

# Oregon Housing and Community

# HOME INVESTMENT PARTNERSHIP PROGRAM MANUAL

EFFECTIVE AS OF JUNE 21, 2013



725 Summer St NE Suite B, Salem, OR 97301-1266

(503) 986-2000 FAX (503) 986-2002 TTY (503) 986-2100

[www.oregon.gov/OHCS](http://www.oregon.gov/OHCS)



# HOME INVESTMENT PARTNERSHIP PROGRAM (HOME)

## 2013 NOFA Instructions and Forms

### Introduction

Congress created The HOME Investment Partnerships Program (HOME) in October 1990. The HOME Program encourages partnerships among local governments, nonprofit and for-profit organizations, individuals, and the State to further the development of housing to meet the needs of low and very low-income individuals and families. Under the HOME program, the State must address housing needs consistent with the regional housing priorities outlined in Oregon's Consolidated Plan (CP).

### Consolidated Plan

The proposed project must be consistent with Oregon's Consolidated Plan (CP). Applications for projects located in Medford or Ashland must include a letter from the appropriate city confirming CP consistency is required.

### Eligible Projects

Any proposed project must provide permanent or long-term transitional housing. Overnight shelters, public facilities, residential care facilities, or housing for workers on a seasonal basis are not eligible for HOME funding. Projects proposed by eligible applicants must be located within the boundaries of the State's HOME Program.

An eligible HOME project consists of one or more buildings on a single site or multiple sites, which is under common ownership, management and financing, and is part of a single undertaking. HOME-assisted projects may be privately or publicly owned and contain any number of units, and any combination of unit sizes and styles. An eligible HOME project must meet the definition of housing in accordance with 24 CFR Part 92.2.

Special Needs Projects: In order to utilize HOME funding in projects planning to house special needs population, Applicants must certify to the following requirements:

- **Lease Agreement**: A one-year lease agreement must be offered to tenants in HOME-assisted units. In addition to the one-year term, the lease must stipulate that termination or refusal to renew is to be served to the tenant in writing, specify the grounds for the action, and provide a minimum of 30 day notice before termination of tenancy. For more information on required and prohibited lease provisions, see 24 CFR 92.253.
- **Services**: While OHCS recognizes that appropriate supportive services must be available to help tenants with special needs live as independently as possible, services cannot be required as a condition of tenancy in a HOME-assisted project providing permanent housing. Supportive services can be required in transitional housing.
- **Affirmative Marketing Requirements**: HOME-assisted projects of five or more units must be affirmatively marketed to all persons within the special needs group. Referrals from a single social service agency cannot be used exclusively to fill the units. A good faith effort must be made to inform and solicit applications from members of the special needs population throughout the market area. (Group homes are considered to be "one" HOME assisted unit).

*Please Note: HOME-assisted projects designated for persons with disabilities cannot be restricted to persons with specific types of diagnoses or subclasses of disabilities (such as developmentally disabled, chronically mentally ill, or persons with only physical disabilities). Resident services may be specific to subclasses of disabilities, but the housing may not. HOME-*

*assisted housing for disabled persons must be open to qualified persons with any type of disability.*

**Transitional Housing Projects:** Transitional housing must be designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless families and children, and homeless individuals with disabilities. The purpose of the housing is to move individuals and families to independent living within a reasonable time. HOME applicants undertaking transitional housing must submit a transitional plan with their application that describes the housing and supportive services that help tenants to achieve independent living; the plan must include the estimated time it will take to transition the tenants. All HOME- assisted rental housing, including transitional, must offer tenants a one-year lease.

**Single Room Occupancy Projects:** For new construction, conversion of non- residential space, or reconstruction projects with Single Room Occupancy (SRO) units, each SRO unit must contain either food preparation or sanitary facilities (or both). For acquisition or rehabilitation of an existing residential structure, neither food preparation nor sanitary facilities are required in each SRO unit. If individual units do not contain sanitary facilities, they must be provided in the building for tenants to share.

### **Ineligible Projects**

HOME funds may not be used for:

- projects assisted under section 9 of the 1937 Act (annual contributions for operation of public housing)
- carrying out activities authorized under part 968 (Public Housing Modernization)
- providing assistance to eligible low-income housing under 24 part 248 (Pre-Payment of Low Income Housing Mortgages)
- providing assistance to a project previously assisted with HOME funds. Projects may only receive HOME funds once during the period of affordability. This prohibits applicants from applying for HOME funds for the first phase of a project and reapplying for HOME funds when developing the second phase of the project
- emergency shelters or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities or student dormitories

Applicants with projects located in Portland/Multnomah County/Gresham, Washington County, Clackamas County, Eugene/Springfield, Salem/Keizer, or the city of Corvallis should contact those jurisdictions for information on their local HOME program.

**Debt Reduction is Ineligible:** The proposed project must create and/or preserve affordable housing. Requests for funds to buy-down or refinance current debt are not eligible for OHCS HOME funding.

**Construction Prior to Application:** Projects that have started construction or rehabilitation or have executed contracts for construction work prior to submission of the NOFA application are not eligible for HOME funding.

### **Eligible Applicants**

Eligible applicants include individuals, local governments, nonprofit and for-profit organizations including, but not limited to, cities, counties, housing authorities, nonprofit community-based

organizations such as community housing development organizations (CHDOs), community development corporations (CDCs), and community action programs (CAPs).

The HOME Program requires that applicants have the experience to administer the complex requirements of the HOME Program. If applicants do not have adequate experience administering other State, Federal or local programs, OHCS may require the applicant to contract with an experienced entity to assist in administering and managing the HOME project.

Community Housing Development Organizations (CHDOs): Community Housing Development Organizations, or CHDOs, are specific types of nonprofit organizations defined exclusively for the HOME Program. According to the HOME regulations, CHDOs must be developers, sponsors, or owners of HOME-assisted housing. CHDOs must have effective management control of projects, and must be organized and structured according to strict standards specified in the HOME regulations.

CHDOs must demonstrate development experience with projects of the same size, scope and level of complexity as the proposed project. CHDOs must employ professional staff who have the knowledge, skills, and experience necessary to undertake HOME funded projects. Volunteers, board members, or consultants are not considered to be staff and do not count toward meeting HUD's criteria for CHDOs.

A minimum of 15 percent of each annual HOME allocation must be set aside for State Certified CHDOs. Eligible activities under the 15 percent CHDO set-aside include acquisition, rehabilitation, and new construction of rental housing. This set-aside is statewide, and does not preclude CHDOs from accessing other HOME funds.

CHDOs who receive assistance under HOME Final Rule §92.303 must adhere to a fair lease and grievance procedure approved by OHCS. They must follow a program tenant participation plan in management decisions. CHDOs who receive assistance will also be eligible to apply for a CHDO Operating Support Grant to pay for the reasonable and necessary costs for the operation of the CHDO. The OHCS CHDO Operating Support Grant application is published annually.

### **Forms of Assistance**

OHCS will provide HOME financial assistance in the form of a grant or loan in an amount appropriate to the scope of a proposed project, and the needs and resources of the applicant. OHCS reserves the right to adjust the amount of HOME funds awarded to a project, and to negotiate modifications to the proposed work plan and budget prior to executing a grant agreement.

OHCS loans will be offered with either interest only or interest and principal annual payments, depending upon the debt coverage ratio (DCR) in the application for HOME funds. Projects with DCR greater than 1.15 (based on permanent loan after OAHTC plus HDGP loan) will be charged annual interest plus principal payments. Projects with DCR less than 1.15 will be charged only annual interest payments. Payment will be due 120 days after the calendar year end. Prepayments will be accepted with no penalty and any unpaid principal remaining at the end of the loan period will be immediately due.

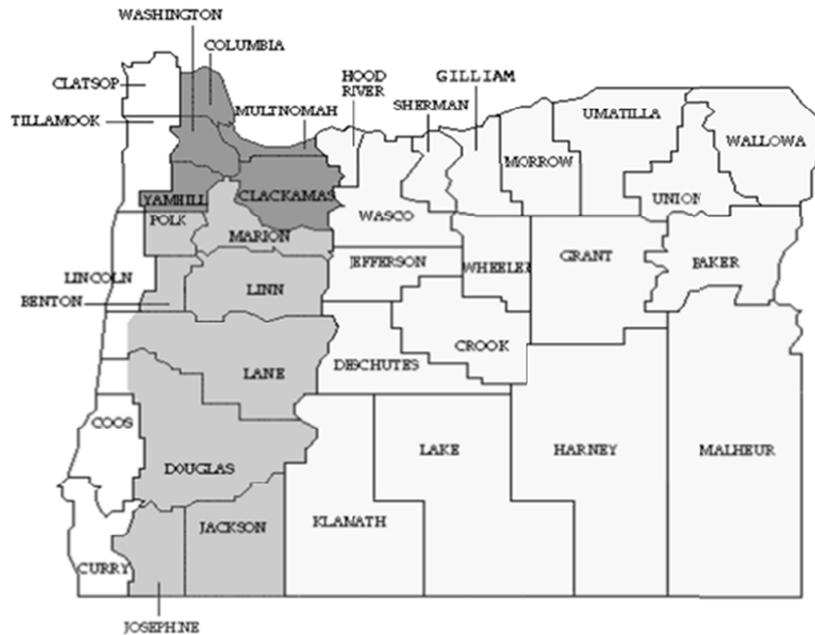
### **Minimum and Maximum Funding**

The minimum investment of HOME funds is \$1,000 per unit. The maximum amount of HOME subsidy cannot exceed the lesser of and is limited by:

- The total per unit development costs: HOME assistance cannot exceed the actual per unit development costs for the HOME assisted units in the project.
- The financial needs of the project: HOME projects may not receive more subsidy than is required to produce financially feasible projects.
- The number of HOME assisted units in the project: The HOME assistance cannot exceed the maximum subsidy allowed per HOME unit. The HOME maximum per unit subsidies, adjusted by bedroom size, is as follows:

Maximum Per Unit Subsidy Limits by Regions

Map of Oregon HOME Regions



<b>Regions (county breakdown)</b>	<b>0-Bdrm</b>	<b>1-Bdrm</b>	<b>2-Bdm</b>	<b>3-Bdrm</b>	<b>4-Bdrm</b>
<b>Portland Region:</b> \$295,766 Clackamas, Columbia, Multnomah, Washington, Yamhill	\$149,415	\$171,283	\$208,278	\$269,444	
<b>Eugene Region:</b> \$297,957 Benton, Douglas (East of coast range), Jackson, Lane (East of coast range), Josephine, Linn, Marion, Polk	\$150,522	\$172,551	\$209,821	\$271,440	
<b>Coos Bay Region:</b> \$284,812	\$143,881	\$164,939	\$200,564	\$259,464	

Clatsop, Coos, Curry, Douglas  
(West of coast range), Lane (West of  
coast range), Lincoln, Tillamook

**Bend Region:**                      \$152,182      \$174,455      \$212,135      \$274,434  
\$301,243

Baker, Crook, Deschutes,  
Grant, Gilliam, Harney, Hood River,  
Lake, Jefferson, Klamath, Malheur,  
Morrow, Sherman, Umatilla, Union,  
Wallowa, Wasco, Wheeler

Effective 01/01/2012 (Published 07/27/12)

### **HOME Assisted Unit Allocation**

In most HOME funded projects (excluding group homes) not all units must be HOME-assisted. HOME funds may be invested in a mixed-income project to assist only a portion of the units in a project. Consequently, it is necessary to distinguish between HOME-assisted and other units. OHCS will determine the required number of HOME-assisted units for each funded project. HOME-assisted units must adhere to HOME Maximum Per-unit Subsidy Limits, plus rent and income guidelines. In addition, applicants should be aware that some HUD requirements may "taint" the entire project, i.e., even if only \$1 of HOME funding is awarded to a project, many HOME requirements will apply to the entire project.

HOME may only pay actual costs of HOME-assisted housing. If the units in a project are comparable in terms of size, features, number of bedrooms, and amenities then the actual costs can be determined by pro-rating total (HOME-eligible) development costs. HOME funds could pay the pro-rated share of the HOME-assisted units. When units are not comparable, the HOME costs will be allocated on a unit-by-unit basis, charging only actual costs to the HOME Program.

**Comparability of Unit Size:** Comparability in size is defined by the bedroom count and square footage of individual units. Not all units with the same number of bedrooms are comparable in size. If there is a substantial difference in the square footage of two units with the same number of bedrooms, then the units are not considered comparable.

**Comparability of Amenities:** Comparability in amenities means similar fixtures, appliances and other features. In many mixed-income projects, that demand varying rents, the quality and types of amenities may vary among units.

HOME-assisted units should be evenly distributed throughout the project. There should be an equal percentage of HOME units for each bedroom size in the project. For example: A 30-unit project contains 12 two-bedroom units and 18 three-bedroom units. Five of the units are to be HOME assisted. To assure equal distribution, then 2 of the two-bedroom units (or 16 percent) and 3 of the three bedroom units (or 16 percent) should be HOME assisted.

To the extent possible, there should be HOME-assisted units in each building of the project. For projects where the number of HOME-assisted units proposed would be less than the number of buildings, OHCS may provide an exception.

### **Fixed or Floating Unit**

HOME recipients may, on a project by project basis, choose to use either a “fixed” or “floating” designation for HOME-assisted units. A “fixed” designation means the applicant identifies at the onset which specific units are HOME-assisted, and these remain the same units for the entire period of affordability. “Floating” HOME-assisted units may change over time as long as the total number of HOME-assisted units remains constant. In “floating” Home-assisted units the HOME-units must remain comparable in terms of size, features, and number of bedrooms.

### **Allowable Home Rents**

Every HOME-assisted unit is subject to rent controls designed to keep rents affordable to low- and very-low income tenants. Rents must be controlled for the period of affordability.

Two HOME rents apply to a project:

Low HOME Rent: For projects containing five or more units, a minimum of 20 percent of the HOME-assisted units in a project must have rents that are the lesser of:

- The HUD published Low HOME Rents, or
- The Section 8 Fair Market Rents (FMRs) or area-wide exception rents for existing housing minus tenant paid utilities.

High HOME Rent: No more than 80 percent of the HOME-assisted units in a project shall have rents that are the lesser of:

- The HUD published High HOME Rents, or
- The Section 8 Fair Market Rents (FMRs) or area-wide exception rents for existing housing minus tenant paid utilities.

*Note: If an applicant's housing authority has been granted an area-wide exception to the FMR's, then the applicant should contact OHCS for information on the HOME rents*

To determine the maximum allowable rents refer to the tables later in this Section, which lists the Fair Market Rents, High Home Rents, and Low HOME Rents for each county. Rents are adjusted based on the number of bedrooms in the unit and include the utility costs. The HOME rents must be reduced to include the amount of **all** utilities (except telephone and television cable) the tenant will pay. Applicants should coordinate with their local Public Housing Authority (PHA) to determine allowances for adjusting the maximum allowable HOME rents when the tenant pays some or all utilities.

*Note: OHCS must approve utility allowances proposed by HOME applicants; therefore, documentation from the local PHA is important.*

Rents for group homes and single room occupancy (SRO) units are an exception to the above rent limitations. Group home rents should reflect the appropriate Fair Market Rent for the appropriate number of bedrooms. Do not count a bedroom for a live-in service provider when calculating the rent. For example: a four-bedroom group home where all bedrooms are used for tenants could have a maximum rent equal to the FMR for a four-bedroom unit. Or, if a four bedroom group home has a live-in service provider occupying a bedroom, then the maximum HOME rent would equal the FMR for a three-bedroom unit.

The maximum HOME rent for an SRO cannot exceed 75 percent of the FMR for a zero-bedroom unit. For an SRO unit with both food and sanitary facilities contained within the unit, the Low HOME and High HOME rents for zero bedroom units apply.

The Consolidated Plan priorities may dictate that lower income levels and lower rents are a priority need throughout the regions and may require the applicant to reduce rents and target a lower-income population.

### **Occupancy Restrictions of HOME-Assisted Units**

Income eligibility of tenants who reside in HOME-assisted units is also limited for the period of affordability. At least 20 percent of the HOME-assisted rental units must be occupied by very low-income tenants who have annual incomes 50 percent or below median income. These very low-income tenants must occupy units with rental charges at or below the Low HOME Rents. At least 90 percent of all HOME funds must assist tenants who have annual incomes that are 60 percent or below area median income, HOME applications should be for projects that show the HOME-assisted rental units occupied by tenants with the above income restrictions. The balance of HOME funds may be used to assist tenants with annual incomes between 60 percent and 80 percent of median income.

*Note: Oregon's Consolidated Plan may dictate that HOME projects serve tenants with lower income levels. The rental charges for those persons cannot exceed the High HOME rents.*

### **Subsidy Layering**

In accordance with HUD regulation, OHCS will evaluate HOME projects to ensure that an excessive amount of government (federal, state, or local) subsidy, or "layering" is not proposed. During the subsidy layering review, OHCS will evaluate the need for the HOME funds. The review can result in a reduction of HOME assistance, reduction in rents, or adjustment in operating expenses. Factors looked at during the review include:

- Use of HOME funds in combination with other governmental assistance;
- Costs customary for the development of the project and reasonable in terms of industry standards;
- Sources of funds versus development costs;
- Rate of return;
- Developer Fees.

### **Eligible HOME Costs**

Soft Costs: Eligible project "soft costs" must be reasonable and necessary. Eligible "soft costs" include the following:

- lender origination fees;
- credit reports;
- title reports;
- recordation fees;
- appraisals;
- attorney fees;
- loan fees (except for OHCS programs);
- developer fees;
- architectural and engineering fees;
- building permits and impact fees or system development charges;

- audits, and
- affirmative marketing and fair housing expenses.

Hard Costs: HOME funds may pay for usual and customary development hard costs, such as:

- costs to meet the HUD Section 8 Housing Quality Standards (HQS);
- costs to meet Fire Administration Act standards;
- rehabilitation and construction costs;
- essential improvements;
- energy related improvements;
- lead-based paint hazards;
- accessibility for persons with disabilities;
- correction or replacement of major housing systems;
- repairs and general property improvements of a non-luxury nature;
- appliances (only those typically found in rental housing, i.e., stoves and refrigerators);
- site acquisition, and;
- laundry or community facilities which are located within the same building as the housing and used only by residents and their guests.

Acquisition Costs: Costs of acquiring improved or unimproved real property.

Site Improvements: Generally, HOME funds can pay for site improvements that are in keeping with the improvements of surrounding projects. Site improvements may include on-site roads and infrastructure necessary to the development of the project. The project site is the property, owned by the project owner, upon which the project is located. HOME funds may pay for a utility connection including off-site connection from the property line to the adjacent street.

Relocation Costs: HOME funds may pay for the relocation costs of individuals, families, and businesses permanently or temporarily displaced by the project. HOME recipients should know that relocation costs will increase the total cost per unit. For more information on relocation, refer to the section titled Uniform Relocation Act.

Developer's Fee: Funding of a developer fee with HOME funds is an eligible expense. The maximum amount of HOME funds that may be expended on a developer fee will be limited based upon the current OHCS policy but in no circumstance shall exceed 15 percent. OHCS may release up to 50 percent of the applicant's portion of the developer fees upon 50 percent of project completion if the applicant can demonstrate there is a need for development fees in order for the project to proceed. Submit a request for developer fees in writing. OHCS will not release the balance of the developer fees until a Certificate(s) of Occupancy is in place and HOME close-out requirements have been met.

Any change in developer fees or request for an increased fee must be justified to the satisfaction of OHCS. OHCS will only consider a request for increase after certificate of occupancy or verification of substantial project completion. Regardless of amount of increase requested, total developer fee must be reasonable based on the type and complexity of the project and will be limited to a maximum of 15 percent of total project cost less the developer fee.

*NOTE: HOME funds cannot reimburse HOME recipients for costs incurred prior to execution of a grant agreement. Currently the understanding of "costs incurred"*

*includes any obligations incurred due to contractual agreements to perform work. Therefore do not enter into any agreements or contracts to be paid with HOME funds until a grant agreement has been executed.*

Incurring costs may include entering into an earnest money or sales agreement for acquisition and such agreements should be contingent upon receipt of HOME funds. There is one exception. Some pre-development costs incurred prior to execution of the HOME Grant Agreement (and no earlier than 6 months before application) may be eligible for reimbursement with HOME funds. Reimbursement will be limited to the following costs: legal, consulting, environmental and other studies, engineering and design costs, zoning approvals, inspections and testing for hazards, costs related to obtaining site options, project financing and fees for loan commitments. These activities must not have a physical impact on the site. OHCS must pre-approve any use of HOME funds for pre-development costs. Reimbursement will only occur following formal execution of the HOME Grant Agreement.

### **Ineligible Home Costs**

- HOME funds cannot fund a project reserve account for replacement, a project reserve account for unanticipated increases in operating costs, or operating subsidies.
- HOME funds cannot be used to pay for application or loan fees of other OHCS programs.
- HOME funds cannot be used to pay for off-site improvements such as sidewalks, aprons, roadways, and sewer lines.

### **Period of Affordability**

OHCS funded projects must provide a sixty year affordability period. HOME recipients cannot "buy out" of the affordability requirements regarding restrictions on tenant incomes and rent. Under all circumstances, including repayment of the HOME funding, the deed restrictions will stay in effect and run with the land for the full term of affordability.

### **Readiness to Proceed**

OHCS's HOME Program requires that projects receiving funding be reasonably ready to start construction within nine months of reservation. It is important projects be ready to proceed within this time frame in order to meet project completions deadlines as required in the new HOME Program proposed regulation. It is important to note that HOME funded projects not completed within 4 years of commitment will be terminated and HOME funding must be repaid to HUD. Repayment is also required for any HOME assisted unit not rented to eligible tenants within 18 months of project completion.

### **Site Control**

Applicants must demonstrate legal control of the project site at time of application. Evidence of site control can include the following: purchase and sale agreement, option agreement, earnest money agreement fee simple title (warranty deed); documentation from the local government demonstrating its intent to transfer property and under what circumstances; an agreement or letter of intent between the landowner and application to enter into a ground lease. (NOTE: OHCS must approve a ground lease before it can be executed).

### **Acquisition Requirements**

Application Requirement: Site control documentation. Submit a copy, signed by the seller, of the Notice of Disclosure to Seller with Purchase Offer or Notice of Disclosure to Seller after executing the Purchase Offer.

Subsequent to Application: 1) Property fair market value appraisal by a licensed appraiser or a real-estate broker. Tax assessments are not allowable for appraisal purposes. 2) Signed Notice of Disclosure to Seller of Fair Market Value.

Due to the fact that involuntary acquisition can cause indefinite project delays and potentially increase project costs, OHCS requires HOME recipients to use voluntary property acquisition. OHCS shall not use its power of eminent domain to acquire properties under the HOME Program, and requires local governments and housing authorities sponsoring HOME projects to acquire property using voluntary acquisition procedures.

Under URA, HOME recipients are required to inform the seller of the property of the following:

- The power of eminent domain will not be in effect and, therefore, the buyer will not acquire the property if negotiations fail to reach an amicable agreement; and
- The buyer must inform the seller in writing of the property's fair market value as determined by an appraisal; and
- The seller has the opportunity to withdraw from the transaction at the time of notification of the fair market value;
- Provide the above information to the seller at the time that an option or purchase agreement is presented. If a current option or sales agreement is in existence, also provide the notice to the seller. The seller has the opportunity to withdraw from the current agreement after this notification. Submit copies of all signed seller notifications to OHCS. Sample notices are found later in this part of the application.

### **Choice-Limiting Actions**

Once you submit the NOFA application for HOME funding, do not undertake any action or activity that could limit the project to a specific site. Choice-limiting actions include, but are not limited to, acquisition, demolition, or construction. Doing so will result in the project becoming ineligible for HOME funding regardless of what funding source is used to pay for the activity(s). Develop the project schedule to allow time for the NEPA review process to be completed prior to making any physical change to the site including acquisition. The acceptable term of the sales agreement or option must (at a minimum) be valid through March 31, 2014.

On October 29, 2003, HUD adopted a new Final Rule for 24 CFR Part 58 – the HUD Environmental Review regulations. HUD made clear that they consider the purchase of land or land/buildings, as well as construction activities or the letting of contracts, to be choice-limiting actions. HUD prohibits choice-limiting actions prior to the completion of a HUD Environmental Review. For purposes of this Policy statement, completion of a HUD Environmental Review means completion of OHCS Review, the subsequent publication of findings, and the issuance of an Authority to Use Grant Funds by HUD. The following scenarios apply to all projects receiving reservations of HOME funds from OHCS.

Purchase of Property after Environmental Review Process Completed: This is the preferred method of acquisition.

- At time of application for HOME funds, applicant has a written option or earnest money agreement with the seller.
- The applicant must demonstrate that the purchase of the property is a voluntary transaction by providing notices of disclosure to be signed by the seller. Provide an appraisal or certified broker's estimate of fair market value to the seller. The buyer must purchase the property at the lesser of the fair market value or at the agreed upon sales

price. The entire project is ineligible to receive HOME funds if these disclosure notices are not properly executed.

- No choice-limiting actions (acquisition, demolition, construction, awarding of contracts) can take place until the HUD Environmental Review has been completed.
- The property can be purchased with HOME funds or non-HUD funds after completion of the HUD Environmental Review.
- If HOME funds (specifically) are being used for acquisition of the property, then the Environmental Review must be completed and the applicant must have completed all conditions of award and have executed the HOME Grant Agreement.

### **HOME NEPA Environmental Review 24 CFR Parts 50 and 58**

Application Requirement: Complete the HOME Environmental Review Checklist and contact the RAD for the project area to schedule an on-site visit. The on-site review of the project must be completed by the RAD prior to submission of the HOME application.

The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related regulations in 24 CFR parts 50 and 58. It is OHCS' responsibility, in cooperation with project applicants, to complete the environmental review record. Use the HOME Environmental Review Checklist. No other format will be accepted. OHCS cannot accept an environmental review checklist that is more than 6 months old. The purpose of the review is to ensure the project does not significantly impact the environment. The applicant may need to publish a notice indicating the results of the review and requesting release of funds.

Contact the Regional Advisor to the Department (RAD) serving the region where the proposed project is located. Arrange for an appointment to discuss the project, get technical assistance, and schedule a site visit. Before the RAD site visit, complete the Environmental Review Checklist. In addition to the environmental assessment forms, applicants must provide an initial site plan. The RAD will review these items during the site review. The RAD visit is an opportunity to determine if an applicant should proceed with the application.

If the project receives a Reservation of HOME Funding, OHCS staff or contractor will meet with the applicant in order to continue the NEPA process. There may be specific information needed or requirements pertinent to the project. If there are environmental impacts, then mitigation measures must be completed if HOME funds are awarded. If the impacts are severe, OHCS may not award HOME funds.

Environmental Reviews for any project using HOME funds require complex documentation about endangered species, including a determination on the project's effect on endangered or listed fish, wildlife and plants on or near the site. The project's site plan is reviewed by U.S. Fish and Wildlife Services (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) biologists prior to approval of the Environmental Review.

NOAA's focus is storm water management. If endangered or listed fish are within a certain distance of the site, NOAA will require that the project include a system on-site (bio swale or dry well) to capture and process runoff water from the roof, parking lot, or any other impervious surfaces of the development. For a new construction project, NOAA will not approve connection of storm water drains to a municipal storm drain system under any circumstances. If the project consists of minor or moderate rehabilitation within the current footprint of the existing building(s), a new storm water system may not be required.

USFWS is interested in protecting endangered or listed wildlife and plants on or near the site. Applicants must provide documentation from professionally qualified persons or firms regarding the existence of these endangered or listed subjects. In the past OHCS has accepted determinations from local officials regarding endangered species on the Environmental Review Checklist form in the NOFA Application.

### **Department of State Lands (DSL) Wetlands Policy and Review**

DSL will review all applications awarded funding for the possibility of regulated wetlands on the site. OHCS will submit documents to DSL. If DSL determines wetlands are present or likely to be present, applicants must get a qualified wetland consultant's wetland verification and boundary delineation for submission, review and approval by DSL. DSL may impose additional site or design requirements for the project. Applicants must provide tax lot numbers for the OHCS submission to DSL. OHCS has provided a space on the Environmental Review Checklist for this information. Include the tax lot number for every parcel of land in the project. A failure to provide the tax lot number(s) will delay the DSL review process.

### **One-for-One Replacement**

HOME funds may not be used to reduce the number of affordable housing units available in a community. All affordable occupied or vacant-occupiable dwelling units that are demolished or converted to a use other than affordable housing (including conversion to transitional housing) must be replaced on a bedroom-by-bedroom basis.

In addition to assuring replacement housing will be provided, there are specific public disclosure and submission requirements that must be met as a condition of the funding reservation prior to demolition of the structures and prior to the award of HOME funding.

If a project receives HOME funding, the recipient must submit the following as a condition of funding:

- A written description of the proposed project;
- The address, number of bedrooms and map location of the housing to be demolished;
- A time schedule for the commencement and completion of the demolition;
- The address, number of bedrooms and map location of the replacement housing to be provided. Replacement housing must be located in the same geographic area or neighborhood;
- The source of funding and schedule for the proposed replacement housing;
- The basis for concluding the replacement housing will remain lower-income housing for at least 10 years from the date of initial occupancy;
- Information demonstrating that the replacement units are sufficient in number and size to house the same number of occupants that could have been housed in the converted or demolished unit;
- After OHCS approval of the packet, OHCS will provide recipients instructions to publish a public notice in a newspaper of general circulation. This notice will identify the replacement plan for the existing structures. This newspaper notice should not be located in the legal notice section, but rather as a public notice or a display ad. Recipients must submit a tear sheet of the published notice to OHCS immediately upon publication. OHCS will reimburse publication costs.

### **Non-Federal Match**

HOME Program regulations require a 25 percent nonfederal match for all HOME funds used for affordable housing. Applicants must have identified proposed sources of the required non-federal match in a minimum amount of 25% of the HOME request. Commitments of match are required prior to commitment of HOME funds.

OHCS realizes there are extraordinary circumstances that may prohibit an applicant from obtaining some or all of the match contribution. It is not the desire of OHCS to deny HOME funds for a viable and needed affordable housing project because the applicant cannot identify local resources for match. Currently OHCS has surplus match credited to the HOME Program. Therefore, OHCS will consider allocating HOME funds to projects that cannot obtain all or some of match contribution.

Eligible HOME match includes:

- A cash contribution from public or private entities (excluding the HOME applicant or project owner).
- The grant equivalent of a below market rate loan.
- The present value of waived taxes or fees. The present value of a granted property tax exemption can be credited towards the match obligation. However, if a HOME recipient has to apply for property tax exemption on an annual basis, then only the first year of the tax exemption is credited towards the match requirement. HOME regulations do not permit property tax exemption as an eligible form of match for properties owned by Housing Authorities.
- The value of donated land, not acquired with federal sources, as appraised by an independent, certified appraiser. The transfer of property ownership must take place after the HOME application has been submitted; otherwise, the donated value will be considered owner equity, which is not an eligible source of match.
- The cost of investment in on-site or off-site infrastructure (not made with federal resources) that is directly required for the affordable housing assisted with HOME funds. The completion of a project's infrastructure investment must be completed within 12 months before HOME funds are committed or must be completed as part of the HOME project.
- Proceeds from multi-family affordable housing and single-family project bonds financing. Bond financing match is limited to 25 percent of loan amount for single-family projects (1 to 4 units) and 50 percent of loan amount for multi-family projects. HOME regulations further limit the amount of match funds that can come from bond proceeds.
- The direct cost of supportive services provided to families residing in HOME assisted units during the period of affordability. Services must be necessary to facilitate independent living or be required as part of a self-sufficiency program.

Ineligible HOME Match includes:

- Federal resources or funds;
- Bank leveraging;
- Cash or other forms of contributions from the HOME applicant, project owner, or developer;
- Owner equity or investment in the project;
- Sweat equity;
- Interest rate subsidies attributable to the federal tax exemption on financing, or the value attributable to federal tax credits; and

- Projects where less than 50 percent of the units are HOME assisted will have the match credit prorated based upon the percentage of HOME-assisted units to total units. Projects with 50 percent or more HOME-assisted units are credited the entire match.

HOME recipients will be required to provide documentation verifying the commitment and disbursement of all match credits.

### **Duns Number**

A DUNS number, received at registration in the Central Contractor Registry is a requirement of receiving federal funds. Verification of the registration is required prior to disbursement of HOME funds. Maintaining updated DUNS number through course of development is a requirement.

### **HOME Award and Legal Documents**

OHCS will execute a HOME Grant Agreement when the recipient meets all of the reservation conditions. One of the conditions is the completion of a satisfactory environmental review. The environmental review process must be completed and a release of funds obtained from HUD prior to taking any "choice limiting" actions on the project site. In other words, a HOME recipient cannot undertake any action or activity that could limit the project to the specific site or perform any physical development activities on the site until a release of funds is obtained from HUD. This includes, but is not limited to, property acquisition, demolition, or construction work. It does not matter whether HOME funds or another source of funding or the recipients' own resources pays for these activities. No choice-limiting activities can occur until HUD provides the release of funds. Doing so could jeopardize the HOME award.

OHCS will execute a HOME Grant Agreement after all other proposed funding is committed. HOME recipients will have 150 days from the date of grant reservation notification to document all other sources have been committed and all other conditions of award have been met. HOME recipients must request an extension if they cannot meet the conditions of award within the 150-day time period. OHCS will grant extensions on a case-by-case basis and be dependent on the progress the HOME recipient has taken to meet the conditions of award.

Once the recipient has commitments from all other funding sources and has met all reservation conditions, they should allow four weeks to execute a contract and begin drawing down HOME funds. OHCS cannot advance HOME funds; the HOME recipient must incur costs and request reimbursement from OHCS.

Grant funds can be used for eligible HOME costs incurred after a grant agreement has been fully executed (i.e., signed by both the HOME recipient and OHCS). The only exception is when OHCS pre-approves the use of HOME funds for some eligible pre-development costs. These costs must have been incurred no earlier than 6 months before the application for HOME funding. Reimbursement for eligible pre-development costs will occur after execution of the HOME Grant Agreement.

### **Uniform Administrative Requirements**

Governmental entities applying for HOME funds must comply with the requirements of Offices of Management and Budget (OMB) Circular A-87. Nonprofit organizations must comply with the requirements of OMB Circular No. A-122.

### **Revocation of a Reservation**

OHCS may revoke an existing HOME award, withhold unexpended HOME funds, require repayment of expended HOME funds, and bar a recipient from applying for future HOME assistance if the recipient breaches any deed restrictions.

OHCS may revoke a HOME reservation in the following instances:

- the applicant does not meet development milestones on time;
- the application misrepresented the project or included false information;
- after application, the purpose or scope of the project is substantially changed; or
- The applicant changes funding sources without prior approval from OHCS.

### **Bid Solicitation and Contracting**

The HOME Program does not require formal competitive bids but does require evidence that bids be cost reasonable. To assure cost reasonableness OHCS highly encourages HOME recipients to get multiple bids for each contract (i.e. at least three bids). HOME recipients must document how they got bids and provide copies of the multiple bids.

HUD Requirements for the Selection of Contractor: Once the recipient has selected the general contractor for the project, the recipient must verify that the general contractor is eligible (not debarred) to participate in Federal programs. The U.S. General Services Administration maintains a list of debarred contractors (Excluded Parties List System) at: <http://www.sam.gov>. Submit a copy of the search result performed on the general contractor prior to signing the actual construction contract. Do not contract with a contractor who is ineligible under the provisions of any applicable regulations of the US Department of Labor.

The same rules apply when the HOME recipient acts as the general or prime contractor in the project. In this case, each subcontractor must be determined eligible (not debarred) for participation in Federal programs.

### **Minority Owned Business / Women Owned Business**

Additionally HOME recipients must do outreach to encourage participation by minority and women owned business enterprises. When advertising for bids, HOME recipients must include a statement that says "minority and women owned businesses are encouraged to apply."

Find a list of all registered minority and woman owned businesses at: <http://www4.cbs.state.or.us/ex/dir/omwesb/>. Each recipient should offer these contractors an opportunity to submit a bid. The HOME recipient is required to document outreach efforts regarding MBE/WBE at completion of the project.

### **Section 3 of the Housing and Urban Development Act of 1968 (Implemented by 24 CFR Part 135)**

Purpose: To ensure to the greatest extent employment and other economic opportunities generated by HUD financial assistance shall be directed to low and very low income persons, particularly the recipients of government housing assistance, and to business concerns that provide economic opportunities to low and very low income persons.

Contracts and subcontracts funded in whole or in part by HUD resources are subject to Section 3 requirements when the individual contract or subcontract exceeds \$100,000 and the amount of HUD assistance for the project exceeds \$200,000. Both conditions must be present. Contracts exclusively for supplies or materials are excluded unless the contract includes installation of the materials.

Section 3 requirements apply to housing rehabilitation (including reduction and abatement of lead-based affected: paint hazards, but excludes routine maintenance, repair and replacement), and to housing construction (including reconstruction, conversion), and other public construction assisted with housing or community development assistance.

Goals include a commitment to award the following to Section 3 businesses:

- 10 percent of the total dollar amount in contracts for building trades work arising in connection with housing rehab, housing construction;
- 3 percent of the total dollar amount of all other Section 3-covered contracts;
- Notify Section 3 businesses of the contracting opportunities covered by these requirements;
- Notify all potential contractors of the Section 3-covered contracting requirements, and include the required Section 3 clause in contracts;
- Assist and “actively” cooperate with HUD in obtaining contractor/subcontractor compliance with Section 3 requirements;
- Refuse to award contract to any contractor who has been found to have violated the Section 3 regulations;
- Take appropriate remedial action against contractors who fail to comply with the Section 3 requirements (e.g. termination); and
- Document actions (including results and impediments) taken to comply with Section 3 requirements.

OHCS will provide more details on Section 3 requirements, (including the required Section 3 contract clause and record keeping forms) to HOME recipients after grant reservation.

### **Federal Labor Standards, 40 U.S.C. 276A-5 AND 40 U.S.C. 327-332**

Any contract for the rehabilitation or new construction of affordable housing with 12 or more HOME-assisted units must comply with the Davis-Bacon Act (40 U.S.C. 276a-5) and Federal Labor Standards. Davis-Bacon requirements apply to projects with eight or more units when the project utilizes both CDBG funds and HOME funds. These Federal laws require all laborers and mechanics employed in the development of affordable housing to receive federal prevailing wages, adjusted for the locality. Contracts are also subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).

Request a Wage Decision from HUD Labor Relations, which has the most recent Davis-Bacon Wage Rates for each project. The request can take up to 30 days to receive, so recipients should notify the loan officer assigned to the project as soon as the number of units and type of project has been determined. Re-verify all wage rates 10 days prior to bid opening and notify OHCS of bid opening date in time for OHCS to re-verify the rates.

### **Summary: Davis-Bacon Act & Related Acts:**

- Davis-Bacon Act: All laborers and mechanics on a HOME project shall be paid wages at rates not less than prevailing wages at similar construction for the locality as determined by the U.S. Secretary of Labor, regardless of contractual relationship. Every employee on the job (including company owners) must be paid weekly.
- Contract Work Hours and Safety Standards Act: The wages for every mechanic and laborer on the job shall be computed on a standard workweek of 40 hours. Employees will be compensated at a rate of not less than one and one half times the basic rate of

pay for all hours worked in excess of forty hours in any work week (base rate x 1.5 + fringe benefits = overtime rate).

No employee on the job site will be required to work in surroundings, or any other working conditions, which are unsanitary, hazardous or dangerous to the health and safety of an employee, as determined by the Construction Safety and Health Standards promulgated by the Secretary of the United States Department of Labor.

Liquidated damages for failure to pay overtime will be computed at the rate of \$10 for each calendar day for each employee who was required or permitted to work in excess of the standard 40 hour work week without payment of the overtime wages.

- Copeland Act (Anti-Kickback Law): Whoever by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever, induces any person employed in the construction, prosecution, completion or repair of any public building, public work or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract or employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.
- Apprentices: The U.S. Department of Labor recognizes only apprentices registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. The Department of Labor does not recognize a helper classification, unless it is on the wage determination, nor do they exempt from Davis-Bacon journeyman rates or, apprentices reported in excess of a program journeyman/apprentice ratio.

### **SUMMARY OF LEAD-BASED PAINT REGULATIONS for REHABILITATION PROJECTS USING HOME FUNDING**

HUD has issued a new regulation to protect young children (under the age of six) from lead-based paint hazards in housing that is financially assisted by the federal government or that is sold by the government. The new regulation addresses the requirements for notification, evaluation and reduction of lead-based paint hazards in federally assisted properties. The new regulation appears within title 24 of the Code of Federal Regulations (24 CFR 35). Find more information on the regulation and other educational materials at [www.hud.gov/lea](http://www.hud.gov/lea). This summary addresses the lead based paint requirements for HOME program applicants.

Notices That Must Be Issued To Occupants of Properties: New regulations require four types of notices:

- Distribution of a lead hazard information pamphlet to all existing tenants and all new tenants. Tenants must sign last page verifying receipt of pamphlet (current EPA/HUD notice still in effect).
- Disclosure to occupants of all known lead hazards that exist in project.
- Notice to occupants of result of lead hazard evaluation within 15 days of completed evaluation. This notice can be posted in a public place such as lobby or mailroom.
- Notice to occupants of reduction activities undertaken within 15 days of completion. A notice posted in a public area is allowed.
- 

Regulations and Affected Properties: The lead-based paint regulations affect acquisition and rehabilitation of housing projects constructed prior to 1978. All HOME grant agreements for pre-1978 projects must comply with the regulations. All units in the project must comply with these regulations not just the designated HOME-assisted units.

## **Rehabilitating Properties Containing Asbestos**

Most housing and buildings constructed before 1979 contain some form of asbestos. Undertaking rehabilitation actions where asbestos is present is subject to numerous and increasing regulation at all levels of government. Careless or illegal handling of asbestos-containing materials can subject rehab contractors, workers, and building occupants to health hazards, and can place the contractor, manager and owners in a position of serious civil and possibly criminal liability. If the property was built prior to 1979, contact the RAD for the area for more information.

## **Uniform Relocation Act**

The HOME Program is subject to the Uniform Relocation and Real Property Acquisition Act (URA). Under the URA, all persons (families, individuals, businesses, nonprofit organizations and farms) displaced (forced to move) as a direct result of rehabilitation, demolition or acquisition (privately undertaken or public) for a HUD-assisted project are entitled to relocation benefits. OHCS encourages applicants to pursue only those projects that will not permanently displace tenants.

Consistent with the goals and objectives of the Uniform Relocation Act, the HOME recipient must take all reasonable steps to minimize tenant displacement as a result of a project assisted with HOME funds. To the extent feasible, residential tenants must be given a reasonable opportunity to lease and occupy the same or another suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.

Displacement not only includes the physical displacement of persons, it also includes "**economic displacement**" which means that as a direct result of the project, the existing tenant is not able to afford a new, higher rent for their current unit. If a HOME applicant intends to rehabilitate an occupied property, the issue of economic displacement needs to be of particular concern. Tenants who are economically displaced qualify for relocation benefits.

Prior to making an application for HOME funding, complete the following:

Existing Tenant Survey: This survey identifies who currently occupies the property and potential URA problems. Survey all residential and commercial tenants. Use the Existing Tenant Survey form provided in the NOFA.

Develop a relocation plan: Provide a description of how the rehabilitation will impact existing tenants:

- Will any tenants be required to move permanently?
- Will any tenants need to move temporarily during the rehab?
- How will temporary moves be accomplished?
- Does overcrowding exist in any of the units?
- Is there a way to phase the rehab to avoid moving tenants?
- Are there tenants who need specific accommodations such as accessible units?
- Will the rehabilitated units be affordable to the tenants?

General Information Notice: A General Information Notice (GIN) must be sent to all tenants (residential and commercial) prior to submission of a HOME application. The GIN must be sent certified receipt requested or hand-delivered, and a delivery receipt obtained. Copies of sample GINs are provided in the NOFA. There are several different types of GINs: 1) intended for

residential tenants who will be permitted to reside in the project after completion; 2) intended for residential tenants who will be required to move or who may be displaced because of the project; and 3) sent to commercial tenants. OHCS HOME Program staff can provide guidance.

“Relocation Assistance to Persons Displaced from Their Homes”: Provide a copy of this HUD brochure to all residential tenants along with the General Information Notice. A copy of the brochure can be found in the NOFA. Contact OHCS for the appropriate brochure if the tenant in the property is a business in order to provide the business brochure with the General Information Notice.

Permission to send notices: Advise the owner / seller of the property of the noticing requirements for all tenants. Obtain agreement from the property owner that tenants will not be required to move, except for cause.

Subsequent to Submitting the Application for HOME funding, complete the following:

New Tenants: Each new prospective tenant must receive a notice informing about the rehabilitation project before signing a lease or rental agreement. The tenant must sign a form acknowledging receipt of this notice. Failure to issue this notice can be very costly. A copy of the Notice to Prospective Tenants can be found in the NOFA.

Tenants Who Move: Each tenant who moves after the HOME application submission date must document the reason for moving in a Vacate Notice. A tenant may be evicted for cause, if properly documented, but not in order to avoid paying relocation assistance.

Upon Date of Execution of HOME Grant Agreement:

Update Tenant Survey: Update the tenant survey to reflect tenants who have moved; new tenants, and other new information.

Notice of Displacement/Non-Displacement: As soon as possible after the date the HOME Grant Agreement is executed, a notice must be issued to each tenant who was in occupancy on the date the HOME application was submitted. The notice must either contain a specific offer of a suitable, affordable unit in the project, or provide a Notice of Displacement, if the tenant will be permanently displaced. The notice informs the tenant of their eligibility of any relocation benefits.

Temporary Moves: Arrange for temporary moves if necessary. Document temporary move notices and document all temporary moving costs. Tenants must receive reasonable advance written notice, notified of the terms and conditions of the move, and reimbursed for all reasonable out-of-pocket expenses.

Lead-Based Paint Disclosure forms: This disclosure form is in effect if the rental units were constructed prior to 1978.

## **URA – HUD’s SEVEN THINGS TO KNOW NOW**

1. HUD cares about this. The federal government takes the rights of tenants in rental rehabilitation properties very seriously.
2. So should we. Recipients and developers who are working on HUD-funded projects need to understand that the Uniform Relocation Act (URA) is basic consumer legislation that addresses “fairness” issues. Tenants whose living circumstances are changed by a project, either by higher rents or involuntary moves, should and will be protected and compensated.
3. The relocation rules are not all one-sided. The landlord can take actions to control costs and prevent displacement. These actions include informing tenants about the project, treating them fairly during the process, staging work if it is feasible and keeping their

rents affordable. Tenants must continue to pay rent and comply with the lease during the process.

4. Mistakes can be costly. Planning for relocation and tenant concerns is critical because tenants can take actions that cause financial liability for the sponsor/developer. Displaced tenants are entitled to 42 or 60 months of rental assistance, depending on the situation. Many claims exceed \$40,000 per household. Although some claims are unavoidable, there is no reason to incur these costs by failure to follow the rules.
5. Planning is critical. Thoughtfully consider relocation concerns early in the process so decisions about rents, construction timing and project feasibility can be considered before they are a crisis.
6. Cooperation is essential. All parties involved in the project must “do the right thing” in to make the process work.
7. There are 4 basic requirements for tenants in rental rehabilitation projects:
  - Give timely information to tenants about the pending application.
  - If HOME funding is approved, advise the tenants about any changes that could impact them. Without proper notification, they could claim they were displaced even if that was not the recipient’s intension.
  - If displacement occurs, offer a comparable replacement unit that is decent, safe and sanitary. Owners must pay Moving expenses.
  - Tenants cannot be required to move without a 90 days’ notice.
  - Offer tenants who will stay in the property after the work is completed, a suitable unit that is decent, safe, and sanitary, and affordable to them.

### **Property Standards**

On December 16, 2011 HUD published proposed regulation for the HOME Program which is now in the process of finalized. One of the most significant aspects of the new regulation is in regard to property standards. Most noted is the requirement for progress and final inspections during construction in order to ensure work is completed within established standards. Also important to note is that progress payments must be consistent with the amount of work performed satisfactorily and that final payment does not occur until construction of the project is satisfactorily completed. OHCS will ensure compliance with this regulation by contracting with a construction inspector to monitor HOME projects during construction and/or rehabilitation. You will be provided specific information in this regard prior to start of construction.

Specific to rehabilitation projects, a Capital Needs Assessment is requires for all multifamily rental projects to determine a scope of work that addresses the following: health and safety, habitability and functionality, useful life or major systems, lead-based paint, accessibility, and other improvements.

Housing constructed with HOME funds must meet all applicable local codes, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, HOME assisted new construction or rehabilitation must meet the International Residential Building Code. All newly constructed housing must also meet the current edition of the Model Energy Code published by the Council of American Building Officials.

All housing units constructed and/or rehabilitated with HOME funding shall, at a minimum, meet HUD's Uniform Physical Condition Standards (UPCS) as well as OHCS construction and rehabilitation standards, applicable local codes, ordinances, zoning ordinances, plus any conditions required in order to satisfy the NEPA Environmental Review requirements for the project. In addition, projects must meet all applicable local codes, standards, ordinances, zoning

ordinances, and the Fire Administration Act, including installation of hard-wired or battery-operated smoke detectors according to standards required by the Fire Administration Act. Project sponsors are required to provide documentation as requested for construction / rehabilitation inspections and at completion of the project.

For all acquisition, new construction, and rehabilitation projects, HOME recipients must document on an annual basis that each HOME-assisted unit meets Uniform Physical Condition Standards (UPCS) throughout the HOME minimum affordability period.

### **Architectural Standards**

OHCS supports the development of affordable housing that is safe, livable and well designed; contributes positively to the quality of life in Oregon, adds to the aesthetics and living environment of the community, and enhances the self-esteem and empowerment of the residents it houses and serves. OHCS' projects should also employ sustainable and green building practices. Note that Green Building Requirements are described specifically following the Unit Design Requirements in this section.

### Architectural Design

The OHCS Architectural Design Requirements are designed to support safe, livable and well-designed projects built for long-term viability. OHCS publishes specific Architectural Standards that include site design, building design, unit design and other quality of life issues, including construction materials and practices affecting the life-cycle cost of buildings. OHCS' expectation is that each new construction project will be designed by a registered architect currently licensed in the State of Oregon.

### Architectural Submission Requirements:

Vicinity map indicating the location of the site and amenities important to the residents such as groceries, schools, parks, activities on adjacent properties (e.g. single family dwellings, commercial retail etc.), and public transportation. If appropriate, the same vicinity map required in the environmental review checklist may be used.

Context photos showing the property and adjacent properties. Indicate on the vicinity map where the photographs were taken. If the site varies in slope, submit photographs showing the extent and nature of the sloped areas. If photocopy photos are taken, include original photos in the original application and copied photos in the application copies.

Preliminary site design and development plan with topographic data and a schematic landscape concept (1"=40' minimum scale). The site plan should include:

- Site contours or, at a minimum, elevations on the corners of the property and each building; and preliminary grading including drainage away from buildings;
- Site features such as existing structures to be removed, trees or hedges to be retained and general areas of new plant materials, with other site features;
- All buildings with unit front entries indicated;
- All paved surfaces and site lighting, if determined;
- Any fencing at perimeter of site and between units and buildings;
- Mechanical and electrical equipment such as transformers, if determined; and
- Trash holding areas, if known.

### Architectural 30-year Standard

The OHCS goal is for affordable housing projects to be built in such a manner they sustain themselves for 30 years without need of significant rehabilitation work. This will require careful design, material selection and oversight by project architects, contractors and owners. This type of oversight ensures the affordable housing project, including building envelopes and all structural components, have the necessary sustainability to last for 30 years with industry standard maintenance schedules.

The following are concerns that, if not addressed in the application materials, can result in budgetary challenges:

#### Site Design

**Geotechnical Problems:** These are typically the result of inadequate subsurface investigations and result in higher than expected foundation costs.

**Storm Drainage:** Storm water must be treated on-site.

**Privacy:** Walkways and traffic adjacent to apartment windows compromise privacy. Required design adjustments could affect unit design and/or site development density.

#### Building Design

**Moisture Infiltration:** Proper window and door installation is essential to long-term project viability, as is careful design of exterior finishes. This has been particularly challenging for rehabilitation projects. *Moist building materials*, such as “green” framing lumber, have caused considerable damage to otherwise viable projects. Lumber must be dry and free of visible mold/mildew. Maximum moisture content of 19 percent is an industry standard, and is OHCS’ expectation.

#### Unit Design

**Furnishing the unit, Circulation and Unit Floor Area:** Floor Plans that show furniture arrangements highlight the usefulness of a particular design. Such drawings are required with the initial submission drawings. Good designs should stay within the range of the published floor area requirements. Very small apartments typically have inadequate dining space and/or closet space. Apartments that are overly large often result in high project costs.

#### Required site accessibility and visitability features:

- Preliminary building exterior elevations at 1/8”= 1’0” minimum scale that includes size of building and rooflines. Include a visual indication of grade at the foundation wall of the site with each elevation when the site is sloped.
- Preliminary building floor plans at 1/8”= 1’0” minimum scale and unit plan(s) at 1/4”= 1’0” minimum scale.
- Preliminary building sections at 1/8” = 1’-0”, when appropriate. These are required for sites where the grade slope exceeds 10 percent.
- Typical unit plans with furniture arrangements. Unit interiors shall be designed for maximum livability and utilization of space by residents.
- List of applicable codes and regulations
- Identify all federal, state and local codes and regulations that govern the project. If the work falls under code jurisdiction, provide a letter of intent, signed by the architect, to meet all applicable federal, state and local codes and regulations.

#### Codes and regulations may include, but may not be limited to:

- HUD, NOAA and/or other federal regulations
- Current edition of the Oregon Structural Specialty Code
- Applicable local planning and building codes

- Accessibility and visitability requirements
- HUD Fair Housing Accessibility Guidelines
- ADA Accessibility Guidelines
- Uniform Federal Accessibility Standards (UFAS) applicable to HOME and other federally funded programs
- Oregon Visitability Requirements (included in this document)

*NOTE: Architectural review submission requirements for rehabilitation projects are included in the Rehabilitation Assessment Standards which follow the visitability materials in this section.*

## Site Design Requirements

### Site Safety

- Locate units so pathways from parking areas to units are direct and safe at night. Avoid pathways that pass through other residents' outdoor space or within ten feet of ground floor dwelling unit windows.
- Locate the buildings, when possible, so unit front entries are visible from the street or the parking area used by visitors and emergency vehicles.
- Design vehicular traffic and parking to minimize paved surface area and to minimize noise and safety issues for residents, especially children. Design roadways to discourage excessive vehicular speed.
- Provide visual and sound buffers between residential uses and incongruent uses on adjacent sites, e.g. industrial buildings and highways.
- Provide lighting on site to ensure safety of cars and residents at night. Locate fixtures to avoid shining into apartment windows.

### Play Areas

- Provide, if family housing, one or more on-site play areas for children under six years old that are visible from as many dwelling units as possible.
- Avoid locations that require children to cross parking lots and/or driveways to reach play areas.
- Provide places for adults to sit near these play areas.

### Landscaping

- Locate plant materials to enhance the livability of the development.
- Use plants to reinforce the separation of individual private outdoor spaces from community areas, to buffer cars from community outdoor space, to buffer noise, and to prevent soil erosion.

### Building Orientation

- Orient units so every unit receives maximum daylight given the overall site development and specific architectural scheme.
- Organize buildings and units so that unit fronts face unit fronts and unit backs face unit backs, to increase the opportunity for useful common space and for privacy of bedrooms.
- Minimize the use of stairs on sloped sites between parking and unit entries.
- Use the topography wherever possible to gain level entry at different floors.

### Trash

- Provide trash holding areas that are both serviceable by truck and accessible to residents. Screen dumpsters from public view.
- Balance convenience to residents with adequate separation from living areas to avoid odor problems.

## Project Sign

- Provide a project sign during construction which identifies the project and includes the Oregon Housing and Community Services name and logo as a source of funding.
- Provide a sign identifying the US Department of HUD if HOME funds are in the project
- Provide a sign with the Oregon Housing and Community Services name and logo type size no smaller than the other funders listed.

## Building Design Requirements

Design the building(s) with appropriate articulation of massing and roof line to be visually appealing and compatible with the neighborhood context.

## Building and Unit Exteriors

- Use exterior materials that are compatible with the project's context and have an excellent track record for performance under a variety of weather and use conditions. Acceptable siding materials include wood, cement fiber or vinyl lap siding, wood or cement fiber panel siding with battens applied horizontally and/or vertically, brick or textured concrete masonry units.
- Use materials other than Stucco and Synthetic stucco (EIFS) products as they are not approved for OHCS-funded projects.
- Provide wood casement trim around doors and windows of buildings that have wood or fiber cement exteriors.
- Limit roof penetrations, when possible, to surfaces away from public view.
- Screen mechanical equipment from public view.
- Delineate the main building entrance as an inviting focal point by using forms and materials consistent with the building design.
- Provide every unit with its own exterior front door (except in apartment buildings with interior corridors) Include a front porch or covered landing sized to permit personal display and temporary placement of items being carried in and out of the unit.
- Provide a private outdoor space of at least 6 feet by 10 feet for each unit (backyard, porch or balcony) with direct physical and visual access from family living space.

*NOTE: Buildings in zero-lot-line urban contexts may explore substituting smaller balconies, bevelederes or bay windows when full-sized balconies are not practicable on the upper floors. Increased habitable common outdoor space may be substituted when all of the units cannot have private outdoor space.*

## Privacy

- Provide privacy between individual yards or patios with screens of fencing and landscape, or tall, thick landscaping at least six feet high.
- Minimize views from upper windows and balconies of one unit into the outdoor space or windows of another unit.
- Provide each unit with its' own entry path.
- Avoid shared entry pathways where the residents of one unit must walk across the welcome mat of their neighbors.

## Unit Design Requirements

### Common Spaces and Furnishings

- Design common living spaces (kitchen, dining area and living room) to accommodate the maximum number of people who might reside in the unit. (i.e. a dining area in a three bedroom unit needs to be larger than the dining area in a two bedroom unit).

- Design kitchens in three bedroom units to accommodate more than one person in the space at the same time.
- Configure bedroom windows, doors, and heat sources so residents can furnish every bedroom with two twin beds. OHCS may allow minor exceptions for bedroom sizes on an individual basis, depending on the population served.

#### Circulation

- Design circulation through the unit to be as efficient as possible, incorporating it into living spaces, wherever possible, without diminishing furnishability and use of rooms. (An easily furnished room is one with uninterrupted walls and at least two corners and ideally three corners).
- Create a clear transition at the entry between semi-public and more private space. This can be accomplished with a porch, a foyer or a vestibule at front door so that the dwelling unit entry is separate and distinct from the dwelling unit common spaces.
- Provide a circulation path between bedrooms and bathrooms that does not pass through the common living area or other bedrooms. Bathrooms shall not be accessed directly from common living areas. Exceptions are studio or SRO units. Circulation to the bathroom in one-bedroom units may skirt the common space as long as the ability to furnish is not compromised.

#### Bathrooms

- Provide a minimum of 1.5 bathrooms in three bedroom units.
- Provide two full baths in four bedroom units.
- In either case above, at least one bathroom shall have a tub.
- Provide in townhouse units with two or more bedrooms, a ½ bath on the lower floor to serve the living/dining area (See the requirements for visitability).
- Provide no more than one full bathroom in two-bedroom flats.

#### Elevators

- Provide elevators in buildings of three or more stories.
- Provide elevators in buildings of two stories that serve the elderly and/or disabled where units are evenly distributed between floors. "Townhouse over flat" designs totaling three stories need not provide elevators. Three story garden style buildings with twelve or fewer units per building do not need an elevator if they do not require accessibility for tenants with mobility impairments to the upper floors.

#### Storage

- Provide interior and exterior storage. Lack of adequate interior and exterior storage may also affect the long term unit marketability.
- Provide a coat closet near front door.
- Provide linen storage near bedrooms and bathrooms. This can be accomplished with closet space or with built-in cabinets/shelves in the bathroom or laundry room.
- Provide interior bulk storage. Where feasible, provide 50 sq. ft. for two and three bedroom units and 60 sq. ft. for four bedroom units. *Closet space in excess of the minimum may be counted toward this requirement. The bulk storage requirement may also be partially satisfied by providing safe and convenient individual lockable interior storage elsewhere in the building.*
- Provide Bedroom closets a minimum size of 2' x 5'.
- Provide exterior bulk storage, to the extent feasible and where appropriate to the population, at a minimum of 20 sq. ft.
- Locate the outdoor storage space conveniently, near the door, porch, balcony or patio. Exterior storage is not included in unit floor area calculations.

#### Natural Light

- Maximize the availability of natural light available to each unit.
- Provide natural light in every room or activity space possible, including dining areas and sleeping alcoves. Exceptions are the kitchens and baths.

**Laundry**

- Provide a washer and dryer in family housing, or at least provide washer and dryer hookups in each unit.
- Provide convenient and accessible laundry rooms in projects without washers and dryers in the units.

**Acoustic Separation**

- Provide an acoustically controlled environment relative to exterior noise as well as noise from adjacent units and public spaces.
- Construct walls between apartments with staggered studs and sound attenuating insulation or resilient channels with sound attenuating insulation to minimize structure borne and airborne transmission of sound.
- Provide resilient channels with sound attenuating insulation ceilings between apartments.

**Bathroom and Kitchen Exhaust**

- Provide bathrooms with ceiling exhaust fans and kitchens with range hood exhaust fans.
- Connect all mechanical exhaust systems directly to the outside. Professionally engineered alternate systems that provide good bathroom and kitchen ventilation are acceptable, particularly for urban mid-rise buildings.

**Minimum and Maximum Unit Floor Areas**

- Design dwelling units large enough to accommodate the intended population.
- Provide unit designs that make efficient use of public resources.
- Draw and submit typical furniture arrangements on plans to ensure and demonstrate adequate function of all spaces.

The following table shows the minimum floor areas required and maximum floor areas:

<u>Unit Type</u>	<u>Minimum Required Unit Floor Area (Square Feet)</u>	<u>Maximum Allowable Unit Floor Area (Square Feet)</u>	<u>Maximum Allowable Floor Areas for Townhouses and Accessible Units</u>
<u>SRO</u>	<u>175</u>		
<u>Studio</u>	<u>350</u>		
<u>1 Bed / 1 Bath</u>	<u>600</u>	<u>690</u>	<u>740</u>
<u>2 Bed / 1 Bath</u>	<u>800</u>	<u>900</u>	<u>950</u>
<u>3 Bed / 2 Bath</u>	<u>1,000</u>	<u>1,200</u>	<u>1,250</u>
<u>4 Bed / 2 Bath</u>	<u>1,250</u>	<u>1,400</u>	<u>1,450</u>

<u>ALF/RCF Studio</u>	<u>300</u>		
<u>ALF/RCF 1 Bed</u>	<u>450</u>		

### Architectural Rehabilitation Standards

The OHCS goal is for affordable housing projects to be built in such a manner that they sustain themselves for 30 years without need of significant rehabilitation work. This will require careful design, materials selection and oversight by project architects, contractors and owners to ensure the affordable housing projects, including building envelopes and all structural components, have the necessary sustainability to last for 30 years with industry standard maintenance schedules.

### Architectural Rehabilitation Submission Requirements

- Rehabilitation/Capital Needs Assessment
- Rehabilitation Scope of Work
- Pest and Dry Rot Inspection Report
- Roof Inspection Report
- Estimate of probable rehabilitation cost.

OHCS requires a thorough Rehabilitation/Capital Needs Assessment to help determine the appropriate rehabilitation scope of work and the estimate of probable rehabilitation cost. The assessment must examine the following major building components and describe the work necessary to bring each building component to the level of maximum expected life span:

- Roof and roof substructure
- Accessibility features
- Exterior walls (building envelope)
- Pest and dry rot inspection
- Insulation
- Interior spaces: appliances and structural elements
- Foundation
- Structure: basement, substructure, super structure, crawlspaces
- Electrical systems
- Plumbing systems
- Heating systems
- Site: parking, landscaping, common areas, lighting, security.

### Rehabilitation Assessment Criteria

The Rehabilitation Assessment must be in a narrative form that addresses the following major components:

- Critical repair items: All health and safety deficiencies, or violations of Housing Quality Standards (or Uniform Physical Inspection Standards), requiring immediate remediation.
- Two-year physical needs: Repairs, replacement and significant deferred and any other maintenance items that need addressed within 24 months of the date of the RA. Include any necessary redesign of the project and market amenities needed to restore the property to a reasonable standard of livability. Include these repairs in the development budget and fund with construction-period fund sources.

- Long term physical needs: Repairs and replacements beyond the first two years that are required to maintain the project's physical integrity over the next 30 years, such as major structural systems that will need replacement during that period. These repairs are to be funded from the Replacement Reserves Account.
- Analysis of reserves for replacement: An estimate of the initial and monthly deposit of the Replacement Reserves Account needed to fund long-term physical needs, accounting for inflation, the existing Replacement Reserves Account balance, and the expected useful life of major building systems. This analysis should not include the cost of critical repair items, two-year physical needs or any work items that would be treated as normal maintenance or repair expense.

Applicants must complete the following:

- Conduct site inspections of 100 percent of all units (a lesser percentage may be allowed at OHCS' discretion).
- Identify any physical deficiencies as a result of a) visual survey, b) review of pertinent documentation, and c) interviews with the property owner, management staff, tenants, community groups and government officials.
- Identify physical deficiencies, including critical repair items, two-year physical needs and long term physical needs. These should include repair items that represent an immediate threat to health and safety and all other significant defects, deficiencies, items of deferred maintenance, and material building code violations that would limit the expected useful life of major components or systems.
- Explain how the project will meet the requirements for accessibility to persons with disabilities.
- Identify physical obstacles and describe methods to make the project more accessible, listing needed repair items in the rehabilitation plan.
- Prepare a rehabilitation plan, addressing all two-year and long term physical needs separately.
- Prepare a replacement reserve schedule, including an estimate of the initial and annual deposits, accounting for inflation and based on a 30-year term.

The applicant should engage the services of independent 3<sup>rd</sup> party professionals, currently licensed in the state of Oregon, to perform the property inspections and prepare the Rehab Assessment. Applicants typically contract with a licensed architect or licensed residential property inspector\* (CCB Lic# + OHCI Lic#) to provide most of the inspection services and write the Rehab Assessment. Additional support services including construction cost estimates, roof inspections, Pest & Dry Rot inspections, structural assessments, etc. can be provided by general contractors, roofing contractors, Pest & Dry Rot inspectors\*\* and licensed engineers (structural, mechanical and/or civil).

\*Home Inspectors providing rehab assessments should have an Oregon Construction Contractor's Board (CCB Lic#) and an Oregon Certified Home Inspector (OCHI Lic#) printed on the cover or first page of their inspection report.

\*\*Pest & Dry Rot Inspectors should have an Oregon Department of Agriculture (ODA Lic#) and/or a Pest Control Operator (PCO Lic#) printed on the cover or first page of their inspection report.

The premise for calculating the needs and capacity for the replacement reserve fund should be guided by the following:

- OHCS expects projects will be maintained at a level comparable with the condition at the time the project was placed in service (for new construction- at the completion of construction; for rehabilitation- at the completion of rehabilitation).
- Repairs and replacements must be accomplished when items are damaged or show excessive wear due to use or age.
- Replacements must be “as good as new” or at least up to the original quality. OHCS realizes in occupied units it may be more difficult to accomplish extensive repairs and replacements (this will be evaluated on a case-by-case basis).
- Projects must be comparable in appearance to non-subsidized multi-family housing in the area with similar rents.
- Inspections are performed by OHCS as required by program regulations and loan regulatory documents. These inspections are intended to provide OHCS a mechanism to address deficient findings.

### **Non-discrimination & Accessibility Standards**

Three different sets of nondiscrimination requirements apply to the HOME Program: Section 504 of the Federal Rehabilitation Act of 1973; the Fair Housing Act of 1988; and the Americans with Disabilities Act (ADA). Both new construction and substantial rehabilitation of multi-family housing assisted with HOME funds are subject to and must meet the standards of Section 504. Section 504 standards apply to all units in a project and not just the HOME-assisted units.

Substantial Rehabilitation Project: defined as a project with 15 or more units where the rehabilitation cost will equal at least 75 percent of the replacement cost of newly constructed multi-family units. Applicants of such rehabilitation projects must meet the following Section 504 criteria:

- Five percent of the units in the project (not just HOME-assisted units) must be accessible to individuals with mobility impairments, and an additional two percent must be accessible to individuals with sight and hearing impairments.
- Distribute the accessible units evenly throughout the project buildings
- Distribute the accessible units evenly by bedroom size throughout the project.
- When designing a larger bedroom accessible unit, as in a townhouse with inaccessible living areas on the second floor, Section 504 recommends the unit be a single floor design.
- When designing an accessible bathroom, consider a roll-in shower in lieu of a shower/tub not easily accessed by some physically disabled persons.

When smaller projects are rehabilitated or when rehabilitation costs are less than 75 percent of the replacement cost then: every alteration to a unit must make the unit accessible to the maximum extent feasible until 5 percent of the units in the project are fully accessible to people with mobility impairments. Alterations to common spaces must always make the project accessible to the maximum extent feasible. Consult the Fair Housing Amendments for guidelines about rehabilitation of one to four unit rental properties.

Section 504 accessibility standards are further described in the Uniform Federal Accessibility Standards. HOME applicants should provide this information to their architects early in the process to insure the project meets the accessibility criteria as defined in Section 504.

New construction of certain multi-family housing projects is also subject to the accessibility requirements in the Fair Housing Act of 1988. The Americans with Disabilities Act (ADA) has a broader application than the Fair Housing Act or Section 504, in that it addresses employment

practices, public services, transportation, and public accommodations. Although the ADA does not specifically address residential housing, since housing is covered by Section 504 and the Fair Housing Act of 1988, HOME recipients should be aware of the ADA's scope and requirements. HOME recipients will need to have the project architect verify that the plans/specifications meet the Section 504, ADA and Fair Housing standards prior to signing a grant agreement. Architects must verify at the completion of the project that the constructed/rehabilitated units have met these standards.

### **Affirmative Marketing**

Affirmative marketing is required for HOME projects containing five or more units. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons to the available housing from all racial, ethnic, and gender groups in the housing market area. OHCS will annually assess a project's affirmative marketing program to determine the success of affirmative marketing efforts and any necessary corrective actions.

HOME-assisted projects serving special needs populations must meet all HOME Program requirements regarding affirmatively marketing the units before renting them. The units must be marketed to ALL persons within the special needs group. The units MAY NOT be filled exclusively through referrals from a single social service agency. A good faith effort must be made to inform and solicit applications from members of the special needs group throughout the market area.

HOME-assisted projects designated for persons with disabilities cannot be restricted to persons with specific types of diagnoses or subclasses of disabilities (such as developmentally disabled, chronically mentally ill, or persons with only physical disabilities). Resident services may be specific to subclasses of disabilities, but the housing may not. HOME-assisted housing for disabled persons must be open to persons with any type of disability.

Affirmative marketing activities, at a minimum, shall include:

- Insuring advertised vacant units include the Equal Housing Opportunity logo or statement.
- Posting the HUD Fair Housing poster in common area(s) of housing assisted with HOME funds.
- Soliciting applications for vacant units from persons in the housing market who are least likely to apply for the HOME-assisted housing without the benefit of special outreach efforts.
- Maintaining file records containing all marketing efforts (e.g., newspaper advertisements, file memorandums documenting phone inquiries, copies of inquiry letters and related responses, etc.) These records shall be made available to OHCS staff for inspection during normal working hours.
- Maintaining listings of all tenants residing in each unit at the time of application submittal through the end of the HOME compliance period.

OHCS will annually assess a project's affirmative marketing program to determine the success of affirmative marketing activities and identify any needed corrective actions.

### **Fair Housing**

HOME recipients are responsible for complying with Fair Housing Laws. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with

parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability. For additional information, search Fair Housing on the HUD.gov website.

### **Tenant Selection Criteria**

HOME recipients must adopt tenant selection policies that:

- are consistent with the purpose of providing housing for low and very low income persons,
- are reasonably related to program eligibility and applicant's ability to perform the obligations of the lease,
- provide for selection of tenants from a written waiting list in the chronological order of their applications, and
- provides for the prompt written notification to any rejected applicant of the grounds for the rejection.

### **Determining Income Eligibility of HOME Tenants**

The gross annual income of each household occupant over the age of 18 determines a potential household's eligibility to occupy a HOME-assisted unit.

The following items are included as income according to HUD guidelines:

- all sources of money an individual or family member receives (wages, welfare payments, alimony, social security, pension, etc.),
- any money an individual receives on behalf of their children (child support, social security for children, etc.),
- income from assets (interest from a savings account, credit union, or certificate of deposit, dividends from stock, etc.),
- earnings from a second job or part time job, and
- any anticipated income (such as a bonus or pay raise expected to be received).

Assets include all bank accounts, savings bonds, certificates of deposit, stocks, real estate, etc., that are owned by an individual or any adult member of the individual's family/household who lives with them. Assets also include any business or asset the individual sold in the last two years for less than its full value, such as selling their home to their children. Recipients of HOME funds will receive more information about calculating income of tenants after the grant award.

### **Lease Conditions and Restrictions**

The length of a lease for a HOME-assisted unit must not be less than one year, unless otherwise modified by mutual agreement between owner and tenant.

At a minimum, termination of tenancy or refusal to renew a lease may only be for serious or repeated violation of the terms and conditions of the lease; for violation of applicable federal, state, or local law; for completion of the transitional housing tenancy period; or for other good cause. Landlords must give the tenant a 30 day notice of termination or refusal to renew. There is no exception to the 30-day notice for tenants residing in a HOME assisted unit, as this is a statutory requirement.

### **Compliance Responsibilities during Period of Affordability**

HUD will publish the HOME Program Rents on an annual or periodic basis. Depending upon HUD's calculations, the HOME Program Rents may increase or decrease. The HOME recipient is responsible for recalculating HOME maximum monthly rents and utility allowances on an

annual basis. OHCS must review and approve all recalculations of rent and utility allowances prior to any changes being implemented. Tenants must have at least 30 days written notice of any increase. All increases are also subject to other provisions of the lease agreements.

HOME recipients must annually provide to OHCS documented certification, in a format acceptable to OHCS, that the income of each of the tenants residing in a HOME-assisted unit is within the allowable HOME income limits. Tenants may remain in their unit should their income increase over 80 percent of median income; however, the tenant's rent and utilities may be adjusted to 30 percent of the monthly income.

During the period of affordability, the HOME recipient must ensure HOME-assisted units comply with all local housing code requirements as well as the Uniform Physical Condition Standards (UPCS). OHCS will conduct on-site inspections of HOME-assisted rental housing to determine compliance with property standards and to verify compliance with other applicable HOME regulations such as tenant income certifications and rental charges. OHCS will conduct onsite inspections every three years for projects containing one to four units; every two years from projects containing five to twenty-five units; and every year for projects with twenty-six or more units.

### **Conflict of Interest**

No member, officer, or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement. The Grantee shall incorporate, or cause to be incorporated, in all such contracts, a provision prohibiting such interest pursuant to the purposes of this section.

No person who is an employee, agent, consultant, officer, or elected or appointed officer of the HOME Grant recipient, who have exercised or currently exercise any functions or responsibilities with respect to activities assisted with HOME funds may obtain financial interest or benefit from a HOME assisted project. This includes themselves or those with whom they have family ties or business ties during their tenure and for one year thereafter.

No owner, developer, or Grantee of a project assisted with HOME funds (or officer, employee, agent, or consultant of the owner, developer, or Grantee whether private, for profit or non-profit, including Community Development Organizations, when acting as an owner, developer, or Grantee) may occupy a HOME-assisted affordable housing unit in the project. This provision does not apply to an employee or agent of the owner or developer of a rental housing project who occupies a HOME-assisted unit as the project manager or maintenance worker, if the employee or agent is otherwise qualified.