

**Horry County  
HOME Consortium  
(HCHC)**



**Program Policies and Procedures**

**Administered by:  
Horry County Community Development  
128-B Professional Park Drive  
Conway, SC 29526**

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## **I. HOME Investment Partnerships Program**

The HOME Investment Partnerships Program (HOME) (24 CFR 92) provides formula grants to states and local governments which are used, typically in partnership with local nonprofit groups, developers, and community housing development organizations (CHDOs), to finance a variety of housing activities. These activities include homeowner-occupied housing rehabilitation, homeowner new construction, rental acquisition and rehabilitation, rental new construction, and tenant-based rental assistance.

## **II. Horry County HOME Consortium**

The Horry County HOME Consortium (HCHC), a public body politic and corporate, with corporate succession, was created in 2017 to assist the low-income and underserved areas of Georgetown, Horry, and Williamsburg Counties of South Carolina in the financing, development, and preservation of affordable housing. The HCHC receives and administers funds provided by the HOME Investment Partnerships Program (HOME Program).

Member jurisdictions of HCHC include Georgetown, Horry, and Williamsburg Counties, as well as the municipalities of Myrtle Beach, Conway, Atlantic Beach, Aynor, Loris, Georgetown, Andrews, Kingstree, Hemingway, Stuckey, Lane, and Greeleyville. Horry County is the designated lead agency for the Consortium. Horry County administers the HOME Program on behalf of the Consortium, and coordinates the planning and administration of HOME Investment Partnership Funds.

The goals for the HCHC focus on decent housing, which includes:

- Retaining the current affordable housing stock;
- Increasing the availability of affordable permanent housing for low and moderate-income families;
- Increasing the supply of supportive housing which includes structural features and services to enable persons with special needs to live in dignity and independence; and
- Creating new affordable housing units.

## **III. Program Design**

The Horry County HOME Consortium's (HCHC) HOME Program is designed to promote partnerships among the U.S. Department of Housing and Urban Development (HUD), other federal entities, state and local governments, and with nonprofit and for-profit sectors who build, own, manage, finance, and support affordable housing initiatives. HOME provides the flexibility needed to fund a wide range of affordable housing initiatives through creative and unique housing partnerships. HCHC administers the HOME Program in a manner that will address the needs of very low to moderate income persons, with an emphasis on areas referenced in its 5-year Consolidated Plan.

HCHC funds are intended to provide gap financing for development projects and to fund needed affordable housing projects that would otherwise not be available in the community.

HCHC enhances coordination between public/private housing providers, and health and social service agencies as they are key stakeholders in developing and sustaining healthy communities. HCHC has developed region-wide partnerships with community housing organizations, local housing authorities, various social service and mental health agencies, members of real estate industry, and local lending institutions. Through the community needs assessment process, all partners and key stakeholders are engaged and provide input on an on-going basis.

**a. Duties of Horry County**

Horry County is hereby designated and authorized to administer the activities of the HCHC. Additionally, Horry County Council acts as the governing body of the HCHC.

As Lead Entity, Horry County will assume overall responsibility for ensuring compliance with all HOME requirements through the oversight and coordination of services on behalf of the Consortium Members. Those activities include:

1. Monitoring the performance of all entities to ensure HOME program funds are compliant with all federal laws and programmatic requirements of the HOME program;
2. Managing day-to-day operations of the Consortium's participation in the HOME program;
3. Coordinating project solicitation and selection process; and
4. Ensure compliance with Federal procurement requirements including those outlined in 2 CFR 200.

**b. Duties of Members**

Each member agrees to cooperate in undertaking or assisting in undertaking housing assistance activities for the HOME Program. Members are prohibited from withdrawing from the HCHC and/or the HOME Intergovernmental Agreement during the initial three (3) year term or qualification period. Each Member agrees to affirmatively further fair housing. Each Member agrees to approve any amendment to the HOME Intergovernmental Agreement that incorporates future changes necessary to meet the requirements for consortia agreement in subsequent qualification periods.

Each member jurisdiction agrees to strict adherence to the program descriptions as approved and to all assurances and certifications provided, including agreement to take all actions necessary to assure compliance with Horry County's certification under the Fair Housing Act; Executive Order 11063 (Equal Opportunity in Housing) and Title VI of the Civil Rights Act of 1964, the Uniform Relocation Assistance, Real Property Acquisitions Policy Act of 1970, and the Davis-Bacon Act at 40 USC 276a, et seq. Horry County shall not provide or cause to be provided HOME funds for activities in or support of any cooperating jurisdiction that does not affirmatively further fair housing within its own

jurisdiction or activities that impede Horry County's actions to comply with affirmatively further fair housing activities.

Each member, as required by the Consolidated Plan final rule at 24 CFR 91.402(a), must be on the same program year for the CDBG, HOME, ESG, and HOPWA programs. The HCHC program year begins July 1<sup>st</sup> and ends June 30<sup>th</sup>, annually.

**c. Effective Date, Term, Renewal, and Termination**

The initial HOME Agreement term is for Federal fiscal years 2018, 2019, and 2020, and shall remain in effect at least until the HOME funds from Federal fiscal years 2018, 2019, and 2020 are expended on eligible activities.

The HOME Agreement is automatically renewed for the Consortium's participation in successive qualification periods of three (3) federal fiscal years each. No later than the date specified by HUD's consortia designation notices or HOME's Consortia web page, the Lead Entity shall notify each Consortium Member in writing of its right to decide not to participate in the Consortium for the next qualification period and the Lead Entity shall send a copy of each notification to the HUD Field Office.

If a Consortium Member decides not to participate in the Consortium for the next qualification period, the Consortium Member shall notify the Lead Entity, and the Lead Entity shall notify the HUD Field Office, before the beginning of the new qualification period. Before the beginning of each new qualification period, the Lead Entity shall submit to the HUD Field Office a statement of whether or not any amendments have been made to this agreement, a copy of each amendment to this agreement, and, if the Consortium's Membership has changed, the state certification required under 24 CFR 92.101(a)(2)(i). The Consortium shall adopt any amendments to this agreement that are necessary to meet HUD requirements for Consortium agreements in successive qualification periods.

The automatic renewal of the agreement will be void if: the Lead Entity fails to notify a Consortium member or the HUD field office as required under this automatic renewal provision or the Lead Entity fails to submit a copy of each amendment to this agreement as required under this automatic renewal provision.

Though this Agreement may be amended, no member may withdraw from the Agreement while the Agreement remains in effect. A member desiring to terminate the Agreement and its participation in the HCHC may do so by giving no less than six (6) months prior written notice. The notice must be sent to the other Members at the addresses appearing on the signature page and the notice must specify the effective date of intended termination. Each member agrees that in order to be relieved from the terms of this Agreement, it must notify Horry County in writing of its intent not to participate in a renewal period on or before the date specified by HUD.



#### IV. Disclaimers

The Horry County HOME Consortium reserves the right to fund projects at a lower amount than requested, and the right to deny applications that are not consistent with the Consolidated Plan goals and policy direction. The Consortium is under no obligation to consider or fund any proposed project that does not demonstrate compliance with HOME regulatory requirements or local program requirements and does not assist in meeting the Consortium's Affordable Housing policy goals and/or objectives.

The Consortium reserves the right to determine project eligibility and select the funding source to be used for any proposed project. Funding decisions will be based on a variety of factors, not just application scores. Other factors considered are:

- Project alignment with the Consortium's priorities;
- Operational and management capacity of the Applicant;
- Financial capacity of the Applicant; and
- Leveraging of additional public and private investments.

The *Horry County HOME Consortium Policies and Procedures* are not intended to address every circumstance that may be encountered in the development process, nor are they a verbatim restatement of all regulatory requirements. Omission of any federal or local regulatory requirements does not relieve the Consortium or the Applicant from their respective obligations that may be required by the funding source.

Once an agreement has been executed between the Consortium and Applicant for the purpose of developing affordable housing according to these guidelines, in case of any conflict between the program guidelines and the Development Agreement, the terms of the Development Agreement shall prevail.

HCHC policy and procedure changes necessary to facilitate compliance with federal, state or local regulatory or legal requirements may be implemented immediately by the Consortium. Revision of the program policies usually occurs annually; however, additional revisions can be initiated by Horry County to ensure compliance. Such revisions may occur without notice and are applicable to all pending and future application submissions. Applicants are responsible for complying with any changes.

#### V. Distribution of HOME Funds

HOME funds are provided to the HCHC by HUD annually using a formula allocation. The HCHC's distribution plan for HOME funds provides:

- **Administration (10%)** Funds are used by the HCHC for planning, administration, allocation of indirect costs and monitoring of the program. Funds are also used to conduct training and technical assistance to entities interested in applying for and implementing HOME funded projects. All administrative funds are retained by Horry County for use in administering the HOME Program on behalf of the Consortium.

- **Programmatic HOME Funds (75%):** The HCHC distributes the programmatic HOME funds to projects within Horry, Georgetown and Williamsburg counties based on a HUD formulary process that calculates the percentage of low to moderate-income (LMI) persons residing within each of the above named jurisdictions.
- **CHDO Set Aside (15%)** In accordance with HOME regulations, a minimum of 15 percent of annual HCHC HOME funds are set-aside for use exclusively by HOME designated community housing development organizations (CHDOs) for specific allowable activities (housing owned, developed and/or sponsored by the CHDO). These funds are awarded to CHDOs by HCHC via a competitive proposal process.

HUD determines annually an allocation for HCHC, utilizing U.S. Census and HOME data in conjunction with a HOME formula to calculate the entitlement award. The formula allocation is based on the proposed membership of the consortium and their geography as well as the weighted formula factors of the HOME regulations. The actual amount that a consortium will qualify for under the formula will also be determined by the level of the HOME appropriation, the amount of set-asides in the appropriation for other purposes, the qualification of new HOME entitlement communities and urban counties, and the formation of other consortia.

## **VI. Application Process**

### **a. Timeline**

Applications for rental projects will be accepted on a rolling basis subject to funding availability. The rental project application process will consist of two approval tiers, as described below. Applications for homeowner and tenant-based rental assistance projects will be solicited on a semiannual basis subject to funding availability.

### **b. Funding Limits**

Project funding assistance will be limited to the applicable funding subsidization levels based upon the Section 234 - Condominium Housing basic mortgage limits, for elevator-type projects. The funding limitations are updated annually and are provided on the Horry County HOME Consortium website.

### **c. Eligible Project Costs**

HCHC HOME funds can be used to pay the following eligible costs:

- **Acquisition Costs:** Costs of acquiring improved or unimproved real property, including acquisition by homebuyers.
- **Development Hard Costs:** The actual cost of constructing or rehabilitating housing. These costs include:

- For new construction projects, costs to meet the most recent International Building Code (IBC) Series with South Carolina Amendments, along with local building codes within the jurisdiction where the project is located.
- For rehabilitation, costs to meet the most recent International Building Code (IBC) Series with South Carolina Amendments, along with local building codes within the jurisdiction where the project is located.
- For both new construction and rehabilitation projects, costs to:
  - demolish existing structures;
  - make utility connections including off-site connections from the property line to the adjacent street;
  - make improvements to the project site (only property owned by the project owner where the project is located) that are keeping with improvements on the surrounding projects including onsite roads, sewer lines, water lines, and drainage improvements. Costs must be necessary to the development of the project.
- Costs to make utility connections or to make improvements to the project site, in accordance with the provisions of §92.206(a)(3)(ii) and (iii) are also eligible in connection with acquisition of standard housing.
- For both new construction and rehabilitation of multifamily rental housing projects, costs to construct or rehabilitate laundry and community facilities that are located within the same building as the housing and which are for the use of the project residents and their guests.
- Related Soft Costs: Other reasonable and necessary costs incurred by the owner or the HCHC and associated with the financing, or development (or both) of new construction, rehabilitation or acquisition of housing assisted with HOME funds. These costs include, but are not limited to:
  - Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups. These costs may be paid only if incurred not more than 24 months before the date that HOME funds are committed to the project and if HCHC expressly permits HOME funds to be used to pay such costs in the written agreement committing funds to the project.
  - Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recording and filing of legal documents, building permits, attorney's fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees.

- Costs of a project audit, including certification of costs performed by a certified public accountant. The HCHC has the option to require this with respect to the development of the project.
- Costs to provide information services such as affirmative marketing and fair housing information to prospective homeowners and tenants.
- Staff and Overhead Costs: Costs for staff and overhead that are directly related to carrying out the project, such as work specifications preparation, loan processing, inspections, and other services related to assisting potential owners, tenants, and homebuyers, e.g., housing counseling, may be charged to project costs only if the project is funded and the individual becomes the owner or tenant of the HOME-assisted project. For multi-family projects, such costs must be allocated among HOME-assisted units in a reasonable manner and documented. Although these costs may be charged as project related costs, these costs (except housing counseling) cannot be charged to or paid by low-income families.
- Environmental Review: Costs and release of funds in accordance with 24 CFR Part 58 which are directly related to the project.
- Community Housing Development Organization (CHDO) Costs:
  - A CHDO is defined as a private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 CFR 92.2.
  - The HOME Final Rule requires that CHDOs have paid staff with demonstrated capacity appropriate to the CHDO's role (this requirement cannot be met through volunteer, donated staff, shared staff, or board members).
  - CHDO status must be recertified by Horry County with every project application submission for CHDO reserve funding.
  - In an owner or developer role, the CHDO must own the HOME-assisted housing in fee simple absolute or have a long term ground lease.
  - Costs include operating expenses and capacity building costs for an eligible CHDO.
  - Operating expenses mean reasonable and necessary costs for the operation of the CHDO. Such costs include:
    - Salary, wages, and other employee compensation and benefits
    - Employee education
    - Training and travel

- Rent
  - Utilities
  - Communication costs
  - Taxes and insurance
  - Equipment, materials, and supplies.
- Costs do not include operating expenses incurred by a CHDO acting as a subrecipient or contractor under the HOME program.
- Relocation Costs: The cost of relocation payments and other relocation assistance to persons displaced by the project are eligible costs. Projects that include relocation are subject to the requirements of the Uniform Relocation Act at 49 CFR 24. Relocation assistance is calculated based upon the relocation assistance formula provided therein.

#### **d. Consistency With Consolidated Plan**

HOME program applicants must submit proposals that are consistent with the Consortium's current Consolidated Plan (ConPlan). Before submitting an application, the applicant must review the ConPlan (found on the Consortium website, <https://www.horrycounty.org/Departments/CDBG>) to ensure that the activities are in conformance with the plan.

#### **e. Homeowner/TBRA Application Process**

Applications for Homeowner & TBRA projects will be requested on a semiannual basis. County staff will review Homeowner & TBRA project applications received in response to a solicitation for completeness, responsiveness, conformance to the solicitation requirements, and compliance. If applications are incomplete the applicant may receive written notification of any deficiencies (missing or incomplete information) of their applications. Applicants may be given five (5) business days from the date of notification to provide the information to the County. Failure to provide the information to the County within the timeframe will result in an automatic disqualification of the application. Homeownership projects will also be reviewed by the Underwriting Committee to make a determination of financial feasibility. Staff will provide a technical review of projects to the Administrators' Committee so that a recommendation for HOME funding may be developed.

#### **f. Rental Tier 1 Application Process**

Rental projects must complete two tiers of the application process. The first application tier consists of submission of basic project information, a budget, funding commitments, and approximate timeframes and thresholds for construction. Tier 1 applications are reviewed by staff to identify compliance and feasibility issues. Identified issues must be addressed to complete the tier 1 process. Compliant tier 1 project proposals will be referred to the Underwriting Committee for review. Upon successful completion of the tier 1 process and approval from the Underwriting Committee, the applicant may proceed to the tier 2 application process.

**g. Underwriting Committee**

The underwriting committee, consisting of professionals from financial and other related sectors, will assist in evaluating the financial feasibility of HOME project proposals. The underwriting committee will review and evaluate HOME project submissions against Consortium underwriting standards in order to provide a determination of financial feasibility. Project approval by the Underwriting Committee is a requirement for completion of the rental tier 1 application process and for homeownership projects.

**h. Rental Tier 2 Application Process**

Applicants submitting a rental tier 2 application must have first completed the rental tier 1 application process with a successful determination of financial feasibility from the Underwriting Committee. Applicants will have secured commitments from all other funding sources, completed and executed an environmental review, have completed procurement of a contractor, and be ready to proceed to construction. If all thresholds have been achieved, the project will be presented to the Administrators' Committee to determine a recommendation for HOME funding.

**i. Administrators' Committee**

The HCHC Administrators' Committee, consisting of representatives from Horry, Georgetown, Williamsburg Counties and the Cities of Myrtle Beach and Conway will meet quarterly to review the technical review of applications provided by staff. The Administrators' Committee develops the HCHC recommendation for funding priorities for approval by Horry County Council.

**j. County Council**

HCHC recommendations for funding priorities will be provided to Horry County Council for review and approval. Horry County Council, as the authorizing body for the Consortium, will make a determination of approval or rejection based upon the proposed funding recommendation. If approved, HOME funding award notices will be issued to approved recipients of HOME funding.

**k. Award Letters**

Once project proposals receiving HOME funding are approved by Horry County Council, notifications of HOME funding awards will be issued to recipient organizations. Participants awarded HOME funds will be required to meet with Horry County Community Development staff, who will review Federal, State, and County requirements, procedures, and processes. Topics to be discussed include: the project schedule, process for requesting HOME funds, the construction inspection process, reporting requirements, applicable governmental requirements, and project close-out.

## 1. Agreements

The HCHC requires execution of a written agreement **before any HOME funds are committed or disbursed to any entity**. As appropriate, HCHC will work with legal counsel to draft all contracts, agreements, and other legal documents. In addition, staff will provide legal counsel with information to assist them in understanding HOME program rules and their intent.

Written agreements shall contain the following provisions:

- **Use of Funds:** Description of the HOME funded activities, tasks to be performed, schedule for completing tasks, a budget in sufficient detail to effectively monitor performance and the period of the agreement.
- **Reversion of Assets/Program Income Requirements:** Statement that program income proceeds, unexpended funds, or other assets will be retained by the recipient for other eligible activities, or will be returned to the HCHC, as applicable.
- **Uniform Administrative Requirements:** Compliance with applicable Federal administrative requirements (2 CFR 200 and applicable provisions of 24 CFR 85 for governmental entities and 24 CFR 84 for non-profits.)
- **Other Program Requirements:** Requirements regarding: non-discrimination and equal opportunity; affirmative marketing and minority outreach; environmental review; displacement, relocation and acquisition; labor standards; lead-based paint; and conflicts of interest.
- **Affirmative Marketing:** Requirements for affirmative marketing in projects containing five (5) or more HOME-assisted units.
- **Requests for Disbursement of Funds:** Requirement that HOME funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before requesting HOME funds, if applicable. For HCHC, Requests for Payment are issued on a reimbursable basis.
- **Records and Reports:** Lists records that must be maintained and information as well as reports that must be submitted.
- **Enforcement of the Agreement:** Means of enforcing the provisions of the written agreement. This provision is in the agreement with all parties, including owners.
- **Duration of Agreements:** The agreement must specify the duration of the agreement period. If the housing assisted under the agreement is rental housing, the agreement must be in effect throughout the affordability period required by the PJ. If the housing assisted under this agreement is homeownership, the agreement must be in effect until at least the completion of the project by the low-income family.

- **Amending the Documents:** Written Agreements may be amended by mutual agreement of the parties when regulations and requirements change, or when adjustment to funding levels or other condition related to a specific project are needed.
- **Fixed or Floating Units:** Fixed and Floating HOME Units: In a project containing HOME-assisted and other units, the PJ may designate fixed or floating HOME units. This designation must be made at the time of project commitment in the written agreement between the PJ and the owner, and the HOME units must be identified not later than the time of initial unit occupancy.
  - Fixed units remain the same throughout the period of affordability.
  - Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

## **VII. Project Criteria**

### **a. Eligible Activities**

HCHC HOME funds may be used to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses. Manufactured housing is also eligible for rehabilitation assistance. Additional eligible expenses may include: financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide payment of reasonable administrative and planning costs. The specific eligible costs for these activities are set forth in 24 CFR 92.206 through 24 CFR 92.209. The activities and costs are eligible only if the housing meets the property standards in 24 CFR 92.251 upon project completion.

Demolition must be undertaken only when related to a particular housing project intended to provide affordable housing within specific time frame.

Conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding one or more units beyond the existing floor plan, in which case, the project is considered new construction.

### **b. Eligible Applicants**

Organizations eligible for funding through the HOME Program include: non-profit affordable housing developers, for-profit affordable housing developers, Community Housing Development Organizations (CHDOs), and public agencies.



### **c. Site Control**

Applicants for HOME funding must have site control for their project at the time of application. Documentation of site control may be satisfied through a deed or other proof of ownership, an executed 99-year lease agreement, an executed contract of sale, or an executed option to purchase or lease.

### **d. Types of Ownership Interest**

- Deed: Ownership in fee simple title to a property.
- Long Term Lease: A lessee must hold a 99-year lease to a property.
- Inherited Property: Inherited property with multiple owners is defined as: housing for which title has been passed to several individuals by inheritance, but not all heirs reside in the housing, sharing ownership with other nonresident heirs. (The occupant of the housing has a divided ownership interest.) The owner-occupant may be assisted if the occupant is low-income, occupies the housing as his or her principal residence, and pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).
- Life Estate: The person who holds the life estate has the right to live in the housing for the remainder of his or her life and does not pay rent. The person holding the life estate may be assisted if the person is low-income and occupies the housing as his or her principal residence.
- Living Trust: A living trust is created during the lifetime of a person. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust must be valid and enforceable and ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life. The person holding the living trust may be assisted if the person is low-income and occupies the housing as his or her principal residence.

### **e. Project Timeframes**

Projects must be able to begin construction within six (6) months of execution of an agreement. Agreements are typically executed for a period of twenty-four (24) months. An extension to the agreement of up to twenty-four (24) months may be granted, subject to the approval of Horry County as the Participating Jurisdiction. An extension must be approved by the Horry County Administrator or an approved designee through execution of an amendment to the project agreement. All projects must be completed within four (4) years of the execution of the original agreement. If the project is not complete within four (4) years, the subrecipient, developer, or CHDO will be required to repay all HOME funds invested in the project.

## f. Match Requirements

For each dollar of HOME Program funds expended, the Consortium must generate \$.25 in non-federal match in the form of cash, assets, services, labor, or other resources valuable to the HOME Program (See 24 CFR 92.218). Each developer, subrecipient, or CHDO will be required to provide evidence at the time of project application submission demonstrating commitment of match from eligible sources. Funding award or commitment letters may satisfy this requirement. Recipients are required to submit a match report at the 50% completion point, as well as at project close out for each project.

The match obligation may be met with any of the following specific sources.

- Cash or cash equivalents from a non-federal source;
- Value of waived taxes, fees or charges associated with HOME projects;
- Value of donated land or real property;
- Cost of infrastructure improvements associated with HOME projects;
- A percentage of the proceeds of single or multi-family housing bonds issued by state, state instrumentality, or local government;
- Value of donated materials, equipment, labor, professional services; or sweat equity;
- Direct costs of supportive services to residents of HOME projects; and
- Direct cost of homebuyer counseling to families purchasing homes with HOME assistance

Match counted for other Federal programs may not be used to satisfy HOME match requirements. HOME can be counted as match for McKinney-Vento Act Programs.

Ineligible Match Contributions:

The following do **not** meet the requirements for eligible sources of match and do not count toward meeting a PJ's matching contribution requirement:

- Contributions made with or derived from federal resources or funds (including CDBG), regardless of when the funds were received or expended;
- The interest rate subsidy attributable to the federal tax exemption on financing (such as bonds issued by the state) or the value attributable to federal tax credits (such as the Low Income Housing Tax Credit Program);
- Owner equity or investment in a project (except for sweat equity);
- Cash or other forms of contributions from applicants for or recipients of HOME assistance or contracts, or investors who own, are working on, or are proposing to apply for assistance for a HOME-assisted project (except for sweat equity or professional services donated by contractors who do not own any HOME projects);
- A PJ's cost of administering HOME-assisted or HOME eligible housing projects or rental assistance;
- Contributions counted as match toward any other federally funded program.

- Other forms of contributions not meeting the HOME requirements (at 24 CFR 92.220) are also ineligible.

Match obligations will be incorporated into the Subrecipient Agreement, CHDO Agreement, or Development Agreement.

Excess match: Contributions made in a fiscal year that exceed the HCHC's match liability for the fiscal year in which they were made will be carried over and applied to future fiscal years match liability.

#### **g. Development Capacity**

Applicants for HOME funding should have a track record of successful project development, timely completion and projects-in-service or, in the case of a new or emerging developer, evidence of real estate development and project management expertise. A submitted application should indicate what skills and roles the non-profit staff will be assuming and any other members of the project development team.

The Consortium is interested in investing HOME funding only in viable projects that will provide quality affordable housing in an efficient, and timely manner. Housing developers with minimal development experience are encouraged to partner with experienced developers to enhance their ability to produce and deliver housing efficiently. All applications for HOME funding will be reviewed for tangible evidence that the capacity of the development and construction team is solid. Projects with strong development capability may receive higher consideration for HOME funding. Applicants seeking HOME assistance for more than three (3) units must have a minimum of three (3) years of experience developing affordable housing.

#### **h. Income Eligibility**

When determining the income eligibility of a household, HCHC uses the definition of "Annual Income" found at 24 CFR 5.609. When determining the income of a homeowner for an owner-occupied rehabilitation project, the value of the homeowner's principal residence will be included in the income from assets calculation.

Family sizes in excess of eight (8) persons are calculated by adding 8% of the four (4) person income limit for each additional family member. That is, a nine (9) person limit should be 140% of the four (4) person limit, the ten (10) person limit should be 148%. The HOME income limit values for large households (9-12 persons) must be rounded to the nearest \$50. Therefore, all values from 1 to 24 are rounded down to 0, and all values from 25 to 49 are rounded up to 50.

#### **i. Ineligible Costs**

HOME funds shall not be used to:

- Provide project reserve accounts, except as provided in 24 CFR 92.206(d)(5), or operating subsidies;

- Provide tenant-based rental assistance for the special purposes of the existing section 8 program, in accordance with section 212(d) of the Act;
- Provide non-federal matching contributions required under any other Federal program;
- Provide assistance authorized under Section 9 of the 1937 Act (Public Housing Capital and Operating Funds);
- Provide assistance to eligible low-income housing under 24 CFR 248 (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in 24 CFR 248.101;
- Provide assistance (other than tenant-based rental assistance or assistance to a homebuyer to acquire housing previously assisted with HOME funds) to a project previously assisted with HOME funds during the period of affordability established by the participating jurisdiction in the written agreement under 24 CFR 92.504. However, additional HOME funds may be committed to a project up to one year after project completion (see 24 CFR 92.502), but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under 24 CFR 92.250.
- Pay for the acquisition of property owned by the Horry County HOME Consortium, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project; or pay delinquent taxes, fees or charges on properties to be assisted with HOME funds.
- Pay for any cost that is not eligible under 24 CFR 92.206 through 24 CFR 92.209.
- Support activities in connection with litigation involving discrimination or fair housing are set forth in Section 224 of the Act.

**j. Recapture Provisions**

All properties receiving financial assistance from the Consortium for homeownership and homebuyer activities must ensure that the housing remains affordable to families with incomes of 80 percent or less of the area median for at least the minimum affordability period based on the initial amount of assistance provided. The Consortium may fund new construction homebuyer projects where the HOME funds will be provided as a direct subsidy to the homebuyer and will therefore utilize the recapture provision to ensure compliance with the HOME affordability period requirements. Homeownership projects may have affordability periods between five (5) and fifteen (15) years based on the amount of the direct subsidy provided to the homeowner. The affordability requirements will be enforced with restrictive covenants (or liens) and a promissory note that will be recorded with appropriate County Register of Deeds for either Horry County, Georgetown County, or Williamsburg County - based on the location of the property.

In the event of a voluntary or involuntary sale, the Consortium will recapture the HOME investment before the homebuyer receives a return. The recapture amount is limited to the net proceeds available from the sale. The Consortium shall reduce the HOME investment amount to be recaptured on a pro rata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period. For example, a property with a 15-year affordability period will require that the pro-rata share, subject to recapture, will reduce by 1/15th annually on the anniversary date of the initial purchase closing.

All properties receiving financial assistance from the Consortium for rental housing units must ensure that the housing remains affordable to families with incomes of 80 percent or less of the area median for at least the minimum affordability period based on the initial amount of assistance provided. Additionally, assisted developments of five (5) or more HOME-assisted units must ensure that 20% of the units are reserved for households earning 50 percent AMI or less. The Consortium may fund activities that will acquire existing housing units or construct new housing units for affordable rental housing opportunities, and will utilize the recapture provision to ensure compliance with the HOME affordability period requirements. Rental housing projects may have affordability periods between five (5) and twenty (20) years based on the amount of the subsidy provided to the developer/owner. The affordability requirements will be enforced with restrictive covenants (or liens) and a promissory note that will be recorded with appropriate County Register of Deeds for either Horry County, Georgetown County, or Williamsburg County - based on the location of the property.

In the event of a voluntary or involuntary sale, the Consortium will recapture the HOME investment before the owner receives a return. The recapture amount is limited to the net proceeds available from the sale. The Consortium shall reduce the HOME investment amount to be recaptured on a pro rata basis for the time the owner has owned the property and made it available for affordable rental housing to an income eligible tenant. For example, a property with a 15-year affordability period will require that the pro-rata share, subject to recapture, will reduce by 1/15th annually on the anniversary date of the initial purchase closing.

**k. Affordability Periods**

**Rental Activities (24 CFR 92.252)**

Activity	Affordability Period Years
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under \$10,000	5
\$10,000 to \$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15
New construction or acquisition of newly constructed rental housing	20

**Homeownership Activities (24 CFR 92.254)**

<b>Activity</b>	<b>Affordability Period Years</b>
Rehabilitation, new construction, or acquisition of existing housing per unit amount of HOME funds: Under \$10,000	5
\$10,000 to \$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15

**Owner-Occupied Rehabilitation (Local Affordability Period)**

<b>Activity</b>	<b>Affordability Period Years</b>
Owner-Occupied Rehabilitation: Under \$50,000	10
\$50,000 to \$100,000	15
\$100,000 and above	20

Affordability Periods: HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in the table above, beginning after project completion.

- Affordability requirements will apply without regard to the term of any loan or mortgage, repayment of the HOME investment, or the transfer of ownership.
- HCHC will impose affordability requirements through a deed restriction, a covenant running with the land, an agreement restricting the use of the property, or other mechanisms approved by HUD.
- Purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure can be used to preserve affordability.

**VIII. Rental Projects**

**a. General Requirements**

HOME funds may be used for acquisition, new construction, or rehabilitation of affordable rental housing. Owners of the rental housing may be small property owners, for-profit developers, non-profit housing providers, CHDOs, or government agencies. Owners will be “desk monitored” on an annual basis by the Consortium to ensure compliance in occupancy, rent restrictions, affordability requirements, and property standards. Additionally, an on-site inspection will be required to be conducted a minimum of once every three (3) years.

**b. Funding Levels**

The minimum amount of funding that can be applied to a HOME assisted unit is \$1,000.

The maximum amount of funding that can be applied to a HOME assisted unit is based upon the Section 234 - Condominium Housing basic mortgage limits, for elevator-type projects, as published each year and provided to the Consortium by HUD. The current limit is updated annually on the Consortium website.

### **c. Property Standards**

All new construction projects within the HCHC service area will meet local codes, ordinances and zoning requirements for the municipality or county in which the project is located. Projects must comply with the *2018 International Building Code (IBC) Series with South Carolina Amendments*, which Horry County HOME Consortium has adopted as its construction performance standards. Housing must meet all applicable requirements upon project completion.

All new construction HOME-assisted projects will also meet the requirements described below:

- *Accessibility:* All housing will meet the accessibility requirements of 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR Parts 35 and 36, as applicable. Covered multi-family dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619).
- *Disaster mitigation:* Where relevant, housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with municipal, county, State ICC or IFC codes, or such other requirements as HUD may establish.
- Written cost estimates, construction contracts, and construction documents. HCHC will ensure that construction contract(s) and construction documents describe the work to be undertaken in adequate detail so that inspections can be conducted. HCHC must review and approve written cost estimates for construction and determine that costs are reasonable.
- *Construction progress inspections.* HCHC conducts progress and final inspections of construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents (draw requests).

### **d. Qualification as Affordable Housing**

All HOME-assisted rental units must be occupied by households that are low-income eligible with rents conforming to high and low HOME rents for the area median income and adjusted for household size.

- Rental units must have initial occupancy within 18 months of completion.

- If at six (6) months a unit is still vacant, HCHC will require changes to the marketing efforts to ensure full lease-up.
- If the unit is still vacant at eighteen (18) months, repayment of HOME funds invested must be made to the Consortium.

**e. Tenant Selection**

Project owners must adopt written tenant selection policies and criteria. These policies and criteria must be based on local housing needs and priorities consistent with HCHC's Consolidated Plan. Selection policies must:

- Comply with HCHC's affirmative marketing requirements
- Limit housing to very low and low income persons
- Not limit eligibility or give preference to a particular segment of the population unless specifically authorized in the written agreement
- Not exclude applicants with vouchers or tenant based rental assistance (TBRA)
- HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of 24 CFR 92.252 to qualify as affordable housing.
- Applicants for rental housing must submit, along with their application, the following documentation:
  - Picture ID, such as driver's license, state picture ID or passport
  - Social Security Card
  - Most recent year's state and federal income tax returns (additional years may be required if a potential tenant is self-employed or had 1099 income)
  - Most recent year's W-2 statement
  - Two (2) months of pay stubs
  - Last six (6) months of bank statements for all accounts
  - Proof of any additional household income that may include, but is not limited to: social security disability (for children as well as adults), veteran's pension or disability, social security retirement, child support payments or alimony, or TANF
  - Affidavit of current debts.
- There must be a written lease for all HOME assisted rental units, and the statutory tenant protections must be integrated into the lease.



- Mandatory supportive services: Lease terms that make tenant acceptance of supportive services mandatory are prohibited.
  - Tenants in transitional housing may be required to accept supportive services as part of an overall program.
  - Tenants must receive a 30-day written notice prior to evictions.
  - Tenants must also receive a 30-day written notice prior to rent increases.
  - Rental assistance subsidy holders cannot be turned down for HOME assisted housing because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable HOME tenant-based assistance document.

**f. Fixed and Floating Units**

In a project containing HOME-assisted and other units, the PJ may designate fixed or floating HOME units. This designation must be made at the time of project commitment in the written agreement between the PJ and the owner, and the HOME units must be identified no later than the time of initial unit occupancy.

- Fixed units remain the same throughout the period of affordability.
- Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

**g. Fixed Units**

If a tenant’s household income increases over 80 percent (80%) of AMI at recertification, the project owner should take the following steps to maintain the correct numbers of High and Low HOME rent fixed units:

- If the income of a tenant occupying a Low HOME rent unit increases above 50 percent (50%) of median, but does not exceed 80 percent (80%) of AMI, that unit remains a Low HOME rent unit until a HOME-assisted unit can be substituted.
- The owner may not increase the tenant’s rent above the Low HOME rent limit for as long as the unit retains the Low HOME unit designation and is occupied by the low-income household whose income increased above 50 percent (50%) of median but does not exceed 80 percent (80%) of median.
- When a High HOME rent unit in the property vacates, that unit must be re-designated as a Low HOME rent unit. This unit must be rented to a very low-income tenant, at no more than the Low HOME rent.

- Once the new Low HOME rent unit has been designated, the previous Low HOME rent unit that is occupied by the tenant at between 50% and 80% of median must be re-designated as a High HOME rent unit. At this time, the owner can increase the tenant's rent up to the High HOME rent, subject to the terms of the lease.

If a tenant's income increases above 80 percent (80%) of the area median income, the unit this tenant occupies is still considered to be a HOME-assisted unit, but the tenant's rent must be adjusted as described below:

- Over-income tenants with incomes over 80 percent (80%) of the area median in HOME assisted "fixed" units must pay 30 percent (30%) of their adjusted income for rent and utilities. There is no rent cap for "fixed" units.
- If the person whose income went over 80 percent (80%) of median was in a Low HOME unit and they elect to vacate the property, the new tenant must be at or below 50 percent (50%) of median income and rented at a Low HOME rent.
- If the person whose income went over 80 percent (80%) of median was in a High HOME unit and they elect to vacate the property, the new tenant must be at or below 80 percent (80%) of median income and rented at a High HOME rent.

#### **h. Floating Units**

The owner must use the following procedures to maintain the correct numbers of High and Low HOME rent floating units:

- The owner can draw on all the units in the property to designate High and Low HOME rent units. This means that the owner is not restricted to those units initially designated as HOME-assisted units when looking to re-designate a comparable unit as the new Low or High HOME unit.
  - At no point is the owner required to designate more HOME-assisted units than was agreed upon in the written agreement with the PJ.
  - When the income of a tenant occupying a Low HOME rent unit increases over 50 percent (50%) of the median, but does not exceed 80 percent (80%) of the area median income, the unit that is occupied by the over-income tenant is considered a Low HOME rent unit until a comparable unit can be substituted.
  - The rent of the tenant whose income has gone above 50 percent (50%) of median must not exceed the Low HOME rent limit while the unit has a Low HOME rent unit designation.

- To replace the Low HOME rent unit, the project owner must rent the next available High HOME-assisted unit to a very low-income tenant. The newly designated Low HOME rent unit must be rented to a tenant whose income does not exceed the very low-income limit (50% of median), at a rent that does not exceed the Low HOME rent limit.
- Once a new Low HOME rent unit has been designated, subject to the terms of the lease, the rent of the initial tenant whose income has increased may be increased to the High HOME rent for the unit. This process should not increase the number of assisted units.

#### **i. Rent Restrictions**

Owners of HOME projects must keep units affordable to low-income tenants throughout the entire affordability period. Maximum rent limits are published by HUD annually and are distributed to recipients of HOME funding. Current applicable rent limits are available on the Consortium website. In the event that limits decrease below the rate published at the time of agreement execution, owners will not be required to lower rents and may retain their current rates. Owners may request an increase in rent as rent limits change. However, the owners may not change a tenant's rent prior to the expiration date on the lease agreement. Owners must provide tenants at least thirty (30) days notification of rent increases. The Consortium shall review and approve all proposed rent increases.

#### **j. HOME Rents**

Rent charged in a HOME-assisted project may not exceed the High HOME Rents. Projects of five (5) or more units must reserve 20% of the project's units to be capped at the Low HOME Rents. In all cases, rent may not exceed 30% of an assisted household's annual income. HUD publishes the HOME Rents annually, which are made available on the Consortium's website.

#### **k. Additional Rent Limitations for SRO Projects**

For Single Room Occupancy (SRO) units that have both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent. For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent (75%) of the zero-bedroom fair market rent. The project is not required to have low HOME rents, but must meet occupancy requirements.

#### **l. Initial Rent Schedule and Utility Allowances**

HCHC will establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. The HUD Utility Schedule Model <http://huduser.org/portal/resources/utilmodel.html> will be used to determine the utility allowance for the project based on the type of utilities used at the project.

HCHC will review and approve rents proposed by the owner for units designated as high or low HOME rents. For all units subject to the maximum rent for which the tenant is paying utilities and services, HCHC will ensure that the rents do not exceed the maximum rents minus the monthly allowances for utilities and services.

### **m. Site and Neighborhood Standards**

A site for newly constructed housing must meet the following site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.
- Applicants are discouraged from locating a project site in an area of minority concentration or in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote greater choice of housing opportunities.
- Preference will be given to housing that is accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

### **n. Capital Needs Assessment**

For multifamily rental housing projects of 26 or more total units, HCHC will determine all work to be performed on the rehabilitation of the housing and the long-term physical needs of the project through a Capital Needs Assessment. A Capital Needs Assessment is a plan that evaluates the maintenance and rehabilitation needs of a rental property and establishes timeframes and thresholds for replacement of major construction components. This assessment ensures that the property will continue to serve LMI households throughout the duration of the affordability period.

### **o. Troubled HOME-Assisted Rental Housing Projects**

If rental housing is not fully leased by eligible tenants within six (6) months following the date of project completion, the grantee must submit marketing materials and a marketing plan to fully lease the units to HCHC.

- If HOME assisted rental units are not rented to eligible tenants twelve (12) months after the date of project completion, the grantee will be required to provide a compliance plan assessing why units have not been leased and steps for achieving lease-up compliance. The grantee must achieve compliance prior to eighteen (18) months after project completion.

- If HOME assisted rental units are not rented to eligible tenants eighteen (18) months after the date of project completion, the HCHC will be required to repay the HOME funds invested in any housing unit to HUD.
- The HCHC will implement the recapture of HOME funds from the grantee for any rental units that are not rented by eighteen (18) months after the date of project completion.
- The affordability requirements also apply to the HOME-assisted non-owner-occupied units in single family housing purchased with HOME funds in accordance with 24 CFR 92.254. The tenant must have a written lease that complies with 24 CFR 92.253.
- 24 CFR 92.210 provides participating jurisdictions with flexibility to assist in averting foreclosures and would enable HUD to approve these actions without the process required to grant waivers, which can be time-consuming. However, 24 CFR 92.210 limits total investment in the project to the maximum per-unit subsidy in 24 CFR 92.250(a), and provides HUD with the option of requiring an extension of the period of affordability as a condition of permitting the investment of additional HOME funds in the project. 24 CFR 92.210 also permits a reduction in the number of HOME-assisted units, but only if the project contains more than the minimum number of units required to be designated as HOME assisted units under 24 CFR 92.205(d).

**p. Conversion of Rental Units to Homeownership Units for Existing Tenants**

- HCHC can allow the owner of HOME assisted rental units to convert the units to homeownership units by selling, donating, or otherwise conveying the units to the existing tenants to become homeowners. Refusal by the tenant to purchase the housing does not constitute grounds for eviction or for failure to renew the lease.
- If there are no additional HOME funds that can be used to assist tenants in becoming homeowners, the units are subject to a minimum period of affordability equal to the remaining affordable period if the units continued as rental units.
- If additional HOME funds are used to assist tenants to become homeowners, the minimum period of affordability will be based on the amount of direct homeownership assistance provided.

## **IX. Homebuyer Projects**

### **a. General Requirements**

HOME funds may be used for acquisition, new construction, or rehabilitation of affordable single family housing for homeownership. HCHC will work to preserve and expand the area's affordable housing stock by providing grants, deferred loans and/or low-interest loans to housing partners including Community Housing Development Organizations (CHDOs) for the production of affordable housing units. HCHC HOME funds will be leveraged with other, non-HCHC funding in order to maximize the numbers of units produced while minimizing cost burden to new homeowners.

The maximum price of the purchased home cannot exceed those limits published by HUD. The prospective homeowner's housing costs cannot exceed 33 percent (33%) of their gross income. Additionally, the debt to income ratio can not exceed 45%.

### **b. Funding Levels**

The minimum amount of funding that can be applied to a HOME assisted unit is \$1,000.

The maximum amount of funding that can be applied to a HOME assisted unit is based upon the Section 234 - Condominium Housing basic mortgage limits, for elevator-type projects, as published each year and provided to the Consortium by HUD. The current assistance limits are posted on the Consortium website and are updated annually.

### **c. Property Standards**

All units constructed for homeownership must meet the current International Building Code with South Carolina Amendments as well as local building codes upon project completion.

### **d. Qualification as Affordable Housing**

Sale of homebuyer units must occur within nine (9) months of completion. Unsold units will need to convert to rental and follow all rental requirements.

- A ratified sales contract within nine (9) months of completion will count as sold.
- If for any reason the unit is not able to be converted to rental, the HOME funds invested must be repaid to HCHC.
- Housing must be purchased by a homebuyer whose household qualifies as low-income, and the housing must be the principal residence of the family throughout the period of affordability.
- All potential homebuyers must receive housing counseling to be provided by the HOME project funding recipient.

- Income targeting: As expressed in its current Five-Year Consolidated Plan and Annual Action Plan, HCHC may make HOME funds available each fiscal year for homeownership assistance; with 100 percent (100%) of these designated homeownership funds targeting dwelling units that are occupied by households that qualify as low-income families.
- Purchase Price: Eligible housing must have a purchase price that does not exceed 95 percent (95%) of the median purchase price for the area.
- For acquisition with rehabilitation, the housing must have an estimated value after rehabilitation that does not exceed 95 percent (95%) of the median purchase price for the area.
- HCHC will use HOME affordable homeownership limits provided by HUD when funds are used for homebuyer assistance or rehabilitation of owner-occupied single family homes.
- For new construction, the HCHC will use HUD limits based on 95 percent (95%) of the median purchase price for the area.

**e. Construction Value Limit**

HUD establishes, and updates periodically, the maximum allowable value for homeownership housing units. This is called the Homeownership Value Limit or the 95% limit. Section 92.254(a)(2)(iii) states that two (2) values will be established for the median purchase price after rehabilitation value. One is for newly constructed housing and one for existing housing. HOME funds may not be utilized on any property that exceeds these values. The limits are posted on the Consortium website and are updated annually.

**X. Homeowner Rehabilitation Projects**

**a. General Requirements**

HOME funds may be used for rehabilitation of owner-occupied single family housing. Funds may be used to provide repairs to existing housing and must meet all applicable State and Local residential and building codes upon project completion. Assisted units must be occupied by an income-eligible household.

**b. Funding Levels**

The minimum amount of funding that can be applied to a HOME assisted unit is \$1,000.

The maximum amount of funding that can be applied to a HOME assisted unit is based upon the Section 234 - Condominium Housing basic mortgage limits, for elevator-type projects, as published each year and provided to the Consortium by HUD. The current applicable limits are posted on the Consortium website and are updated annually.

### **c. Property Standards**

For existing single-family owner-occupied properties assisted with HCHC HOME funds, the unit must comply with the current *International Building Code (IBC) Series with South Carolina Amendments*. Units must also meet local codes, ordinances, and zoning requirements for the municipality or county in which the project is located.

### **d. Qualification as Affordable Housing**

Housing that is currently owned by a household qualifies as affordable housing only if:

- The estimated value of the property, after rehabilitation, does not exceed 95 percent (95%) of the median purchase price for the area; and
- The housing is the principal residence of an owner whose household qualifies as a low-income family at the time HOME funds are committed to the housing. The income of all persons living in the housing must be used to determine income eligibility.

### **e. After Rehabilitation Value**

HUD establishes, and updates periodically, the maximum allowable value for homeownership housing units. This is the after-rehab value for units that are either acquired or rehabilitated utilizing HOME funding. This is called the Homeownership Value Limit or the 95% limit. 24 CFR 92.254(a)(2)(iii) states that two (2) values will be established for the median purchase price/after rehab value. One is for newly constructed housing and one is for existing housing. HOME funds may not be utilized on any property that exceeds these values. The current applicable limits are posted on the Consortium website and are updated annually.

## **XI. Tenant Based Rental Assistance**

### **a. General Requirements**

HOME funds may be used for provision of rental assistance, utility deposit assistance, and/or security deposit assistance. All subrecipients must develop written policies and procedures describing how they will administer their HOME TBRA program, which must be approved by Horry County. TBRA Policies and Procedures must be in accordance with the policies included herein, 24 CFR 92, and all other policies and regulations relevant to the administration of the HOME TBRA program.

### **b. Eligible Costs**

TBRA program funds may be used:



- To provide rental assistance to help pay the cost of monthly rent and utility costs for up to 24 months. An extension of assistance for an additional period of up to 24 months may be allowed. Rental assistance payments must be made directly to a landlord.
- To pay security and/or utility deposits.
  - Security deposit assistance may be provided as long as the procedures in 24 CFR 92.209(j) are followed. Security deposit assistance may be provided regardless of whether the tenant is receiving on-going tenant-based rental assistance.
  - The amount of a security deposit may not exceed the equivalent of two month's rent for the unit. Security deposit assistance must be paid directly to the landlord.
  - Utility deposit assistance may be provided only in conjunction with either rental assistance or a security deposit program. Utility deposit assistance must be paid directly to a utility provider.
- To cover related soft costs for a TBRA project which includes unit inspections and income determinations.

**c. Ineligible Costs**

HOME TBRA funds may not be used for the following activities:

- Application fees for housing units.
- Applicant background checks.
- Telephone and cable deposits.
- Landlord vacancy and/or damage claims.
- Down payment and/or closing costs in conjunction with a lease-purchase program.
- To make commitments to specific owners for specific projects. Tenants must be free to use the assistance in any eligible unit.
- To assist resident owners of cooperative housing that qualifies as homeownership housing. Cooperative and mutual housing may qualify as either rental or owner-occupied housing, depending on the provisions of the agreement applying to the unit.
- To prevent displacement of or provide relocation assistance to tenants as a result of activities other than the HOME Program.

- To provide TBRA to homeless persons for overnight or temporary shelter. HOME TBRA assistance must be of a sufficient level to enable a homeless person to rent a transitional or permanent housing unit that meets Housing Quality Standards (HQS).
- To provide assistance for more than 24 months. The term of the rental assistance contract providing assistance with HOME funds may not exceed 24 month, but may be renewed, subject to the availability of HOME funds.
- To duplicate existing rental assistance programs that already reduce the tenant's rent payment to 30 percent of income. For example, if the household is already receiving assistance under the Section 8 Housing Choice Voucher Program (Section 8), the household may not also receive assistance under a HOME TBRA program.
- To provide assistance outside of the Consortium's service area.

#### **d. Income Eligibility**

There are two key rules regarding the income eligibility of households under a HOME TBRA program: initial income and income at annual recertification:

- **Initial Income Eligibility:** Income of participating households must be verified before assistance is provided. Income limits are established by household size and revised annually by HUD. For initial income eligibility, a household qualifies for TBRA assistance if its **annual gross income does not exceed 60 percent of Area Median Income (AMI)** indicated on the HOME Income Limits. Programs must ensure that 20 percent of all households served have an income that does not exceed 50 percent AMI.
- **Annual Recertification Income Eligibility:** The subrecipient must recertify household income, size, and composition at least annually. Income limits are established by household size and revised annually by HUD. A household may still be served with HOME TBRA so long as its income does not exceed 80 percent AMI after project entry. If at annual recertification a household's income exceeds 80 percent AMI, the household is no longer eligible for HOME TBRA and assistance can no longer be provided. The subrecipient must give reasonable (minimum of 30 days) notice to the tenant and the owner.

#### **e. Calculating Household Income**

Household income: Household income under HOME-funded TBRA program must be calculated using the definition of annual income at 24 CFR Part 5 (Section 8).

The subrecipient must determine annual income by reviewing source documents for at least two months that provide evidence of the household's annual income (ex: wage statements, interest statements, unemployment compensation, etc.) for the TBRA-assisted household.

- Income and asset source documentation for new TBRA recipients is good for a six month period. If TBRA assistance is not provided before the six months has expired, the household's income eligibility must be reevaluated before assistance may be provided.

- Income eligibility criteria must be met for all forms of TBRA assistance provided by the subrecipient (e.g., rental assistance, utility deposits, security deposits, etc.).

#### **f. Tenant Selection Requirements**

Subrecipients administering HOME-funded TBRA programs must have a written tenant selection policy that clearly specifies how households will be selected for participation in its TBRA program. There are two major components of tenant selection: income eligibility (as referenced above) and preferences established by the subrecipient.

Preferences: Subrecipients can use HOME-funded TBRA programs to support a variety of local goals and initiatives, including the establishment of preferences.

- Residency preference: The subrecipient may opt to establish a residency preference as part of its community-wide program. A residency preference requires TBRA participants to be residents of the subrecipient service area, but must adhere to the following:
  - Subrecipients may establish a residency preference as long as the application of the preference does not have the effect of discriminating on the basis of race, color, religion, sex, nation origin, disability, familial status, age, sexual orientation, gender identity, or marital status.
  - The subrecipient’s definition of “resident” must include persons who currently reside in the service area, and those who are currently working or have a verified job offer in the service area.
  - Subrecipients may not establish a requirement for minimum length of residency.
- Preferences for targeted populations: Subrecipients are permitted to design local selection criteria that meet the housing needs of specific populations.
  - Preferences for persons with disabilities: Subrecipients may establish a preference for individuals with mental or physical disabilities.
    - TBRA and related services may be made available to all persons with disabilities that can benefit from such services.
    - Subrecipients may also provide a preference for a specific category of individuals with disabilities (e.g., persons with AIDS or severe mental illness) if the specific category is identified in the Consolidated Plan as having unmet needs and the preference is needed to narrow the gap in benefits and services available to such persons. In addition, the provision of assistance must be necessary to provide housing, aid, benefit, or services that are as effective as those provided to others.

- Preferences for persons with other special needs: Subrecipients may establish a preference for individuals with special needs (seniors, homeless persons, etc.).
  - TBRA may be provided exclusively to persons with a particular type of special need, if the specific category of need is identified in the Consolidated Plan as having unmet need and the preference is necessary to bridge the gap in benefits and services received by such persons.
  - Appropriate non-mandatory social services may be provided in conjunction with the TBRA.
- Section 8 waiting lists: HOME TBRA Program Participants do not jeopardize their position on a local Section 8 waiting list by receiving HOME TBRA assistance. If Section 8 assistance becomes available, recipients of TBRA will qualify for tenant selection preferences to the same extent as when they received HOME TBRA under this subsection.
- Eligibility may NOT be contingent upon participation in medical or disability related services, and cannot be administered in a manner that limits opportunities for persons with disabilities.

#### **g. Unit Eligibility & Rent Reasonableness**

HOME TBRA offers households great flexibility in selecting a housing unit. Households must be free to select the unit of their choice.

- Public or private: Units under the TBRA program may be publicly or privately owned. Publicly owned units may include public housing, Section 811, Section 202, HOPE, Continuum of Care, and HOPWA.
- Combining rental assistance with another rental assistance program: HOME TBRA rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance (e.g. Section 8 or Continuum of Care rental assistance) or living in a housing unit receiving project-based rental assistance or operating assistance through other public sources.
- Combining security and utility deposit assistance with another security or utility deposit program: HOME TBRA security and utility deposit assistance cannot be provided to a program participant who is receiving security deposit or utility deposit assistance through other public sources.
- Rents must be reasonable: Subrecipients must disapprove a lease if the subrecipient determines the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.
- HOME-funded units are OK: Households may select units developed or rehabilitated with HOME assistance. However, the subrecipient may not require the household to select a HOME unit as a condition of receiving TBRA. Households must be permitted to move out at the end of the HOME lease term, taking their TBRA assistance with them.

- Portability is an option: Subrecipients may allow eligible TBRA participants to use their TBRA assistance in other units within their service area. Horry County HOME Consortium does not allow TBRA assistance to be used outside of the Consortium's service area.

#### **h. Occupancy Standards**

The Section 8 Housing Quality Standards (HQS) must be used for HOME TBRA activities. Inspections to verify compliance with HQS and occupancy standards are made both at initial move-in and annually during the term of the TBRA assistance. If security deposit assistance alone is provided, an inspection is required only at the time the PJ provides the security deposit assistance.

#### **i. Lease Requirements**

- TBRA may be provided through an assistance contract with an owner that leases a unit to an assisted household. The Consortium requires the subrecipient to approve the lease between the household and the owner. Rental assistance payments must be issued directly to the landlord.
- The tenant's lease must comply with the requirements in 24 CFR 92.253(a) and (b).
- Written lease: The lease between the owner and the TBRA recipient must be in writing and signed by both parties. A written lease is required regardless of what the State of South Carolina considers as a legal lease. The subrecipient must review the lease.
- Term: The term of the lease between the tenant and the owner must be a minimum of one year, unless both agree otherwise.
- The lease may not contain the following provisions:
  - Agreement by the tenant to be sued or to admit guilt, or a judgment in favor of the owner in a law suit brought in connection with the lease;
  - Agreement by the tenant that the owner may take, hold, or sell the personal property of household members without notice to the tenant and a court decision on the rights of the parties (this does not apply to personal property left by the tenant after move-out);
  - Agreement by the tenant not to hold the owner or its agents legally responsible for any action or failure to act, whether intentional or negligent;
  - Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant;

- Agreement that the owner may evict the tenant (or other household members) without a civil court proceeding where the tenant has the right to present a defense, or before a court decision on the rights of the tenant and the owner;
  - Agreement by the tenant to waive a trial by jury;
  - Agreement by the tenant to waive the tenant's right to appeal or otherwise challenge a court decision;
  - Agreement by the tenant to pay attorney fees or other legal costs, even if the tenant wins in court; or
  - Agreement by the tenant to participate in any specific supportive services as a term or condition of the lease. Services may not be mandatory.
- Termination: The subrecipient must establish standards it will use to approve or reject a lease relating to when a landlord may elect to terminate or refuse to renew the lease of a TBRA household. These standards must be in writing and must be included within the lease and/or in the contract between the subrecipient and the tenant.
  - Rent increases: The subrecipient must review and approve rent increases by the landlord renting to tenants participating in the TBRA program. Owners may adjust rents as leases are renewed (generally annually). The subrecipient must disapprove a lease if the rent is not reasonable.

#### **j. Rental Subsidy Requirements**

Horry County HOME Consortium utilizes the Section 8 Housing Choice Voucher method (24 CFR 982) to calculate subsidy amounts.

Maximum TBRA payment (subsidy): The maximum amount that the HOME TBRA program may pay to assist any given household is the difference between 30 percent of the household's adjusted monthly income using the requirements in 24 CFR 5.611 and the rent limit established by the subrecipient, known as the payment (rent) standard. This gap is then the constant amount of the monthly TBRA assistance. The household is free to select an actual unit that costs more or less than the subrecipient's payment (rent) standard. Typically, the rent limit is the payment standard. However, the term payment standard means the same thing as the term rent standard, which is used in 24 CFR 92.

Regardless of whether the unit cost of the actual unit selected is more or less than the payment (rent) standard, the monthly TBRA to the household remains fixed at the gap between what the household can afford and the subrecipient's payment (rent) standard.

- Unit costing more: If the household selects a unit costing more than the payment (rent) standard, the household's monthly payment will exceed 30 percent of its monthly adjusted income. Should a household elect a unit that exceeds the subrecipient's payment (rent)

standard, the subrecipient should obtain documentation signed by the household that it understands the unit is considered unaffordable to their income level.

- Unit costing less: If the household selects a unit costing less than the payment (rent) standard, the household's monthly payment will be less than 30 percent of its monthly adjusted income.

#### **k. Minimum Tenant Payment**

The HOME Program rules require the subrecipient to establish a minimum tenant payment. The subrecipient may use its discretion in setting this minimum payment level. The minimum payment may be established at a dollar figure (such as \$50) or as a percentage of income (such as 10 percent of monthly income). Horry County HOME Consortium allows the minimum tenant payment to be as low as \$0.

#### **l. Length of Assistance**

- HOME TBRA rental assistance contracts for individual households may not exceed 24 months. However, contracts can be renewed for up to an additional 24 months and every 24 months thereafter, subject to availability of HOME funds.
- The 24 month assistance period begins on the first day of the lease and ends upon termination of the lease.

#### **m. Deposit Assistance**

Security deposit payments must be made to the owner and the utility deposit payments must be made to the appropriate utility company. The amount of security deposit paid should be based upon local market practice. However, the maximum amount of HOME funds that may be provided for a security deposit is the equivalent of two months' rent for the unit. Only the prospective tenant, not the owner or landlord, may apply for HOME security deposit assistance. Utility deposits may be made only in conjunction with the provision of rental assistance or security deposit programs, and cannot be operated separately as a "stand alone" program. Utility deposits may be paid for any of the tenant-paid utility services included on the utility allowance chart provided by the local public housing authority. Telephone and cable deposits are ineligible. *Note: Funds for assistance for security deposits or utilities must be in the form of a grant on behalf of the tenant.*

### **XII. General Policies**

#### **a. Affirmative Marketing**

HCHC has adopted the following procedures consistent with requirements of affirmative marketing under 24 CFR 92.351(a) and (b). HOME Program recipients and subrecipients must certify that they have developed and adopted affirmative marketing procedures for HOME assisted housing with five (5) or more units of rental or homeownership projects.

Affirmative marketing steps consist of actions to provide information and otherwise attract eligible participants without regard to race, color, national origin, sex, religion, familial status, or disability.

HCHC reviews marketing plans as part of its application review and monitoring process. Affirmative marketing requirements and procedures include:

- Methods for informing the public, owners and potential tenants about fair housing laws and the policies of the local program;
- A description of actions that owners and/or the program administrator will take to affirmatively market housing assisted with HOME program funds;
- A description of actions that owners and/or the program administrator will take to inform persons not likely to apply for housing without special outreach;
- Maintenance of records to document actions taken to affirmatively market HOME assisted units and to assess marketing effectiveness;
- A description of how efforts will be assessed and what corrective actions will be taken when requirements are not met; and
- For projects that will include five (5) or more units, a project-specific marketing plan must be developed.

#### **b. Conflicts of Interest**

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

##### **i. Staff Conflicts of Interest**

No employee of Horry County who works with the HOME program may knowingly use his or her official position or employment to obtain an economic interest for themselves, or a family member, an individual with whom he or she is associated, or a business with which he or she is associated.

No employee of Horry County who works with the HOME program may knowingly use his or her official position or employment to influence a HCHC decision in which he or she, a family member, an individual with whom he or she is associated, or a business with which he or she is associated has an economic interest.



Should a potential conflict occur, the individual involved will prepare a written statement describing the matter requiring action or decisions and the nature of the potential conflict of interest with respect to the action or decision, and submit the statement to the County Administrator. If the County Administrator has a potential conflict, the written statement shall be delivered to the Horry County Council Chairman.

**ii. Conflicts of Interest for Nonprofit and For-Profit Owners Developers and Sponsors**

No owner, developer, or sponsor of HOME assisted housing, including their officers, employees, agents, consultants or elected or appointed officials, may occupy a HOME assisted unit. This provision does not apply to an individual living in a HOME assisted rental housing development where he/she is a project manager or a maintenance worker in that development.

**iii. Conflicts of Interest Exceptions**

With HUD concurrence, exceptions may be granted by HCHC on a case by case basis based on a careful review of the facts and in accordance with the following factors:

- Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will permit him/her to receive generally the same interests or benefits as available or provided to the group as a whole;
- Whether the person has withdrawn from his/her functions or responsibilities, or the decision making process with respect to the specific assisted housing in questions;
- Whether the tenant protections requirements of CFR 92.253 (prohibited lease terms, termination of tenancy, and tenant selection) are being observed;
- Whether the affirmative marketing requirements are being observed and followed; and
- Any other factor relevant to HCHC's determination, including the timing of the requested exception.

**c. Terminated Projects**

A HOME assisted project that is terminated before completion, but within the expenditure deadline, either voluntarily or involuntarily, constitutes an ineligible activity. In accordance with HUD regulations, HCHC will repay any HOME funds invested in a terminated project

to its HOME Investment Trust Fund in accordance with 24 CFR 92.503(b) (except for project-specific assistance to CHDOs, as provided in 24 CFR 92.301(a)(3) and (b)(3)).

- §92.301(a)(3) Repayment (project-specific technical assistance and site control loans). The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.
- §92.301(b)(3) Repayment (project-specific seed money loans). The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the community housing development organization.

A HOME assisted project that does not meet the requirements for affordable housing will be terminated and HCHC will repay all HOME funds invested in the terminated project to its HOME Investment Trust Fund in accordance with 24 CFR 92.503(b).

If a HOME assisted project is not completed within four (4) years of the date of commitment of funds, the project is considered terminated and HCHC will repay all funds invested in the project to its HOME Investment Trust Fund. HCHC may request a one (1) year extension of this deadline in writing by submitting information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project for HUD's review and approval.

#### **d. Participation by Religious Organizations**

HOME funds may be provided to primarily religious organizations for any activity, excluding inherently religious activities. 24 CFR 92 eliminates barriers to participation by religious organizations and ensures that the HOME Program is open to all qualified organizations regardless of their religious character.

### **XIII. Underwriting**

#### **a. Underwriting Guidelines**

Underwriting is the performance of due diligence by the Consortium to evaluate the critical elements of a development or rehabilitation proposal and assess any risk factors. The evaluation entails a multi-level review of key aspects of the decision making process to determine the eligibility and viability of the proposed project to ensure that:

- The development proposal meets all submission requirements.

- The submitted project is consistent with Consolidated Plan Strategic Plan goals.
- The funding request is feasible.
- There is market demand for the proposed development.
- The application meets Site and Neighborhood Standards requirements.
- The developer has the experience and capacity to complete the proposed development.
- The developer cannot be on any local, state, or federal debarment list.
- The proposal conforms to the HOME requirements.
- The costs associated with the development portion of the project are necessary, reasonable, and financially feasible.
- The projected operational costs are necessary and reasonable, and that the proposed development is sustainable for the duration of the affordability period.
- A sales plan is provided for homebuyer projects.
- The sources and uses of funds statement and lender commitments reflect sufficient resources to complete the proposed development.
- The total amount of public assistance is not more than is necessary to produce the project.

The Consortium will perform its underwriting review responsibilities and document its actions in the project file through memos to file, checklists and templates, and determination summaries.

**b. Rental Underwriting Standards**

The following standards provide threshold criteria for project financial feasibility:

i. Developer Fee

A developer fee is compensation to the developer for the time and risk involved to develop the project. The fee is based on the type of project, the total development cost, and the risk associated with the project. Developer fees include all amounts received by the applicant whether characterized as project management, overhead, or developer fee. The maximum

aggregate allowable developer fees are calculated as a percentage of Total Project Costs, less land, project reserves, and other cost category adjustments, as follows:

Acquisition:	5%
Rehabilitation:	10%
New Construction:	15%

ii. Site Control

Project Applicants must have control of any site that will receive Consortium funding for Acquisition, Rehabilitation, and new construction activities. Site control must be documented at the time of Application. To document site control, one of the following must be submitted: a deed or other proof of ownership; an executed lease agreement; an executed contract of sale; or an executed option to purchase or lease. Please keep in mind URA regulations apply and must be followed if the applicant is proposing the acquisition of an occupied building.

iii. Appraisal

A property appraisal will be required for projects that will receive Consortium funding for Acquisition or where the value of donated land is being considered as part of the project costs. The appraisal(s) must be provided at the time of Application submittal. An appraisal cannot be more than six (6) months old. The appraiser must be a South Carolina Certified General Appraiser. The Consortium reserves the right to require an appraisal on completed activities.

iv. Fiscal Soundness

The Developer will be asked to provide evidence of financial ability to implement the project. Developers will be required to provide proof of commitments from other funding sources current financial statements and proof of sufficient reserves or a line of credit available, if necessary, to complete the project. The Consortium will assess the financial capacity of the Developer based on their financial statements.

v. Reserves

Sufficient replacement reserves must be maintained for rental developments to ensure compliance with the property standards of 24 CFR 92.251 for the duration of the affordability period. For new construction, a minimum of \$400 per year per unit must be contributed to replacement reserves. For rehabilitation, a minimum of \$425 per year per unit must be contributed to replacement reserves.

Sufficient operating deficit reserves should be budgeted in an amount necessary to maintain a debt service coverage ratio of 1.15 throughout the affordability period, or in an amount and term determined by the Consortium.

vi. Loan Position

The Consortium's loan may be subordinated to another lender's mortgage lien if subordination is required as a condition of that lender's loan approval; however all debt on the property must be subordinate to a Restrictive Covenant. Terms, conditions, and covenants of all debt instruments recorded against the subject property must be reviewed and approved by the Consortium prior to disbursement of an award.

vii. Inter-Creditor Agreement

Within thirty (30) days of the execution of an Agreement, the Developer shall secure the execution, by the senior lender on the project, of an Inter-Creditor Agreement or Declaration which at a minimum shall: (1) require the senior lender to notify the Consortium in the event the senior lender learns of a default under the senior loan for the project and (2) require the senior lender to give the Consortium written notice of and reasonable opportunity to cure any default by the Developer under the senior loan (provided, however, the Consortium shall have no obligation to cure any such default). Following execution, the Inter-Creditor Agreement shall be attached to the Revolving Loan Fund Contract

viii. Loan to Value Limits

For acquisition requests, the amount awarded by the Consortium, plus the principal amount of all loans with a senior claim to the subject property shall not exceed 100% of the acquisition cost or appraised value, whichever is lower.

For new construction and rehabilitation requests, the amount awarded by the Consortium, plus the principal amount of all loans with a senior claim to the subject property shall not exceed 100% of the "as-proposed" value.

ix. Debt Service Coverage Ratio

The minimum debt service coverage ratio shall not be less than 1.15:1, including all amortized project debt, throughout the pro forma period.

x. Vacancy Rate

The projected stabilized vacancy rate for all assisted standard housing developments should not exceed 5% per year.

xi. Rent Escalation

Projected annual rent increases for HOME-assisted units should not exceed 2% per year. Projected annual rent increases for market rate units should not exceed 6% per year.

xii. Operating Expense Escalation

Projected annual operating expense increases for HOME-assisted units shall be calculated to increase at least 3% per year.

**c. Subsidy Layering**

HUD established limits on the amount of HOME funds that may be invested in affordable housing on a per unit basis. Before committing funds to a project that combines the use of any other local, state, or Federal assistance, HCHC will evaluate the project to ensure that costs are reasonable, there is adequate neighborhood market demand, the developer has sufficient experience and financial capacity, and other financial commitments are accounted for to ensure that HCHC does not invest any more HOME funds than are necessary to provide affordable housing. The project file should contain the subsidy layering evaluation for all HOME applicants. (24 CFR 92.250)

The following additional guidelines are applicable for rental projects:

- **Pro forma:** HCHC will determine the reasonableness of the rate of return on equity investment by looking at the applicant's pro forma (project income and expense statement).
  - The pro forma should include achievable rent levels, market vacancies, and operating expenses.
  - The pro forma should also specify the consequences of tax benefits, if any, and any other assumptions used in calculating the project cash flow.
  - The pro forma should represent, at a minimum, the term of the HOME affordability requirements, or longer if other funding sources require longer affordability terms.

HCHC will analyze each application to ensure that only the minimum amount of assistance is allocated to the development. In no case may the amount of HOME Program funds allocated exceed the maximum allocation limit as established under Section 234 of the National Housing Act. Before committing funds to a project the HCHC will evaluate each project in accordance with 24 CFR 92.250. The evaluation points will include:

- **Sources and Uses of Funds Statement:** The HCHC will review all other funding commitments for the proposed project. Applicants must provide evidence of all funding commitments and awards at the time of project application submission.
- **Project Development Budget:** The HCHC will review the budget to determine that all costs are necessary, reasonable and eligible, and ensure that HOME funds per unit

do not exceed the maximum per-unit subsidy limits. The Consortium's assessment of cost reasonableness may include comparison to similar projects within the local market, market trend analysis, survey of industry participants, Consortium experience and other third party sources.

#### **d. Market Assessment**

The HCHC will evaluate the feasibility of all rental or homebuyer development projects (acquisition only, acquisition and rehabilitation, rehabilitation, or new construction), regardless of size (number of units) or activity type, regardless of project size. The purpose of this requirement is to ensure that every unit in which HOME funds are invested results in housing that will be rented or sold as quickly as possible. The market assessment will be conducted prior to entering into a project's legally binding written agreement.

There are two exceptions to this requirement: 1) homebuyer down payment assistance only projects (i.e., homebuyer projects that do not also include rehabilitation or new construction), and 2) owner-occupied rehabilitation projects.

The HCHC, in coordination with the HOME applicant, will conduct a market assessment to determine if there is adequate need or demand for the type of project being proposed. By determining that there is a market demand for the proposed housing, the assessment will ensure that units will be rented or purchased within a short amount of time. The assessment will:

- Define the proposed market area.
- **For rental projects**, provide information on existing rent levels for three (3) comparable properties.
- Determine average occupancy rates and waiting lists for the comparable properties.
- **For homeownership units**, determine if there are comparable homes for sale to the proposed project in terms of location, size, and home sale price.
- Determine length of time on the market for each unsold comparable property.
- Determine length of time on the market for comparable homes that have sold over the past three (3) months.

#### **e. Developer Capacity**

Developers must have the organizational capacity to implement their projects. Developer capacity will be evaluated based upon information demonstrating experience and skills as provided in the application for HOME funding.

- Experience: Considerations include, but may not be limited to, the following skills of the developer and development team.
  - Recent, similar, successful experience
  - Similar project location, size, and scope
  - Years of experience developing affordable housing
  - Years of experience managing affordable rental projects
  - Utilization of multiple funding sources
  - Staffing
  - Previous working history with the Consortium

Organizations requesting HOME funding for more than three (3) units must have a minimum of three (3) years of successful experience developing affordable housing. Organizations must have personnel on staff with the capacity to develop affordable housing units, as demonstrated through the submission of resumes demonstrating relevant experience.

- Skills: Considerations include, but may not be limited to, the following skills of a developer and the development team:
  - Project management
  - Market analysis
  - Site selection and control
  - Property management
  - Planning and construction
  - Design, architecture, & engineering
  - Legal and accounting
  - Compliance with Federal funding rules

Applicants for HOME funding must be able to demonstrate the essential skills necessary to successfully develop affordable housing.

- Fiscal Soundness: Applicants will be asked to provide evidence of financial ability to implement their projects. Applicants will be required to provide proof of commitments from other funding sources, current financial statements and proof of sufficient reserves or a line of credit available, if necessary, to complete the project.

#### **XIV. Applicable Regulations and Authorities**

##### **a. Environmental Review**

Each HOME-funded project must undergo an Environmental Review process, in accordance with the requirements of 24 CFR 58. The Environmental Review is completed by the



subrecipient, developer, or CHDO; however, an environmental consultant may be utilized to complete the review on their behalf. All Environmental Reviews must be certified by the Responsible Entity, the Horry County Administrator. No choice limiting actions may be undertaken on a project prior to certification of the Environmental Review, subject to the requirements of 24 CFR 58.22.

**b. Lead Based Paint**

The Lead-Based Paint Regulations described in 24 CFR Part 35 require that lead hazard evaluation and reduction activities be carried out for all single and multi-family residences constructed prior to 1978 that receive HOME Program assistance. Applications for rehabilitation funds for existing buildings constructed prior to 1978 must include a lead hazard evaluation by appropriate lead-certified personnel.

If lead-based paint is present in the unit, the application must also include a detailed lead hazard reduction plan, in accordance with the regulations, and separately identify within the rehabilitation budget, the costs associated with reduction of lead hazards in accordance with the regulation and guidelines.

All HOME program fund allocations are contingent upon the applicant agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. HCHC permits use of HOME funds for lead-based paint testing, assessment, abatement and clearance report. In a multi-family project where HOME Program funds will be used for only a portion of the units, lead-based paint requirements apply to all units and common areas in the project.

**c. Davis Bacon & Related Acts**

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

**d. Section 3**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701), requires that to the greatest extent feasible, opportunities for training and employment be given to low and very-low income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very-low income persons residing in the metropolitan area in which the project is located. A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such

as street repair, sewage line repair or installation, updates to building facades, etc. Section 3 applies to recipients of more than \$200,000 from housing and community development programs. All contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

**e. Uniform Relocation Act**

All owners/developers shall be in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.), in accordance with the following objectives:

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

**f. Section 504**

All housing must meet the accessibility requirements in 24 CFR 8, which implement Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR 35 and 36, as applicable. Covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619). Rehabilitation may include improvements that are not required by regulation or statute that permit use by a person with disabilities.

**g. Fair Housing**

Recipients of HOME funds must comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601 et seq.), E.O. 11063 20 Title VI of the Civil Rights Act of 1964, P. L. 88-352 and the regulations of HUD with respect thereto, including 24 CFR, Parts 1. Recipients of HOME funding are prohibited from discriminating on the basis of race, color, religion, national origin, disability status, familial status, ethnicity, gender, gender identity, language(s) spoken, literacy, sexual orientation, and veteran status.

Discrimination is prohibited in the assistance, tenant selection, sale, rental, and financing of dwellings. It is also prohibited in program administration and any enforcement mechanisms. No person in the United States shall on the ground of race, color, national origin (or any of the other items listed above) be excluded from participation in, be denied the benefits of, or

be subjected to discrimination under any program or activity receiving federal funding and/or assistance. Assistance includes:

- Grants and loans of Federal funds
- The grant or donation of Federal property and interests in property
- The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
- Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

## **XV. Financial Management**

### **a. Procurement**

HCHC subrecipients are subject to the procurement requirements of 2 CFR 200 as well as state and local laws and regulations. Subrecipients must conduct procurement in conformance with Horry County's procurement requirements, including bonding where applicable. Subrecipients will be monitored to ensure compliance with these regulations. Owners and developers, including CHDOs, are not subject to Federal procurement requirements.

### **b. Disbursement of HOME Funds**

Funds allocated to HOME subrecipients or engaged contractors are to be used as quickly and efficiently as possible. HCHC will recapture allocated funds that have not been used in accordance with applicable performance standards. These funds will then be placed back into the pool of funds that are available to fund other developments.

HCHC will only authorize payments on work that has been completed and inspected by an HCHC inspector. HCHC provides reimbursement payments to grantees or contractors based on verification of eligible expenditures on the request for payment form along with all required back-up documentation, as specified in the project's written agreement.

The following inspections may be provided below:

<b>Stage 1</b>	<b>Stage 2</b>
Excavation Termite treatment Earth work	Rough-in plumbing Water proofing (vapor barrier)

<p><b>Stage 3</b></p> <p>Footing Slab</p>	<p><b>Stage 4</b></p> <p>Plumbing top-out Electrical rough-in Framing Roof Exterior wall systems Ventilation</p>
<p><b>Stage 5</b></p> <p>Insulation Interior wall systems</p>	<p><b>Stage 6</b></p> <p>Flooring systems Painting Doors Cabinets HVAC Electrical top-out Special construction (elevators, etc.) Appliances Final Inspection</p>

- Each payment request must have adequate documentation for the costs incurred such as payroll records, purchase orders, and copies of canceled checks.
- Requests must be only for costs directly related to the approved activity and included in the approved budget attached to the written agreement.
- In the case of subrecipient projects, HCHC will not make direct payments to contractors or vendors. Invoices and documentation of payment must be submitted to the HCHC by the subrecipient for approval. The subrecipient will be responsible for making payment to the contractor or vendor. Payment will be made to the subrecipient's financial account system.
- Subrecipients are required to submit requests for reimbursement in a timely manner as related to the progress of the project in order that the HCHC may demonstrate its timely use of HOME funds to HUD. Specific timing of reimbursement requests and remedies for non-compliance will be addressed in each project agreement for HOME funding.
- Final payments will be made only upon submission of final program reports that adequately document achievement of program goals and constitute satisfactory completion of the HOME funded activity. Additionally, final payments will not be issued until receipt of a release of liens.

**c. IDIS Drawdowns**

A separation of duties has been established by Horry County's IDIS Administrator, Community Development Director, Program Administrator, and the Finance Department.

As the designated lead agency for the Consortium, in order to provide proper checks and balances from grant set-up, project and activity set-up, sub-funding, sub-granting, and the drawdown process will be conducted in the following manner:

- IDIS Administrator Procedures
  - Submits completed IDIS Access Request Forms to gain approval for access by function performed for all HCHC staff performing functions in the IDIS system
  - Maintains drawdown requests vouchers with copies of deposit transactions and payment disbursement documentation
  
- Program Manager Procedures
  - Creates new grant year projects and activities, only setting up the activities and committing funding after HCHC and the recipient have entered into a legally-binding agreement for HOME funding.
  - Enters accomplishment data, both beneficiary and financial
  - Maintains an activity summary of all HOME activities including expenditure timeliness
  - Upon approval of request for reimbursement, the Program Manager creates and generates an IDIS system drawdown request voucher that is provided to the Horry County Community Development Director for approval. Once approved, the Community Development Director returns the approved drawdown voucher to the Program Manager. The Program Manager forwards a copy of the voucher to the County Finance Department.
  - Upon review of the request, the Finance Department Accounts Payable pays the subrecipient or vendor. All related documentation and actions are accounted for in the MUNIS system.
  - The normal waiting period for receipt of funds is three (3) business days from the time of approval of drawdown voucher and electronic deposit of requested funds to local accounts.

**d. Eligible Administrative and Planning Costs**

Funds are provided for the administration of the HOME program. HCHC staff is responsible for administering all aspects of the HOME program; coordinating activities for the HOME program, monitoring compliance with written funding agreements and federal regulations, administering grants provided by HCHC, and coordinating with HUD to ensure compliance with federal regulations. The HCHC uses funds for a pro-rata share of the salaries, fringe, and

overhead that can be directly attributable to the HOME Program. Adequate records are maintained to justify the allocation of HOME administration funds for these purposes.

Eligible costs include HCHC staff and overhead costs directly related to carrying out projects, such as work specifications preparation, inspections, lead-based paint evaluations (visual assessments, inspections, and risk assessments) and other services related to assisting potential owners, tenants and homebuyers.

Staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling and other assistance necessary to minimize hardship.

Costs may be charged as administrative costs or as project costs, at the discretion of the HCHC; however, these costs (except housing counseling) cannot be charged to or paid by the low-income families.

## **XVI. Procurement**

HCHC requires all subrecipients to obtain a minimum of three (3) bids on planned repairs, based on approved work write-up prepared. Bids are to be returned on the specific due date. Subrecipient staff will record the total amount of the bid and the date and time the bid was received. The subrecipient will evaluate the bid documents to determine which bids are eligible. Bids are considered eligible when the following conditions are met:

- The submitting contractor currently meets all program requirements and is not debarred or suspended from participating in a Horry County or Horry County HOME Consortium funded program.
- The contractor is not currently on probation, suspended, or debarred by the state licensure board.
- The total dollar amount of the bid is within 10% of the total cost listed on the initial work write-up prepared by the subrecipient.

Subrecipients must conduct procurements in conformance with Horry County's procurement policy and 2 CFR 200, including bonding requirements when applicable. Developers are not subject to the procurement requirements of 2 CFR 200.

## **XVII. Monitoring**

Horry County is responsible for managing the day-to-day operations of the HOME Investment Partnerships Programs (HOME) and ensuring that HOME funds are used in keeping with program requirements. The regulations require that the performance of each subrecipient and contractor receiving HOME funds must be reviewed by the PJ as least annually. PJs must also monitor projects throughout the applicable affordability period.

Three primary goals of monitoring are to:

- Ensure production and accountability
- Ensure compliance with HOME and other Federal requirement
- Evaluate organizational and project performance as well as project viability (financial health, development capacity, management capability, etc.)

Effective monitoring is not a one-time event, but an ongoing process of planning, implementation, communication, and follow-up. During the course of a project, monitoring shall be implemented through periodic on-site visits so that any problems that may occur will be resolved as soon as possible. The monitoring team will consist of Horry County Community Development staff and/or any consultants they choose to employ. The goal of monitoring is to assist and support recipients in complying with applicable State, Federal, and Local requirements and in implementing their project activities in a timely manner.

Recipients are required to maintain complete financial and program files and to comply with program reporting requirements. Recipients must also provide citizens with reasonable access to records pertaining to the use of funds.

Monitoring and oversight rely on HUD tools in order to successfully evaluate performance. This includes, the HOME final rules, as amended; applicable cross-cutting regulations; CPD notices; and the HOME Monitoring Guidebook and any subsequent monitoring tools provided by HUD. Recipients will be provided a copy of the applicable HUD checklists as a part of project start up. HUD required checklists may be found at [https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/cpd/6509.2](https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2)

#### **a. Technical Assistance Visit**

A technical assistance visit is an informal visit. The intent of this meeting is to share information that will enable the recipient to meet the various State and Federal requirements for their grant. A technical assistance visit could consist of explanations of project start-up requirements and the establishment of program files. The recipient must demonstrate compliance with applicable regulations and document this by maintaining accurate and complete records and files. The filing system must provide a historical account of the recipient's activities, be easy to use, and centrally located.

#### **b. Monitoring Visit**

A monitoring visit is more formal than a technical assistance visit. The monitoring visit is utilized to determine if the project is being conducted in compliance with applicable Federal and State laws and requirements. The review also determines the recipients' ability to implement the program in a timely manner.

The monitoring visit consists of a review of project files, records and documentation, and may include a visit to the project site. The recipient should have all records, files, and documentation available for review at the monitoring visit. Where other public agencies, attorneys, or consultants have assisted in program implementations, these records must be available for

review at the locality for the monitoring visit. Failure to produce such records upon request will result in issuance of either a program “concern” or “finding” of non-compliance, and will jeopardize the organization’s eligibility for future HOME project funding. Issuance of a program “concern” or “finding” may, at the discretion of the Horry County Council Administration Committee, result in recapture of funds provided by HCHC.

### **c. Entrance Conference**

The monitoring visit begins with an entrance conference involving the project administrator and others the recipient feels should attend. The monitoring staff will briefly outline the purpose of the monitoring visit and the areas to be monitored, which are the items highlighted in the Monitoring Summary.

To ensure the success of HOME subrecipients, HCHC offers training and ongoing technical assistance for all HOME subrecipients. Training provides information and updates on all policies and procedures related to the initial compliance of HOME assisted projects, reporting and subsequent monitoring throughout the affordability period of the project.

HCHC will take action to correct slow progress for grantees who are not meeting the time frame outlined in the written agreement. All HCHC written agreements contain provisions that grant HCHC open access to records for review throughout the affordability period.

HCHC uses its regular monitoring and evaluation process to ensure that programs are carried out in accordance with the Consolidated Plan, written funding agreements, and HOME Program regulations. HCHC implements its monitoring program in accordance with requirements set forth by HUD. Monitoring of the implementation of the Consolidated Plan includes periodic telephone contacts, written communications (including email correspondence), data collection, submission of reports, analysis of report findings, periodic meetings and workshops, and evaluation sessions. General procedures used when monitoring sub-recipient and sub-grantee organizations include:

- Meetings with appropriate officials including an explanation of the purpose of the monitoring process.
- Review of appropriate materials such as reports and documents that provide more detailed information on the programs and their status.
- Interviews with members of staff and the community to discuss performance.
- Visits to project sites.
- If appropriate and necessary, a closed conference with program officials. Provision of comments and recommendations as needed.
- In case of project delays, an assessment will be made of the reasons for the delay, the extent to which the factors that caused or continue to cause the delay are beyond the



organization's control, or the extent to which the original priorities, objectives, and schedules may have been unrealistic.

HOME rental projects receive an initial monitoring review during the lease-up period which serves not only as a monitoring review but provides the HOME participant/owner with technical assistance and guidance to ensure that the affordability requirements are adhered to for future monitoring visits. HOME participants/owners are required to annually review rent, utility allowances and tenant incomes. Ongoing project monitoring will be managed by the HCHC's program staff.

- HCHC will provide financial oversight of rental projects with more than ten (10) units.
- During the period of affordability, HCHC will examine at least annually the financial condition of HOME assisted rental projects with ten (10) or more units to determine the continued financial viability of the housing and take actions to correct problems, "to the extent feasible".
- All HOME subrecipients will be monitored to ensure program compliance throughout the affordability period.
- Staff will utilize both "Desk Monitoring" and "Internal/On-site" monitoring to assess the quality of program performance over the duration of the affordability period.
- HCHC staff shall develop and implement a monitoring schedule to visit all new subrecipients.
- Monitoring visits include review of compliance by funded agencies and organizations of federal EEO and Section 504 ADA requirements.
- A record of monitoring visits and any subsequent action shall be maintained in the files of each HOME subrecipient.

**d. Inspections**

- On-site inspections will be performed during the affordability period as follows:
  - Rental projects of 1-4 units: every 3 years
  - Rental projects of 5-25 units: every 2 years
  - Rental projects of 26+ units: annually
  - TBRA: annually
  - Homeowner projects: none
- Property owners must annually certify to HCHC that each building and all HOME assisted units in the project are suitable for occupancy.

- For projects with one (1) to four (4) HOME assisted units, 100% of the HOME assisted units will be inspected for site, building exterior, building systems, and common areas for each building that houses HOME assisted units.
- For projects with five (5) or more HOME assisted units, at least one (1) HOME-assisted unit must be inspected in each building of the project.

**e. Corrective and Remedial Actions**

A subrecipient's failure to perform under the terms of the contract and/or maintain records in the prescribed manner may result in a finding that the subrecipient has failed to meet the applicable requirement of the contract. Remedial actions may include technical assistance to bring the project into compliance, or recapture of HOME funds.

## Appendix I: Acronyms

**AAP** – Annual Action Plan  
**ADA** – Americans with Disabilities Act  
**AGI** – Adjusted Gross Income  
**AMI** – Area Median Income  
**CFR** – Code of Federal Regulations  
**CDBG** – Community Development Block Grant  
**CDC** – Community Development Corporation  
**CHDO** – Community Housing Development Organization  
**CPD** – Community Programs Division (HUD)  
**EEO** – Equal Employment Opportunity  
**FHA** – Fair Housing Act  
**FMR** – Fair Market Rent  
**HIV/AIDS** – Human Immunodeficiency Virus infection and Acquired Immune Deficiency Syndrome  
**HOEPA** - Home Ownership and Equity Protection Act of 1994  
**HOME** – Home Investment Partnerships Program  
**HOPWA** – Housing Opportunity for Persons with AIDS  
**HUD** – U.S. Department of Housing and Urban Development  
**IBC** – International Building Code  
**IDIS** – Integrated Disbursement and Information System  
**LMI** – Low to Moderate Income  
**OMB** – U.S. Office of Management and Budget  
**PJ** – Participating Jurisdiction  
**RESPA** – Real Estate Settlement Protection Act  
**HCHC** – Horry County HOME Consortium  
**SRO** – Single Room Occupancy  
**SSI** – Supplemental Security Income  
**TANF** - Temporary Assistance for Needy Families  
**TBRA** – Tenant-Based Rental Assistance  
**URA** – Uniform Relocation Act  
**USDA** – U.S. Department of Agriculture  
**VA** – U.S. Department of Veterans Affairs

## Appendix II: Definitions

**Action Plan:** The one-year portion of the Consolidated Plan that serves as the annual strategic document for HOME funds.

**Adjusted Income:** Adjusted Income is annual (gross) income reduced by deductions for dependents, elderly households, medical expenses, handicap assistance expenses, and child care (these are the same adjustment factors used by the Section 8 programs). Adjusted Income is used in HOME to compute the actual tenant payment in TBRA programs and low HOME rent in rental projects in which rents are based on 30% of a household's adjusted gross income.

**Affordability:** The requirement of the HOME Program that relates to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME Final Rule. Affordability requirements vary depending upon the nature of the HOME assisted activity (i.e., homeownership and rental housing).

**Annual Income:** Annual income as defined in 24 CFR 5.609, referred to as "Part 5 annual income", also known as the rules for determining income under the Section 8 voucher program.

**Affirmative Marketing:** Affirmative marketing specifically targets potential tenants and homebuyers who are least likely to apply for the housing, in order to make them aware of available affordable housing opportunities.

**Commitment:** This term is defined to mean, generally that a PJ has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with a subrecipient, or a contractor to use a specific amount of HOME funds to produce affordable housing, provide down-payment assistance, or provide tenant-based rental assistance. See section 92.504 for the minimum requirements of written agreements. Commitments must be made within 24 months of the HUD funding allocation. CHDOs and Non-profits must also have all financing in place at the time of a HOME commitment.

**Community Housing Development Organization (CHDO):** A CHDO is a private 501(c)3 or 501(c)4 organization that meets a series of qualifications prescribed in the HOME regulation at 24 CFR Part 92.2. This includes organizations with a mission that includes the construction, rehabilitation, or management of affordable housing for very-low to low-income populations. The HOME final rule requires that CHDOs have paid staff with demonstrated capacity appropriate to the CHDO's role (this requirement cannot be met through volunteers, donated staff, shared staff, or board members). A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs. CHDOs may also be involved in the program as subrecipients, but this use of HOME funds is not counted toward the 15% set aside.

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

**Consortium:** Geographically contiguous units of local government consolidated to act as a single unit of general local government for HOME program purposes when certain requirements are met.

Local governments form a consortium for the purpose of qualifying for a direct allocation of HOME funds.

**Corrective and Remedial Actions:** Corrective or remedial actions for a performance deficiency (failure to meet a provision of § 92.551) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence.

**Developer:** Any individual, association, corporation, joint venture, or partnership, which possesses the capacity to successfully produce affordable multifamily and/or single-family housing.

**Drawdown:** The process of requesting and receiving HOME funds drawn down from a line of credit established by HUD.

**Environmental Review:** An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. (24 CFR 58)

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

**Fair Market Rent (FMR):** Published by HUD, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

**First Time Homebuyer:** An individual who has not owned a home during the three-year period prior to purchase of a home with HOME funds. This definition also includes an individual who is a displaced homemaker or single parent, as defined by HUD.

**Fixed HOME Unit:** When HOME-assisted units are “fixed” in a rental project, the specific units that are HOME-assisted (and therefore subject to HOME rent and occupancy requirements) are designated and never change.

**Floating HOME Unit:** When HOME-assisted units are “floating” in a rental project, the units that are designated as HOME-assisted may change over time as long as the total number of HOME-assisted units in the project remains constant.

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

**Homeownership:** This means ownership in a fee simple title in a 1–4 unit dwelling or condominium unit, or equivalent form of ownership approved by HUD.

**HOME Assisted Units:** Refers to the units within a HOME project for which rent, occupancy, and/or resale restrictions apply. The number of units designated as HOME-assisted affects the maximum HOME subsidy that may be provided to a project.

**HOME Investment Trust Fund:** The term given to two accounts – one at the federal level and one at the local level – that “hold” the Participating Jurisdiction’s HOME funds. The federal HOME Investment Trust Account is the U.S. Treasury account for each Participating Jurisdiction. The local HOME Investment Trust Account includes repayments of HOME funds, matching contributions and payment of interest or other returns on investment.

**HOME Rent Rates:** The HOME program restricts the rent rates of HOME-assisted units. Rent rates for HOME-assisted units cannot exceed the high and low HOME rent levels that have been established by HUD.

**Housing:** Includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single room occupancy (SRO) housing, and group homes.

**Household:** One or more persons occupying a housing unit.

**Integrated Disbursement and Information System (IDIS):** Electronic HUD financial and programmatic accounting system.

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

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

**Market Area:** The geographical area that is relatively self-contained in terms of reflecting people's choice of location for a new home. The market area may be as small as a single neighborhood or as large as a city.

**Match:** The non-federal contribution to HOME program activities. The match contribution must equal not less than 25% of the HOME funds drawn down in the fiscal year, unless a HUD-issued waiver is obtained.

**Match Credit:** Match credit is for the development of affordable homeownership housing for sale to homebuyers. Contributions to the development of homeownership housing may be credited as a match only to the extent that the sales price of the housing is reduced by the amount of the contribution or, if the development costs exceed the fair market value of the housing the contribution may be credited to the extent that the contributions enable the housing to be sold for less than the cost of development.

**Maximum Per-Unit Subsidy Amount:** The total amount of HOME funds that may be invested on a per unit basis in affordable housing. Amounts may not exceed the per-unit dollar limitations identified by HUD.

**Minority Outreach:** To ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women.

**New Construction:** In the creation of new housing units, any project that includes the creation of new or additional housing units in an existing structure is considered new construction.

**Participating Jurisdiction (PJ):** State government or units of local government designated by HUD to administer a HOME Program grant.

**Permitted Fees:** Fees that PJs are permitted to charge for applications, homebuyer counseling, and ongoing monitoring of projects supported with HOME funds. (92.214 (b) (1) and 92.209 (a))

**Private Lenders:** One of the goals of the HOME program is to establish strong public/private partnerships. HUD requires HCHC make all reasonable efforts to maximize participation by private lenders and other members of the private sector. The Community Reinvestment Act (CRA) requirements provide an incentive for private institutions to become involved in HOME program activities.

**Prohibited Activities and Fees:** PJs are prohibited from charging fees for loan servicing, origination, or other fees for the purpose of covering costs of administering the HOME program and activities such as construction management or inspections for compliance and property

**Program Income:** Gross income from the use or rental of real property, owned by the PJ, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed with HOME funds or matching contributions, less costs incidental to generation of the income. *Program income does not include* gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer or sponsor to the PJ, subrecipient or State recipient.

**Project:** A site, entire building, or two or more buildings, together with the site or sites on which the building(s) are located, that are under common ownership, management, and financing, and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking. The HOME Final Rule eliminated the requirement that all buildings fall within a four block radius.

**Project Completion:** The point at which all necessary title transfer requirements and new construction or rehabilitation activities have been completed, inspected, certificates of occupancy have been issued and the final drawdown of HOME funds has been disbursed for the project and project completion data has been entered in the disbursement and information system established by HUD (IDIS). For rental projects, completion occurs when construction is completed and before tenant occupancy.

**Reconstruction:** The rebuilding of housing, on the same lot, that existed at the time of project commitment, but is destroyed by some type of disaster. The housing may be rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction. The number of housing units on the lot may not change as part of the reconstruction project, but the number of rooms per unit can increase or decrease. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing. Reconstruction is rehabilitation for purposes of this part.

**Single Room Occupancy (SRO):** For new construction, conversion of nonresidential space, or reconstruction, the housing units must consist of a single room that is the primary residence of its occupant or occupants. The unit must contain a bathroom or a kitchen, but can contain both. For acquisition or rehab of an existing residential structure or hotel, a kitchen or a bathroom are not required to be in the unit. If the unit does not have a bathroom, there must be one in the building for tenants to use. SRO housing must meet local zoning and building codes.

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

**Tenant Based Rental Assistance (TBRA):** A form of direct rental assistance in which the recipient tenant may move from a dwelling unit with a right to continued assistance. It includes (1) security deposit assistance when provided alone or with rental assistance, and (2) utility deposit assistance only when it is associated with the rental or security deposit assistance.

**Transitional Housing:** SRO units with a maximum lease of two years.

**Underwriting:** Prior to commitment of funds, the process through which HCHC evaluates proposed projects to determine whether they meet the guidelines regarding an owner or developer's reasonable level of profit or return on investment based on the size, type and complexity of the project.

**Uniform Administrative Requirements:** Compliance with applicable federal administrative requirements (OMB Super circular 2 CFR 200 and applicable provisions of 24 CFR Part 85 for governmental entities, and applicable provisions of 24 CFR Part 84 for non-profits.)

**Very Low-income Households:** Households whose combined annual incomes do not exceed 50% of the median income for the area (adjusted for family size).



# **HORRY COUNTY HOME CONSORTIUM**



## **COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)**

## **POLICIES & PROCEDURES**

Updated: February 13, 2020



## **Community Housing Development Organization (CHDO)**

A CHDO is a private non-profit, community-based organization with the mission, experience and capacity to develop affordable housing. Certified CHDOs must own, develop and/or sponsor affordable housing. Certification criteria include legal status of the organization, its capacity and experience, organizational structure and geographic service area.

- An organization cannot be certified as a CHDO unless an application for a CHDO set-aside project is received by the Consortium.
- A CHDO is expected to maintain CHDO status for the duration of the project, which includes the period of affordability.

### **Organizational Requirements**

#### **Legal Status**

- CHDO must be organized under state law.
- CHDO has no part of its net earnings inuring to the benefit of any member, founder, contributor or individual.
- CHDO must have non-profit status under 501(c)(3) or (4) of the IRS, be a subordinate of a central nonprofit under IRC Section 905, or wholly owned subsidiary of an organization that has 501(c)(3) or (4) status and meets the CHDO definition.
- One of the purposes of the organization must be the provision of decent housing that is affordable to low- and moderate-income persons.
- CHDO is not a governmental agency.

#### **Capacity and Experience**

- CHDO must have financial management systems that meet the criteria outlined in 24 CFR 84.21. The most recent version of required financial management systems are located in 2 CFR 200.
- CHDO must have at least one (1) year of experience serving the community or if newly formed, its parent organization must meet this requirement.
- CHDO must show that its key staff members have the demonstrated experience relevant to the CHDO's role in undertaking the HOME activity to be funded. This does not include volunteers, board members, donated or shared staff, or consultants. Exception: During the first year of an organization's participation as a CHDO only, capacity can be

demonstrated through a contract with a consultant who has housing development experience to train appropriate key staff of the organization.

- CHDO must have completed at least one (1) CHDO-eligible development in the past two (2) years. Eligible developments include acquisition and/or rehabilitation of rental housing; construction of new rental housing; acquisition and/or rehabilitation of property for home ownership; and new construction for homeownership.

### **Organization and Structure**

- At least one-third of the CHDO's board consists of representatives of the low-income community within the applicant's service area. These members can be:
  - Low-income
  - Residents of a low-income neighborhood as defined by the County (resident does not have to be low-income)
  - Elected representatives of a low-income neighborhood

\*\*These board members must self-certify annually.

- CHDO must also involve low and moderate-income program beneficiaries in affordable housing project design, siting, development and management of housing. This is in addition to serving on the board of directors. The involvement can include neighborhood meetings, design charrettes, surveys, etc.
- If the organization was created by a governmental entity, then:
  - No more than one-third can be representatives of the public sector and public-appointed members may not appoint the remaining 2/3; and
  - Officers and employees of a governmental entity cannot be officers or employees of a CHDO.
- If the organization was created by a for-profit entity, then:
  - The for-profit entity that created the organization may not be a housing builder, developer or manager;
  - The for-profit entity that created the organization may not appoint more than 1/3 of the board members and for-profit-appointed members may not appoint the remaining 2/3 of the board;

- Officers and employees of the for-profit entity that created the organization cannot be officers or employees of the CHDO; and
- The organization must be free to contract for goods and services with others.
- **Geographic Service Area:** CHDOs must have a clearly defined service area that includes Horry, Georgetown, and/or Williamsburg counties.

## **CHDO Roles**

### CHDO as a Developer

A CHDO is a developer when it either owns a property and develops a project or has a contract with a property owner to develop a project. The CHDO must perform all the functions usually expected of for-profit developers.

- **Rental Housing:** The organization is or will be the owner in fee simple absolute (or will hold a ground lease) for at least the affordability period and will solely be in charge of all aspects of the development process.
- **Homeownership:** The organization is or will be the owner in fee simple absolute and developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for sale to low-income buyers.

### CHDO as an Owner

- **Rental Housing:** A CHDO is an owner when it has valid title or a long term leasehold interest (for at least the compliance period). If the project involves rehabilitation or construction, the organization will oversee all aspects of development. A CHDO can own a rental property with other legal entities (including, but not limited to, individuals, corporations and partnerships). If it owns the project in partnership, the CHDO or its wholly owned nonprofit or for-profit subsidiary must be the managing general partner with effective control (i.e., decision making authority) of the project. The CHDO may be both owner and developer or may have another entity as the developer.

### CHDO as a Sponsor

A CHDO may be a sponsor for a rental project. When a CHDO is a sponsor it must always own the property prior to the development phase of the project.

- **Rental Housing**
  - The organization develops a project that the CHDO solely or partially owns and agrees to convey ownership to a designated nonprofit (that was not created by a governmental entity) at a predetermined time prior to or during development or upon completion of the development of the project; or

- The project will be owned and/or developed by an eligible CHDO affiliate, including:
  - A wholly owned subsidiary of the CHDO; or
  - A limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or
  - A limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member

### **CHDO Set-Aside**

HOME requires that participating jurisdictions set aside at least 15% of their annual HOME allocation of funds for housing that is developed, owned or sponsored by CHDOs. Nonprofits that do not meet CHDO criteria can receive HOME funding for projects they develop, own or sponsor that do not count towards the CHDO set-aside.

#### Eligible CHDO Set-Aside Activities

- Acquisition and/or rehabilitation of rental housing
- New construction of rental housing
- Acquisition and/or rehabilitation of properties for homeownership
- New construction for homeownership

#### Ineligible CHDO Set-Aside Activities

- Tenant based rental assistance
- Rehabilitation of owner-occupied properties
- Direct homebuyer assistance for existing housing (not developed, owned, or sponsored by the CHDO)

### **Process for CHDO Certification**

The following is the process to obtain CHDO certification:

- Complete the CHDO pre-application and provide the required supporting materials.
- Submit the completed application and materials to the Horry County Community Development Office consistent to the instructions on the application below.

- The Consortium will notify the organization in writing if it has been certified as a CHDO.
- If all requirements are met, the applicant will be certified as a CHDO upon the notice of award of CHDO set-aside funds.
- If the organization does not complete or does not meet the requirements for CHDO certification, a letter will be sent to the organization which describes what it must do to meet the certification criteria.