisted NCS activity that is converted to another eligible use at the time of conversion.

3. For HOME-ARP TBRA activities, the participating jurisdiction reports beneficiary information in IDIS at the time assistance is provided.

4. For HOME-ARP Supportive Services activities, the participating jurisdiction must report in IDIS quarterly, by the 30th day after the end of each calendar quarter, on the number of homeless and not homeless households assisted with supportive services and, housing counseling, and/or homelessness prevention including the race and ethnicity, household size, and household type of the households assisted.

HUD will issue guidance about reporting on HOME-ARP activities in the participating jurisdiction's consolidated annual performance and evaluation report (CAPER) required under 24 CFR 91.520, at a later date.

#### **L. SUBPART L - PERFORMANCE REVIEWS AND SANCTIONS**

1. **Performance reviews.** HUD waives 24 CFR 92.550 and imposes the following alternative requirements:

HUD will review the performance of each participating jurisdiction in carrying out its responsibilities for the use of HOME-ARP funds and its compliance with the requirements of the HOME-ARP Notice. Such reviews may take the form of remote or on-site monitoring, review of IDIS data or reports, assessment of documents requested from the participating jurisdiction, subrecipient, or other entity carrying out HOME-ARP activities, and inquiries resulting from external audit reports, media reports, citizen complaints, or other sources of relevant information. HUD may also review a participating jurisdiction's timely use of HOME-ARP funds for eligible activities, including the progress of expenditures for individual projects or activities, the requirement to place a project in service in accordance with requirements in the HOME-ARP Notice, and compliance of HOME-ARP rental housing and NCS with the 4-year deadline for completing projects.

If HUD preliminarily determines that a participating jurisdiction has not met a requirement of the HOME-ARP Notice or an applicable requirement of the HOME regulations at [24 CFR Part 92](#), as revised by this Appendix, HUD will communicate its determination in writing and provide the participating jurisdiction with the opportunity to demonstrate, based on substantial facts, documentation, and data, that it has done so. HUD may extend any time period it provided to the participating jurisdiction to demonstrate its compliance if upon request of the participating jurisdiction, HUD determines that it is infeasible for the participating jurisdiction to provide a full response within the prescribed period.

If the participating jurisdiction fails to demonstrate to HUD's satisfaction that it has met the requirement, HUD will take corrective or remedial action in accordance with this section or [24 CFR 92.552](#).

2. **Corrective and remedial actions.** HUD waives 24 CFR 92.551 and imposes the following alternative requirements:

Corrective or remedial actions for a performance deficiency (e.g., failure to meet a provision of the HOME-ARP Notice or an applicable provision of 24 CFR Part 92) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence. HUD may impose corrective or remedial actions including but not limited to the following:

1. HUD may instruct the participating jurisdiction to submit and comply with proposals for action to correct, mitigate and prevent a performance deficiency, including:
  - a. Preparing and following a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;
  - b. Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;
  - c. Canceling or revising activities likely to be affected by the performance deficiency, before expending HOME-ARP funds for the activities;
  - d. Reprogramming HOME-ARP funds that have not yet been expended from affected activities to other eligible activities;
  - e. Reimbursing its HOME-ARP grant in any amount not used in accordance with the requirements of the HOME-ARP Notice;
  - f. Suspending disbursement of HOME-ARP funds for affected activities; and
  - g. Establishing procedures to ensure compliance with HOME-ARP requirements.
2. HUD may also:
  - a. change the method of payment from an advance to a reimbursement basis and may require supporting documentation to be submitted for HUD review for each payment request before payment is made;
  - b. determine the participating jurisdiction to be high risk and impose special conditions or restrictions on the use of HOME-ARP funds in accordance with 2 CFR 200.208; and
  - c. take other remedies that may be legally available, including remedies under 2 CFR 200.339 and 200.340.
3. The requirements in 92.551(c)(2) are also revised to the updated regulatory references to 2 CFR part 200, as amended, that have been renumbered.

#### **M. CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS (24 CFR PART 91)**

1. **Consultation requirements for HOME-ARP allocation plan.** 24 CFR 91.100 and 24 CFR 91.110 are waived and the following alternative requirements shall apply to HOME-ARP allocation plan submissions.

- (1) Before developing its HOME-ARP allocation plan, a participating jurisdiction must consult with agencies and service providers whose clientele include the HOME-ARP qualifying populations to identify unmet needs and gaps in housing or service delivery systems. In addition, a participating jurisdiction should use consultation to determine the HOME-ARP eligible activities currently taking place within its jurisdiction and potential collaborations for administering HOME-ARP. This consultation will provide a basis for the participating jurisdiction's strategy for distributing HOME-ARP funds for eligible activities to best meet the needs of qualifying populations.
  - (2) At a minimum, a participating jurisdiction must consult with the Continuum of Care (s) serving the jurisdiction's geographic area, homeless and domestic violence service providers, public housing agencies (PHAs), public agencies that address the needs of the qualifying populations, and public or private organizations that address fair housing, civil rights, and the needs of persons with disabilities. State participating jurisdictions are not required to consult with every PHA or Continuum of Care within the state's boundaries; however, local participating jurisdictions must consult with all PHAs and Continuum of Cares within the jurisdiction's boundaries. In its plan, a participating jurisdiction must describe its consultation process, list the organizations consulted, and summarize the feedback received from these entities.
2. **Public participation requirements for HOME-ARP allocation plan.** Section 105 of NAHA (42 U.S.C. 12705), section 107 of NAHA (42 U.S.C. 12707), 24 CFR 91.105, 24 CFR 91.115, 24 CFR 91.401 are waived and the following alternative requirements shall apply to HOME-ARP allocation plan submissions by participating jurisdictions.
- (1) Participating jurisdictions must provide for and encourage citizen participation in the development of the HOME-ARP allocation plan. Before submitting the HOME-ARP allocation plan to HUD, participating jurisdictions must provide residents with reasonable notice and an opportunity to comment on the proposed HOME-ARP allocation plan of no less than 15 calendar days. The participating jurisdiction must follow its adopted requirements for "reasonable notice and an opportunity to comment" for plan amendments in its current citizen participation plan except for where it conflicts with the requirements of this Appendix. In addition, participating jurisdictions must hold at least one public hearing during the development of the HOME-ARP allocation plan prior to submitting the plan to HUD.
  - (2) For the purposes of HOME-ARP, participating jurisdictions are required to make the following information available to the public.
    - a. The amount of HOME-ARP funds the participating jurisdiction will receive.

- b. The range of activities the participating jurisdiction may undertake.
- (3) A participating jurisdiction must consider any comments or views of residents received in writing, or orally at a public hearing, when preparing the HOME-ARP allocation plan. In its plan, a participating jurisdiction must describe its public participation process, including any efforts made to broaden public participation and summarize the comments or views received. In its plan, the participating jurisdiction must also include a summary of comments received through the public participation process and any comments or views not accepted and the reasons why.
- (4) Throughout the HOME-ARP allocation plan public participation process, the participating jurisdiction must follow its applicable requirements and procedures for effective communication, accessibility, and reasonable accommodation for persons with disabilities and providing meaningful access to participation by limited English proficient (LEP) residents that are in its current citizen participation plan.
- 3. **Alternative requirement to the Contents of the Consolidated Plan for Local Governments, States, Consortia, and Insular Areas.** The requirements of section 105(a), (b), (d)-(g) of NAHA (42 U.S.C. 12705(a), (b), (d)-(g)), section 107 of NAHA (42 U.S.C. 12707), 24 CFR Part 91, Subparts C and D are waived for HOME-ARP allocation plan submissions except to the extent that such provisions allow for the submission of the HOME-ARP allocation plan as part of a participating jurisdiction's annual action plan submission for Fiscal Year 2021. 24 CFR 91.505 is also waived. 24 CFR 91.500 shall apply except as modified by alternative requirements stated below. The following alternative requirements shall apply to the contents, submission, and review of the HOME-ARP allocation plan.
  - (1) *General Requirement.* The HOME-ARP allocation plan must describe the distribution of HOME-ARP funds and the process for soliciting applications and/or selecting eligible projects. The plan must also identify any preferences being established for eligible activities or projects. However, participating jurisdictions are not required to identify specific projects that will be funded in the HOME-ARP allocation plan.
  - (2) *Needs Assessment and Gaps Analysis.* A participating jurisdiction must evaluate the size and demographic composition of qualifying populations within its boundaries and assess the unmet needs of those populations. In addition, a participating jurisdiction must identify any gaps within its current shelter and housing inventory as well as the service delivery system. A participating jurisdiction should use current data including point in time count, housing inventory count, or other data available through CoCs, and consultations with



service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services. A participating jurisdiction should identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing. A participating jurisdiction must consider the housing and service needs of qualifying populations, including but not limited to:

- (1) Sheltered and unsheltered homeless populations;
- (2) Those currently housed populations at risk of homelessness;
- (3) Other families requiring services or housing assistance to prevent homelessness; and
- (4) Those at greatest risk of housing instability or in unstable housing situations.

A participating jurisdiction should include data in its HOME-ARP allocation plan that describes the qualifying populations. In addition, participating jurisdictions must include a narrative description that:

- a. Identifies the characteristics of housing associated with instability and an increased risk of homelessness if the participating jurisdiction will include such conditions under HUD's definition of "other populations" as established in Section IV.A.2.g. of the HOME-ARP Notice.
- b. Identifies the participating jurisdiction's priority needs for qualifying populations; and
- c. Explains how the participating jurisdiction determined the level of need and gaps in its shelter and housing inventory and service delivery systems.

- (3) *HOME-ARP Activities.* The HOME-ARP allocation plan must describe how a participating jurisdiction will distribute HOME-ARP funds in accordance with its priority needs. The plan must describe the participating jurisdiction's method for soliciting applications for funding and/or selecting developers, service providers and/or subrecipients and whether the participating jurisdiction will administer eligible activities directly. If the participating jurisdiction will provide any portion of its HOME-ARP administrative funds to a subrecipient or contractor prior to HUD's acceptance of the participating jurisdiction's HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the participating jurisdiction's entire HOME-ARP grant, the plan must identify the subrecipient or contractor and describe its role and responsibilities in administering all of the participating jurisdiction's HOME-ARP program.

Participating jurisdictions must indicate in the HOME-ARP allocation plan the amount of HOME-ARP funding that is planned for each eligible HOME-ARP

activity type, including administrative and planning activities. In addition, a participating jurisdiction must demonstrate that any planned funding for non-profit operating assistance, as described in Section VI.F of the HOME-ARP Notice, non-profit capacity building, and administrative costs is within statutory limits. A participating jurisdiction must also include a narrative description about how the characteristics of its shelter and housing inventory and service delivery system and the needs identified in the participating jurisdiction's gap analysis provided a rationale for its plan to fund eligible activities.

(4) *HOME-ARP Production Housing Goals.* The HOME-ARP allocation plan must estimate the number of affordable rental housing units for qualifying populations that a participating jurisdiction will produce or support with its HOME-ARP allocation. The plan must also include a narrative about the specific affordable rental housing production goal that the participating jurisdiction hopes to achieve and describe how it will address the participating jurisdiction's priority needs.

(5) *Preferences.* The HOME-ARP allocation plan must identify whether the participating jurisdiction intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project. For example, participating jurisdictions may include a preference for:

- homeless individuals and families as defined in the ESG and CoC Programs;
- individuals with special needs or persons with disabilities among qualifying individuals and families;
- a specific category of qualifying individuals and families (e.g., chronically homeless as defined in 24 CFR 91.5).

Participating jurisdictions are not required to describe specific projects to which the preferences will apply in the HOME-ARP allocation plan. However, a participating jurisdiction must explain how the use of a preference or method of prioritization will address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or category of qualifying population, consistent with participating jurisdiction's needs assessment and gap analysis. The participating jurisdiction must also describe how it will still address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in a preference through the use of HOME-ARP funds.

Preferences cannot violate any applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in [24 CFR 5.105\(a\)](#). The participating jurisdiction must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when establishing preferences or methods of prioritization.

(6) *HOME-ARP Refinancing Guidelines.* If a participating jurisdiction intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, it must state its refinancing guidelines in accordance with 24 CFR 92.206(b)(2). The guidelines must describe the conditions under which the participating jurisdiction will refinance existing debt for a HOME-ARP rental project. At a minimum, the guidelines must:

- Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity
- Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.
- State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.
- Specify the required compliance period, whether it is the minimum 15 years or longer.
- State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including the Community Development Block Grant program.

(7) *Substantial Amendments to the HOME-ARP Allocation Plan.* Participating jurisdictions must make a substantial amendment to the HOME-ARP allocation plan for changes in the method of distributing funds; to carry out an activity not previously described in the plan; or, to change the purpose, scope, location, or beneficiaries of an activity, including new preferences not previously described in the plan. In addition, the requirements for substantial amendments at 24 CFR 92.63 apply to the HOME-ARP allocation plan for insular areas. Participating jurisdictions are not required to make a substantial amendment to describe individual projects selected for funding if the eligible activity is included in the participating jurisdiction's plan. Participating jurisdictions must make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission. Upon completion of the public comment period, participating jurisdictions must submit substantial amendments to HUD in accordance with the process for submitting the HOME-ARP allocation plan as described in Section V.D.

(8) *Certifications and SF-424.* Participating jurisdictions must submit the required certifications in accordance with the requirements in the HOME-ARP Notice, including the following.

- (1) Affirmatively Further Fair Housing;
- (2) Uniform Relocation Act and Anti-displacement and Relocation Plan;
- (3) Anti-Lobbying;
- (4) Authority of Jurisdiction;
- (5) Section 3; and,
- (6) HOME-ARP specific certification that a participating jurisdiction will only use HOME-ARP funds for eligible activities and eligible costs.

Participating jurisdictions must also submit the SF-424, SF-424B and SF-424D with the HOME-ARP allocation plan.

(9) *HOME-ARP Submission and the eCon Planning Suite.* Upon completion of the HOME-ARP allocation plan, a participating jurisdiction must submit the HOME-ARP allocation plan to HUD. To submit the HOME-ARP allocation plan, participating jurisdictions must follow the process to make an amendment to the Fiscal Year (FY) 2021 annual action plan. Once the FY 2021 annual action plan is reopened, a participating jurisdiction must upload a Microsoft Word or PDF version of the plan as an attachment next to the “HOME-ARP allocation plan” option on the AD-26 screen (for participating jurisdictions FY 2021 annual action plan is a Year 2-5 annual action plan) or the AD-25 screen (for participating jurisdictions whose FY 2021 annual action plan is a Year 1 annual action plan that is part of the 2021 consolidated plan), unless instructed by HUD to follow a different submission procedure. Participating jurisdictions are not required to make any other edits to the FY 2021 annual action plan or applicable consolidated plan screens in the eCon Planning Suite. For more information on how to upload an attachment in the eCon Planning Suite, participating jurisdictions can refer to the eCon Planning Suite Desk Guide.

(10) *HUD Review of the HOME-ARP Allocation Plan.* The participating jurisdiction must submit its HOME-ARP allocation plan to HUD for review in accordance with 24 CFR 91.500, as revised by this alternative requirement. Unless instructed otherwise by HUD, the HOME-ARP allocation plan will be considered received by HUD when the SF-424 is submitted electronically, which means that it is uploaded in the eCon Planning Suite as an attachment on AD-25 or AD-26 screen, as applicable, and the action plan status is changed to “Submitted for Review.” HUD will review a participating jurisdiction’s HOME-ARP allocation plan to determine that it is.

- (1) Substantially complete, and
- (2) Consistent with the purposes of ARP.

HUD may disapprove a participating jurisdiction's HOME-ARP allocation plan in accordance with 24 CFR 91.500(b). HUD may also disapprove a HOME-ARP allocation plan or a portion of a plan if HUD determines that the plan is inconsistent with the purposes of ARP or substantially incomplete. A participating jurisdiction's plan is inconsistent with ARP if it includes allocates HOME-ARP funds for uses other than a HOME-ARP eligible activity, as described in the HOME-ARP Notice. A participating jurisdiction's plan is substantially incomplete if -

- a. The participating jurisdiction does not complete the required public participation or consultation or fails to describe those efforts in the plan;
- b. The participating jurisdiction fails to include the required elements outlined in the HOME-ARP Notice, including the amount of HOME-ARP funds for each eligible HOME-ARP activity type;
- c. The participating jurisdiction fails to identify and describe the responsibilities of the subrecipient or contractor administering all of its HOME-ARP award, if applicable; or,
- d. HUD rejects the participating jurisdiction's HOME-ARP certification as inaccurate.

In accordance with Section 105(c) of NAHA (42 U.S.C. 12705(c)) and 24 CFR 91.500(a), if the participating jurisdiction's HOME-ARP allocation plan is not disapproved within 45 days, then the plan is deemed approved 45 days after HUD receives the plan, and HUD shall notify the participating jurisdiction that the plan is accepted.

- (11) *Plan Disapproval.* If HUD determines that the plan is substantially incomplete or that the plan is inconsistent with ARP, HUD will notify the participating jurisdiction in writing with the reasons for disapproval, in accordance with 24 CFR 91.500(c). If a participating jurisdiction's plan is disapproved, the participating jurisdiction may revise or resubmit the plan for HUD review within 45 days after the first notification of disapproval. HUD will respond to accept or disapprove the resubmitted plan within 30 days of receiving the revisions or resubmission.
- (12) *Making the HOME-ARP Allocation Plan Public.* Once HUD notifies a participating jurisdiction that the plan is accepted, the participating jurisdiction must make the final HOME-ARP allocation plan available to the public in accordance with the same requirements in the participating jurisdiction's current citizen participation plan that are followed to make the participating jurisdiction's

adopted consolidated plan and substantial amendments available to the public, including the availability of materials in a form accessible to persons with disabilities and translated materials in different languages to accommodate LEP persons, upon request.

4. **Tenant preferences in HOME-ARP.** The requirements of Section 225(d) of NAHA (42 U.S.C. 12755(d)), 24 CFR 91.220(l)(2)(vii), 24 CFR 91.320(k)(2)(vii), 24 CFR 92.209(c), 24 CFR 92.252(k), 24 CFR 92.253(d), and 24 CFR 92.504(c)(3)(iii) shall not apply to HOME-ARP projects where they conflict with the following alternative requirements:

A participating jurisdiction may establish reasonable preferences among the qualifying populations to prioritize applicants for HOME-ARP projects or activities based on the participating jurisdiction's needs and priorities, as described in its HOME-ARP allocation plan. For example, a participating jurisdiction may set a preference among qualifying individuals and families for a HOME-ARP non-congregate shelter for individuals and families who are homeless; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; and veterans and families with a veteran family member that meet the criteria of one of these prior qualifying populations, consistent with its HOME-ARP allocation plan.

The participating jurisdiction must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR 5.105(a) and any other applicable fair housing and civil rights laws and requirements when applying preferences through its referral methods. Persons who are eligible for a preference must have the opportunity to participate in all HOME-ARP activities of the participating jurisdiction in which they are eligible under the HOME-ARP Notice, including activities that are not separate or different, and cannot be excluded because of any protected characteristics or preferential status.

*Targeted assistance:* If HOME-ARP funds are used for TBRA, the participating jurisdiction may establish a preference for individuals with special needs or persons with disabilities among the HOME-ARP qualifying populations. Within the qualifying populations, participation may be limited to persons with a specific disability, if necessary, to provide effective housing, aid, benefit, or services as those provided to others in accordance with 24 CFR 8.4(b)(1)(iv). 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) within the qualifying populations if the specific category is identified in the participating jurisdiction's HOME-ARP allocation plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

## 5. Referral Methods for Projects or Activities

A participating jurisdiction may use the referral methods described below to administer HOME-ARP assistance to qualifying individuals and families. Regardless of the referral method used by the participating jurisdiction, HUD holds the participating jurisdiction responsible for determining and documenting that beneficiaries meet the definition of a qualifying population or, for the portion of HOME-ARP rental units not restricted to qualifying populations, that beneficiaries are low-income.

A participating jurisdiction may use the coordinated entry or coordinated entry process (CE) of a continuum of care (CoC) for referrals for projects and activities as described below. Under 24 CFR 578.3, a CE is a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals within a defined area. HUD requires each CoC to establish and operate a CE with the goal of increasing the efficiency of local crisis response systems and improving fairness and ease of access to resources, including mainstream resources. A participating jurisdiction may permit a CoC CE to collect information and documentation required to determine whether an individual or family meets the criteria of a HOME-ARP qualifying population at any point in the coordinated entry process, (i.e., after or concurrently with the assessment and intake processes) as long as that information is not used to rank a person for HOME-ARP assistance other than as specified by the preferences or method of prioritization established by the participating jurisdiction, in accordance with HOME-ARP requirements. If the participating jurisdiction uses CE, the participating jurisdiction cannot require HOME-ARP victim service providers to use the CE but may permit them to do so.

### *(1) Use of Expanded CE in HOME-ARP*

Under this referral method, a participating jurisdiction may use a CE established by a CoC operating within its boundaries for one or more projects or activities if the CE accepts all HOME-ARP qualifying populations eligible for those activities or projects, in accordance with the preferences and prioritization, if any, established or approved by the participating jurisdiction in its HOME-ARP allocation plan and imposed through the participating jurisdiction's written agreements.

Before using a CoC's CE, participating jurisdictions should consider whether the CE covers the same service area as the HOME-ARP projects or activities that would use that CE. At a minimum, the participating jurisdiction must establish policies and procedures that describe the relationship of the geographic area(s) served by the project or activity to the geographic area(s) covered by the CoC CE and address how the CE will provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

The participating jurisdiction must require a project or activity to use CE along with other referral methods (as provided in section b below) or to use only a project/activity waiting list (as provided in section c below) if:

- i. the CE does not have a sufficient number of qualifying individuals and families to refer to the participating jurisdiction for the project or activity;
- ii. the CE does not include all HOME-ARP qualifying populations; or,
- iii. the CE fails to provide access and implement uniform referral processes in situations where a project's geographic area(s) is broader than the geographic area(s) covered by the CE.

(2) *Use of CE with Other Referral Methods*

The participating jurisdiction may use a CoC CE with additional referrals from outside organizations or project-specific waiting lists consistent with HOME-ARP requirements. If using a this referral method, the participating jurisdiction must establish or approve any preferences or prioritization criteria applied by a CoC CE or other referral sources. The participating jurisdiction may also use a waiting list to receive referrals from a CoC CE and other referral agencies for a project or activity, where a CoC CE or referral agency refers an applicant that is placed on the waiting list in chronological order.

If applicable, a participating jurisdiction must establish policies and procedures for applying a participating jurisdiction's established preferences and method of prioritization, if any, when accepting direct referrals from a CoC CE and other referral agencies, and must document that such the policies and procedures were followed for each applicant served.

(3) *Use of a Project/Activity Waiting List*

The participating jurisdiction may establish a waiting list for each HOME-ARP project or activity. All qualifying individuals or families must have access to apply for placement on the waiting list for an activity or project. Qualifying individuals or families on a waiting list must be accepted in accordance with the participating jurisdiction's preferences, if any, consist with the HOME-ARP Notice or, if the participating jurisdiction did not establish preferences, in chronological order, insofar as practicable.

**6. Limiting Eligibility to Subpopulations**

participating jurisdictions must follow all applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of Rehabilitation Act, HUD's Equal Access Rule, and the Americans with Disabilities Act, as applicable.



HOME-ARP rental housing or NCS may be limited to a specific subpopulation of a qualifying population identified in Section IV.A. of this Notice, so long as admission does not discriminate against any protected class under federal nondiscrimination laws in 24 CFR 5.105 (e.g., the housing may be limited to homeless households and at risk of homelessness households, veterans and their families, victims of domestic violence, dating violence, sexual assault, stalking or human trafficking and their families).

Recipients may limit admission to or provide a preference for HOME-ARP rental housing or NCS to households who need the specialized supportive services that are provided (e.g., domestic violence services). However, no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

Consistent with the statutory authority under ARP, HOME-ARP NCS may be converted to permanent housing under the CoC program or used as shelters under the ESG program, when all program and fair housing and nondiscrimination requirements are met. As such, HOME-ARP NCS may need to limit eligibility to households that are homeless and/or at risk of homelessness if the shelter will be converted to permanent housing under the CoC program or used as an emergency shelter in the ESG program.

## Exhibit C - Project Budget

## VIII. Development Budget

TOTAL DEVELOPMENT COSTS					
Itemized Cost	Total Development \$	4% Acquisition Adjusted Basis	4% Adjusted Basis	9% Adjusted Basis	Fed Historic Adjusted Basis
1) Site Work	\$560,996	N/A	\$560,996	\$0	\$0
2) Off-Site Improvement	\$0	N/A	N/A	N/A	\$0
3) Building Demolition	\$0	N/A	N/A	N/A	\$0
4) Interior Demolition	\$0	N/A	\$0	\$0	\$0
5) New Construction	\$3,968,841	N/A	\$3,968,841	\$0	\$0
6) Rehabilitation	\$0	N/A	\$0	\$0	\$0
7) Accessory Building	\$0	N/A	\$0	\$0	\$0
8) Bonding	\$40,672	N/A	\$40,672	\$0	\$0
9) Permits	\$42,285	N/A	\$42,285	\$0	\$0
10) General Requirements	\$271,790	N/A	\$271,790	\$0	\$0
11) Builder's Overhead	\$90,597	N/A	\$90,597	\$0	\$0
12) Builder's Profit	\$271,790	N/A	\$271,790	\$0	\$0
13) Total Construction Contract Cost (1-12)	\$5,246,871	\$0	\$5,246,871	\$0	\$0
14) Paid by owner-Construction Costs (Describe)					
14a)		N/A			
14b)		N/A			
15) Total Construction Cost (13-14)	\$5,246,871	\$0	\$5,246,871	\$0	\$0
16) Architect & Engineering Fee-Design	\$183,640	N/A	\$183,640		
17) Architect Fee - Supervision	\$62,468	N/A	\$62,468		
18) Soils Report	\$50,000	N/A	\$50,000		
19) Survey	\$10,000	N/A	\$10,000		
20) Engineering	\$100,000	N/A	\$100,000		
21) Total for all Improvements (lines 15-20)	\$5,642,979	\$0	\$5,642,979	\$0	\$0
22) Construction Loan Interest	\$178,732	N/A	\$160,859		
23) Construction Period R.E. Taxes	\$90,000	N/A	\$81,000		
24) Construction Period Insurance	\$90,000	N/A	\$45,000		
25) MHDC Rental Production Application Fee	\$750	N/A	N/A	N/A	N/A
26) MHDC Construction Loan Fee		N/A			
27) Other Construction Loan Fee	\$32,688	N/A	\$32,688		
28) MHDC Construction Inspection Fee		N/A			
29) Other Construction Inspection Fee	\$13,600	N/A	\$13,600		
30) MHDC Permanent Financing Fee	\$12,250	N/A	N/A	N/A	N/A
31) Other Permanent Financing Fee		N/A	N/A	N/A	N/A
32) Environmental Study	\$8,000	N/A	\$8,000		
33) Market Study	\$4,500	N/A	\$4,500		
34) Appraisal	\$6,500	N/A	\$6,500		
35) Title Recording & Disbursing (Construction Loan)	\$35,000	N/A	\$35,000		
36) Title Recording & Disbursing (Permanent Loan)	\$5,000	N/A	N/A	N/A	
37) Legal (Construction)	\$60,000	N/A	\$50,000		
38) Legal (Permanent)	\$10,000	N/A	N/A	N/A	
39) Organization (Legal/Fees)	\$5,000	N/A	N/A	N/A	
40) Cost Certification	\$17,000	N/A	\$17,000		
41) Accountant's Fee		N/A			
42) Prepaid MIP (Risk Share only)		N/A	N/A	N/A	
43) Contingency	\$341,046	N/A	\$341,046		
44) Environmental Abatement		N/A			
45) Historic Credit Fees		N/A			
46) Relocation		N/A			
47) FF & E	\$30,000	N/A	\$30,000		N/A
48) Other(Describe)		N/A			
49) Other(Describe)		N/A			
50) Other(Describe)		N/A			
51) Other(Describe)		N/A			
52) Other(Describe)		N/A			
53) Replacement Cost w/o Acq (lines 21-52)	\$6,572,925	\$0	\$6,468,052	\$0	\$0
54) Legal Acquisition & Recording	\$5,000		N/A	N/A	N/A
55) Acquisition Cost of Buildings			N/A	N/A	N/A
56) Other Acquisition Related Costs			N/A	N/A	N/A
57) Land	\$275,000	N/A	N/A	N/A	N/A
58) Acquisition Cost (lines 54-57)	\$280,000	\$0	\$0	\$0	\$0
59) Total Replacement Cost (lines 53-57)	\$6,852,925	\$0	\$6,468,052	\$0	\$0
60) Consultant's Fee (Before Completion)	\$50,000		\$50,000		
61) Consultant's Fee (A/After Completion)	\$142,000		\$142,000		
62) Developer's Fee (Before Completion)	\$50,000		\$50,000		
63) Developer's Fee (A/After Completion)	\$238,000		\$238,000		
64) Tax Credit Allocation Fee (7%)	\$25,291	N/A	N/A	N/A	N/A
65) Tax Credit Monitoring Fee	\$7,200	N/A	N/A	N/A	N/A
66) AHAP Application & Reservation Fee		N/A	N/A	N/A	N/A
67) Other(Describe)					
68) Other(Describe)					
69) Other(Describe)					
70) Other(Describe)					
71) Other(Describe)					
72) Bond Related Costs (see Tab XII)	\$150,000	N/A			
73) Syndication Costs (see Tab IX)	\$50,000	N/A	N/A	N/A	N/A
74) Lease-up/Marketing (From FIN-117)	\$10,000	N/A	N/A	N/A	N/A
75) Operating Reserve (cash escrow)	\$108,746	N/A	N/A	N/A	N/A
76) Replacement Reserve (cash escrow)	\$14,400	N/A	N/A	N/A	N/A
77) Other Escrow(s):		N/A	N/A	N/A	N/A
78) Other Escrow(s):		N/A	N/A	N/A	N/A
79) Other Escrow(s):		N/A	N/A	N/A	N/A
80) Other Escrow(s):		N/A	N/A	N/A	N/A
81) Other Escrow(s):		N/A	N/A	N/A	N/A
82) Total Development Costs (lines 59-82)	\$7,698,562	\$0	\$6,948,052	\$0	\$0
Less federal grants which finance development costs		N/A	N/A		
Less federal subsidies which finance development costs		N/A	N/A		
Less Historic Tax Credit (Residential Portion Only)					
Subtotal Eligible Basis	\$0		\$6,948,052	\$0	\$0
GCT, DDA or State Designated Increase (30%)	N/A		\$2,084,416	\$0	
Total Eligible Basis	\$0		\$9,032,468	\$0	
Multiplied by the Applicable Fraction	100.00%		100.00%	100.00%	
Total Qualified Basis	\$0		\$9,032,468	\$0	
Multiplied by the Applicable Percentage	3.16%		4.00%	9.00%	
MAXIMUM ELIGIBLE TAX CREDIT AMOUNT	\$0		\$361,299	\$0	
TOTAL ELIGIBLE TAX CREDIT AMOUNT (ACQUISITION CREDITS + 4% CREDITS + 9% CREDITS)			\$361,299		
Eligible Federal Historic Tax Credits					
Eligible State Historic Tax Credits					
Residential Portion Fed Historic Credits					

## **Exhibit D – Schedule of Tasks and Project Completion, including Requirements related to Environmental Review.**

### **Kinney Point: Schedule of Tasks**

#### **October-November 2023:**

- Bidding of construction work.
- Preparation & Submission of Firm Submission Material to the Missouri Housing Development Commission (MHDC).

#### **November 2023 - January 2024:**

- MHDC will review items submitted to receive the Firm Commitment for the LIHTC Allocation.
- Initial Closing of Construction Loan, Tax Credits, and Acquisition of Property by the limited partnership will take place, which will open the path to begin construction.

#### **January 2024 - February 2025:**

- Notice to Proceed will be Issued to General Contractor.
- General Contractor will commence their pre-order of required building materials.
- Construction of 24 units will begin (12/13-month construction period).
  - ***Construction work will commence in this order: Site Work, Footings & Slabs, Framing, Dry In, Utility Rough In, Drywall & Doors, Exterior Finishes, Interior Finishes, Finish Plumbing, Finish Electrical, Finish HVAC, Flooring & Appliances, Landscaping & Grounds.***
- Initiate Preliminary Marketing & Lease Up Activities.
- Obtain Certificate of Substantial Completion. Construction completion equity to be paid to project.

#### **March – June 2025:**

- Once the has been stabilized for 90 days (90% occupied), LIHTC equity will pay into the project as well as permanent debt, which will allow the construction loan to be paid off.
- Concurrently, the individual 8609s will be issued, which will unlock the final equity payment.

A/P

JUN 02 2023

U.S. MAIL

CITY OF COL. - HOUSING PROGRAMS DIVISION  
P.O. BOX 6015  
COLUMBIA, MO 65205-6015

## AFFIDAVIT OF PUBLICATION AND INVOICE

PO #20231223

Invoice #31014489

NOTICE OF FINDING OF NO  
SIGNIFICANT IMPACT AND  
NOTICE OF INTENT TO  
REQUEST RELEASE OF FUNDS  
May 23, 2023

City of Columbia, 701 E. Walnut, P.O.  
Box 6015 Columbia, MO 65205, 673-  
874-8321

REQUEST FOR RELEASE OF FUNDS  
On or about June 8, 2023, the City of  
Columbia will submit a request to the St.  
Louis HUD Field Office for the U.S.  
Department of Housing and Urban  
Development for the release of HOME-  
ARP funds under the American Rescue  
Plan Act of 2021 to undertake projects  
known as and for the purpose of as fol-  
lows:

Columbia Housing Authority-Kinney  
Point Project: \$2,000,000.00 in HOME-  
ARP funding for a total project amount  
of \$8,700,000.00. The proposed project  
included 24 units of high quality afford-  
able housing to serve HOME-ARP quali-  
fying populations, which are Columbia's  
most vulnerable populations. The project  
will include four 2-bedroom units, six  
3-bedroom units and ten 4-bedroom  
units. The project is located on the  
northeast corner of Garth and Sexton  
intersection within the Ridgeway  
Neighborhood Association boundaries.  
The development of permanent afford-  
able housing addresses the top priority  
need identified through the HOME-ARP  
consultation process and will result in a  
reduction of homeless and at-risk of  
homelessness families and individuals.  
The project will include four 2-bedroom  
units, six 3-bedroom units and ten  
4-bedroom units. The project is located  
on the northeast corner of Garth and  
Sexton intersection within the Ridgeway  
Neighborhood Association boundaries.

### FINDING OF NO SIGNIFICANT IMPACT

The City of Columbia has determined  
that the projects will have no significant  
impact on the human environment.  
Therefore, an Environmental Impact  
Statement under the National  
Environmental Policy Act of 1969 (NEPA)  
is not required. Additional project infor-  
mation is contained in the Environmental  
Review Record (ERR) on file at the City  
of Columbia Housing Programs Division  
Office located at 500 E. Walnut, Suite  
108 Columbia, MO 65201 and may be  
examined or copied weekdays 8 A.M. to  
5 P.M.

### PUBLIC COMMENTS

Any individual, group, or agency may  
submit written comments of the ERR to  
the City of Columbia Housing Programs

STATE OF MISSOURI

County of Boone

}

I, Bryan Chester, being duly sworn according to law state that I am one of the  
publishers of the Columbia Missourian, a daily newspaper of general circulation in the  
County of Boone where located: which has been admitted to the Post Office as second  
class matter in the City of Columbia, Missouri the city of publication: which newspa-  
per has been published regularly and consecutively for a period of three years and  
has a list of bona fide subscribers voluntarily engaged as such who have paid or  
agreed to pay a stated price for a subscription for a definite period of time, and that  
such newspaper has complied with the provision of Section 493.050, Revised Statutes  
of Missouri, 1969. The affixed notice appeared in said newspaper on the following  
consecutive issues:

1st Insertion	May 23, 2023
2nd Insertion	2023
3rd Insertion	2023
4th Insertion	2023
5th Insertion	2023
6th Insertion	2023
7th Insertion	2023
8th Insertion	2023
9th Insertion	2023
10th Insertion	2023
11th Insertion	2023
12th Insertion	2023
13th Insertion	2023
14th Insertion	2023
15th Insertion	2023
16th Insertion	2023
17th Insertion	2023
18th Insertion	2023
19th Insertion	2023
20th Insertion	2023
21st Insertion	2023

COLUMBIA MISSOURIAN

PRINTER'S FEE \$78.65

By: \_\_\_\_\_

(Bryan Chester, General Manager)

Subscribed and sworn to before me this

23rd

day of

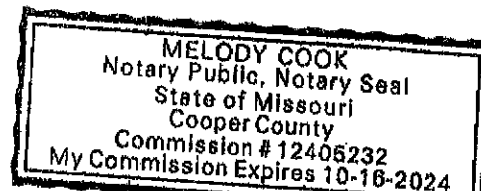
May

, 2023

Melody Cook

(Melody Cook, Notary Public)

My Commission Expires October 16, 2024



**Authority to Use  
Grant Funds**

U.S. Department of Housing  
and Urban Development  
Office of Community Planning  
and Development

**To:** (name & address of Grant Recipient & name & title of Chief Executive Officer)

DeCarlon Seewood  
City of Columbia City Manager  
701 E Broadway  
Columbia, MO 65201

**Copy To:** (name & address of SubRecipient)

We received your Request for Release of Funds and Certification, form HUD-7015.15 on

8/29/23

Your Request was for HUD/State Identification Number

M21-MP290502

All objections, if received, have been considered. And the minimum waiting period has transpired.  
You are hereby authorized to use funds provided to you under the above HUD/State Identification Number.  
File this form for proper record keeping, audit, and inspection purposes.

Columbia Housing Authority - Kinney Point Project: \$2,000,000 in HOME-ARP funding for a total project amount of \$6,700,000. The proposed project includes 24 units of high quality affordable housing to serve Columbia's most vulnerable populations. The project will include four 2-bedroom units, six 3-bedroom units and ten 4-bedroom units. The project is located on the northeast corner of the Garth and Sexton Intersection within the Ridgeway Neighborhood Association boundaries. This project is critical to CHA's renovation of its remaining 120 units of public housing to ensure it can appropriately relocate residents during renovations. The construction of these additional units is also critical to CHA meeting the growing demand for more affordable housing in our community, as its available housing units have not kept up with population growth and demand in Columbia.

Typed Name of Authorizing Officer

Dana Buckner

Title of Authorizing Officer

Acting Director, St Louis CPD Office

Signature of Authorizing Officer

X 

Date (mm/dd/yyyy)

09/15/2023

# Request for Release of Funds and Certification

U.S. Department of Housing  
and Urban Development  
Office of Community Planning  
and Development

OMB No. 2506-0087  
(exp. 08/31/2023)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

## Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s) HOME-ARP	2. HUD/State Identification Number M21-MP290502	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s) 14.239, HOME	5. Name and address of responsible entity City of Columbia, 701 E Broadway, Columbia, MO 65201-4465	
6. For information about this request, contact (name & phone number) Jennifer Deaver, 573-874-6321	7. Name and address of recipient (if different than responsible entity)	
8. HUD or State Agency and office unit to receive request HUD, CPD, 1222 Spruce St., St. 3.203, St. Louis, MO 63103		
The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following		
9. Program Activity(ies)/Project Name(s) HUD, CPD, 1222 Spruce St., St. 3.203, St. Louis, MO 63103	10. Location (Street address, city, county, State) 1 E Sexton, Columbia, Boone, MO	

### 11. Program Activity/Project Description

The proposed project, with \$2,000,000 in HOME-ARP funding for a total project amount of \$6,700,000, includes 24 units of high quality affordable housing to serve Columbia's most vulnerable populations. The project will include four 2-bedroom units, six 3-bedroom units and ten 4-bedroom units. The project is located on the northeast corner of the Garth and Sexton intersection within the Ridgeway Neighborhood Association boundaries. This project is critical to CHA's renovation of its remaining 120 units of public housing to ensure it can appropriately relocate residents during renovations. The construction of these additional units is also critical to CHA meeting the growing demand for more affordable housing in our community, as its available housing units have not kept up with population growth and demand in Columbia. The project also includes supportive services for employment, nutrition, independent living and other services provided through CHA and local community partners.

**Part 2. Environmental Certification** (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did ☐ did not ☒ require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

*[Handwritten Signature]*

Title of Certifying Officer

City of Columbia - City Manager

Date signed

7-29-23

Address of Certifying Officer

City of Columbia, 701 E Broadway, Columbia, MO 65201-4465

**Part 3. To be completed when the Recipient is not the Responsible Entity**

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

Date signed

X

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)



**To:** De'Carlton Seewood

**From:** Timothy Teddy, Community Development Director 

**Memo Preparer:** Jacob Amelunke, Sr Housing Specialist

**Subject:** NEPA part 58 Review, CHA-Kinney Point Project HOME-ARP

**Date:** 6/15/2023

All HUD funded programs and projects are subject to the National Environmental Policy Act (NEPA) and 24 CFR Part 58. The City of Columbia is classified by HUD as an "Entitlement Community". The City of Columbia received a one-time allocation of HOME American Rescue Plan (HOME ARP) entitlement funds. HUD regulations identify the City of Columbia to be responsible for reviewing all HUD funded projects within our Community. 24 CFR Part 58.4 is the guiding regulation that allows HUD to direct cities, counties, states and tribes to act as the "Responsible Entity"(RE) in lieu of HUD for the purposes of conducting NEPA review and decision making action. Other HUD funded entities also must certify that their plans and expenditure of funds are consistent with plans outlined in our 5 Year Consolidated Plan.

24 CFR 58.2(a)(2) identifies the Chief Executive Officer of the jurisdiction as the "Certifying Officer" that a review has been conducted, which would be our City Manager.

The attached document represents the environmental review conducted by the City of Columbia, is identified as "Finding of No Significant Impact {24 CFR 58.40(g)(1): 40 CFR 1508.13} The project will not result in a significant impact on the quality of human environment." This memo is to request the City Manager's signature on the environmental review record form, as the City of Columbia's Certifying Officer.



U.S. Department of Housing and Urban  
Development  
451 Seventh Street, SW  
Washington, DC 20410  
[www.hud.gov](http://www.hud.gov)  
[espanol.hud.gov](http://espanol.hud.gov)

## Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58

### Project Information

**Project Name:** CHA-Kinney-Point-Project

**HEROS Number:** 900000010305164

**Project Location:** 1 E SEXTON RD, Columbia, MO

**Additional Location Information:**  
N/A

### **Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:**

The proposed project includes 24 units of high quality affordable housing to serve Columbia's most vulnerable populations. The project will include four 2-bedroom units, six 3-bedroom units and ten 4-bedroom units. The project is located on the northeast corner of the Garth and Sexton intersection within the Ridgeway Neighborhood Association boundaries. This project is critical to CHA's renovation of its remaining 120 units of public housing to ensure it can appropriately relocate residents during renovations. The construction of these additional units is also critical to CHA meeting the growing demand for more affordable housing in our community, as its available housing units have not kept up with population growth and demand in Columbia. CHA has obtained all the necessary commitments from banking institutions and investors required to submit a tax credit application.

### Funding Information

Grant Number	HUD Program	Program Name
14.239	Community Planning and Development (CPD)	HOME American Rescue Plan (HOME-ARP)

**Estimated Total HUD Funded Amount:** \$2,000,000.00

**Estimated Total Project Cost [24 CFR 58.2 (a) (5)]:** \$6,700,000.00

### Mitigation Measures and Conditions [CFR 1505.2(c)]:

Summarized below are all mitigation measures adopted by the Responsible Entity to reduce, avoid or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project

CHA-Kinney-Point-Project

Columbia, MO

900000010305164

contracts, development agreements and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure or Condition
---------------------------	---------------------------------

**Project Mitigation Plan**

City of Columbia Housing Programs Division and building and site development will monitor the construction of the project.

**Determination:**

<input checked="" type="checkbox"/>	Finding of No Significant Impact [24 CFR 58.40(g)(1); 40 CFR 1508.13] The project will not result in a significant impact on the quality of human environment
<input type="checkbox"/>	Finding of Significant Impact

Preparer Signature: Date: May 12, 2023

Name / Title / Organization: Jacob Amelunke / COLUMBIA

Certifying Officer Signature: Date: 6/15/23Name / Title: De'Carlon See wood, City Manager

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environment Review Record (ERR) for the activity / project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

## **Exhibit E - Tenant Selection Process, Policies and Procedures**

## **Exhibit E - Tenant Selection Process, Policies and Procedures**

### **Chapter 4**

#### **APPLICATIONS, WAITING LIST AND TENANT SELECTION**

##### **INTRODUCTION**

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

**Part I: The Application Process.** This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the PHA will handle the applications it receives.

**Part II: Managing the Waiting List.** This part presents the policies that govern how the PHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the PHA will use to keep the waiting list current.

**Part III: Selection for HCV Assistance.** This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.

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## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

This part describes the PHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

### **4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]**

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. The PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application.

#### **PHA Policy**

Depending upon the length of time that applicants may need to wait to receive assistance, the PHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the PHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

During the time frame when the Waiting List is open, families may obtain pre-application Forms from the PHA's office during normal business hours. Families outside the PHA's jurisdiction may also request by telephone or by mail a form be sent to the family via first

class mail.

Completed pre-applications must be returned to the PHA in person or by designee or submitted electronically through the CHA Web site when that option becomes available. during normal business hours. Pre-applications must be complete in order to be accepted by the PHA for processing. If a pre-application is incomplete, the PHA will reject the pre-application.

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#### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

##### **Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]**

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

##### **Limited English Proficiency**

PHAs are required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

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#### **4-I.D. PLACEMENT ON THE WAITING LIST**

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

#### **Ineligible for Placement on the Waiting List**

##### PHA Policy

If the PHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be



ineligible, the PHA will send written notification of the ineligibility determination within 10 days of receiving a complete application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

### **Eligible for Placement on the Waiting List**

#### **PHA Policy**

The PHA will send written notification of the preliminary eligibility determination within 10 days of receiving a complete application.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by the PHA.

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## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

#### **4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]**

The PHA's HCV waiting list must be organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

##### PHA Policy

The PHA will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

##### PHA Policy

The PHA will not merge the HCV waiting list with the waiting list for any other program the PHA operates.

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#### **4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]**

##### **Closing the Waiting List**

A PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

##### PHA Policy

The PHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 12 months for the most current

applicants.

The PHA may elect to continue to accept applications from families meeting certain criteria while closing the waiting list to others.

The PHA will announce by public notice the closing of the waiting list. If the list remains open to certain categories of families, this information will be contained in the notice. The notice will be published at least 10 days prior to the PHA closing the list.

Where the PHA has particular preferences or funding criteria that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

### **Reopening the Waiting List**

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

#### **PHA Policy**

The PHA will announce the reopening of the waiting list at least 10 days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The PHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

***The Columbia Daily Tribune***

***CHA Website: Columbiaha.com***

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### **4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]**

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to

4-21].

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers •

Developing informational materials and flyers to distribute to other agencies

- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

#### PHA Policy

The PHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

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#### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

##### PHA Policy

While the family is on the waiting list, the family must immediately inform the PHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

#### **4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]**

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

##### **Purging the Waiting List**

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates, and the PHA determines that the family did not respond because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

##### **PHA Policy**

The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the PHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the PHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the PHA not later than 15 days from the date of the PHA letter.

If the family fails to respond within 15 days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined that the lack of response was due to PHA error, or to circumstances beyond the family's control. (Resolution 2532)

##### **Removal from the Waiting List**

##### **PHA Policy**

If at any time an applicant family is on the waiting list, the PHA determines that the

family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the PHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the PHA's decision (see Chapter 16) [24 CFR 982.201(f)].

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### **PART III: SELECTION FOR HCV ASSISTANCE**

#### **4-III.A. OVERVIEW**

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families are selected from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

#### **4-III.B. SELECTION AND HCV FUNDING SOURCES**

##### **Special Admissions [24 CFR 982.203]**

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The PHA must maintain records showing that such families were admitted with special program funding.

##### **Targeted Funding [24 CFR 982.204(e)]**

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

##### PHA Policy

The PHA does not currently administer any type of targeted funding.

##### **Regular HCV Funding**

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

**4-III.C. SELECTION METHOD**

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

**Local Preferences [24 CFR 982.207; HCV p. 4-16]**

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

**PHA Policy**

The PHA will use the following local preferences:

**Public Housing Residents:** Absolute preference may be given to any approved applicant on a Columbia Housing Authority (CHA) administered Project-Based Vouchers waiting list if that applicant currently resides on a CHA public housing property that has received Low-Income Tax Credit reservations through the Missouri Housing Development Commission. (Resolution 2748)

**Temporary Relocation:** Absolute preference may be given to PBV residents temporarily relocated to vacant CHA Public Housing units due to rehabilitation of their units. Residents returning back to a renovated site will be given absolute preference and considered for a Project-Based Voucher ahead of all applicants on the PBV waitlist. (Resolution 2748)

**Mainstream Voucher Preference:** The target population for the Mainstream Voucher program is non-elderly (18-62 years of age) with disabilities, extremely low-income (30% AMI) who are transitioning out of institutional or other segregated settings, at serious risk of institutionalization, homeless or at risk of becoming homeless. Individuals who meet the Mainstream Voucher program eligibility criteria will receive 35 points on the HCV waitlist. (Resolution 2808)

The PHA will also use the following local preferences:

1. The PHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.
2. The PHA will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, or stalking who have either been referred by a partnering service agency or consortia or is seeking an emergency transfer under VAWA from the PHA's public housing program or other covered housing program operated by the PHA.

The PHA will work with the partnering community service agencies.

The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.



The PHA will first assist families that have been terminated from the HCV program

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to insufficient funding and then assist families that qualify for the VAWA preference.

### **Income Targeting Requirement [24 CFR 982.201(b)(2)]**

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the PHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

#### PHA Policy

The PHA will monitor progress in meeting the ELI income targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met. (Resolution 2444)

### **Order of Selection**

The PHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

#### PHA Policy

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the PHA's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the PHA. Documentation will be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

In the event that a family is receive assistance through Shelter Plus Care, Tenant Based Rental Assistance (TBRA), or Veterans Administration Supportive Housing (VASH) and is no longer requiring supportive services from participating agencies, they may be

moved on the Section 8 Program and bypass the Waiting List so there is no interruption of their rental assistance. (Resolution 2444)

In the event a family resides in CHA Public Housing and is certified by CHA Resident Services to be ready to move into Section 8 Homeownership, they may bypass the

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Waiting List in order to be approved for the Section 8 Homeownership Program. (Resolution 2444)

#### **4-III.D. NOTIFICATION OF SELECTION**

When a family has been selected from the waiting list, the PHA must notify the family [24 CFR 982.554(a)].

##### PHA Policy

The PHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

- Who is required to attend the interview

- All documents that must be provided at the interview, including information about what constitutes acceptable documentation

If a notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

#### **4-III.E. THE APPLICATION INTERVIEW**

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a PHA representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2018-24].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

##### PHA Policy

Families selected from the waiting list are required to participate in an eligibility interview.

All family members over the age of 18 are required to attend the interview. (Resolution 2532)

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for 30 days. If not all household members

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have disclosed their SSNs at the next time the PHA is issuing vouchers, the PHA will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, and must complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the PHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

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#### **4-III.F. COMPLETING THE APPLICATION PROCESS**

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

##### PHA Policy

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 10 days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The PHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If the PHA determines that the family is eligible to receive assistance, the PHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

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