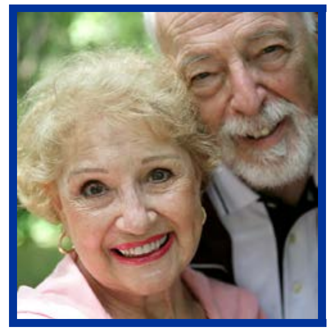
Montana HOME Investment Partnerships Program

Fiscal Year 2013 Competitive Application Guidelines









MONTANA
DEPARTMENT OF COMMERCE

EQUAL HOUSING OPPORTUNITY

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DIVISION

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EQUAL HOUSING OPPORTUNITY

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EQUAL HOUSING OPPORTUNITY

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MONTANA DEPARTMENT OF COMMERCE
HOME INVESTMENT PARTNERSHIPS PROGRAM

I. PURPOSES AND GOALS

The Montana HOME Program's purposes and goals are to:

- Expand the supply of decent, safe, sanitary, and affordable housing for low[1] and very low[2] income Montanans
- Mobilize and strengthen the abilities of units of local government and Community Housing Development Organizations (CHDOs) to implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing
- Provide participating entities, on a coordinated basis, with various forms of federal housing assistance

Montana Department of Commerce (MDOC) will focus on the purposes and goals listed below. The priorities are outlined in more detail in the State of Montana Consolidated Plan and its corresponding Annual Action Plan, which is available online at:

http://housing.mt.gov/CP/default.mcpx

- **Housing Stock:**
  Assist in the preservation of existing or construction of decent, safe, sanitary, and affordable housing, ensuring geographic distribution as well as a mix of both urban and rural projects.

- **Affordability:**
  Increase or improve the stock of affordable rental units and the affordability of homeownership.

- **Greatest Need:**
  In areas where the greatest need is identified, give preference to those projects that serve the lowest income Montanans, which may include elderly and physically or mentally disabled Montanans needing assistance. Address housing needs for minority and special needs populations and assist in building local capacity to meet those needs.

- **Gap Financing:**
  Allocate only the minimum amount of HOME funds that MDOC determines to be necessary for the financial feasibility of the project and its viability as a qualified

[1] Households at or below 80% of AMI (area median income)
[2] Households at or below 50% of AMI

affordable housing project throughout the period of affordability. Give preference to projects that provide the greatest number of qualified affordable units relative to the HOME funds allocated. Note: HOME funds are intended to be used in conjunction with other funds to ensure that no more than the necessary amount of HOME funds is invested in any one project to provide affordable housing.

- **Access to the HOME Program:**
  Provide opportunities for local governments, public housing authorities (PHAs), and MDOC-certified Community Housing Development Organizations (CHDOs) to access the HOME Program on behalf of low- and very low-income residents.

- **Innovation:**
  Encourage innovative approaches in planning, design, construction, energy efficiency, green building, and financing which are cost-effective in providing affordable housing. See page 82, Incentives for Innovative Design, for additional information.

- **Leverage Private Sector Funds:**
  Maximize the investment of private capital to leverage HOME funds and use existing agencies and private sector mortgage financial institution resources, while retaining the affordability of housing with local and private investment.

The MDOC also supports implementation of the performance outcome measurement system established by the U.S. Department of Housing and Urban Development (HUD) for its programs. The MDOC has adopted the framework of HUD's outcome measurement system as the foundation for establishing performance measures and outcomes for the HOME Program.

The intent when funding an activity determines which of the three **objectives** best describes the purpose of the activity. The three objectives are:

- *Suitable Living Environment*: In general, this objective relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environment.
- ***Decent Housing*****:** The activities that typically would be found under this objective are designed to cover the wide range of housing possible under HOME, CDBG, HOPWA or ESG. This objective focuses on housing programs where the purpose of the program is to meet individual family or community needs and not programs where housing is an element of a larger effort, since such programs would be more appropriately reported under Suitable Living Environment.
- *Creating Economic Opportunities*: This objective applies to the types of activities related to economic development, commercial revitalization, or job creation.

Similarly, once the objective for the activity is selected, one of three outcome categories that best reflects what will be achieved by funding the activity must be selected. The three outcome categories are:

- *Availability/Accessibility*: This outcome category applies to activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to low and very low income people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the affordable basics of daily living available and accessible to low and very low income people where they live.
- ***Affordability***: This outcome category applies to activities that provide affordability in a variety of ways in the lives of low and very low income people. It can include the creation or maintenance of affordable housing, basic infrastructure hook-ups, or services such as transportation or day care.
- *Sustainability - Promoting Livable or Viable Communities*: This outcome applies to projects where the activity or activities are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of low and very low income or by removing or eliminating slums or blighted areas, through multiple activities or services that sustain communities or neighborhoods.

Each outcome category can be connected to each of the overarching objectives, resulting in nine groups of outcome/objective statements under which to report the activity or project data to document the results of the activities or projects. Each activity will provide one of the following statements, although sometimes an adjective such as new, improved, or corrective may be appropriate to refine the outcome statement.

	Outcome 1: Availability or Accessibility	**Outcome 2: Affordability**	**Outcome 3:** Sustainability
Objective 1: Suitable Living Environment	Enhance Suitable Living Environment through Improved Accessibility	Enhance Suitable Living Environment through Improved or New Affordability	Enhance Suitable Living Environment through Improved or New Sustainability
Objective 2: Decent Housing	Create Decent Housing with Improved or New Availability	***Create Decent Housing with Improved or New Affordability***	Create Decent Housing With Improved or New Sustainability
Objective 3: Economic Opportunities	Provide Economic Opportunity through Improved or New Accessibility	Provide Economic Opportunity through Improved or New Affordability	Provide Economic Opportunity through Improved or New Sustainability

Most HOME-funded projects will fall under **Objective 2/Outcome 2: Create Decent Housing with Improved or New Affordability**.

In accordance with these stated purposes, goals, objectives and outcomes, MDOC **will only process** applications consistent with the purposes and goals of these guidelines and the state's Consolidated Plan.

MDOC will consider the capacity of the grantee, its management team, and the availability of contractors and subcontractors in assessing the viability of each proposed project.

II. POLICIES AND PROCEDURES

MDOC is responsible for the administration of the HOME Program in accordance with Title 24 Code of Federal Regulations Part 92 (24 CFR Part 92). The HOME Program Application Guidelines provide a system for the allocation of HOME funds. Funding under the Guidelines is available throughout the State of Montana, with the exception of Billings, Great Falls and Missoula, which receive allocations of HOME funds directly from HUD.

A. APPLICATION DEADLINE

Applications must be received at the MDOC office in Helena before close of business (5 p.m.) on Tuesday, **October 1, 2013** or be postmarked on **October 1, 2013**. Full applications by facsimile will NOT be accepted.

Applicants must deliver **one (1) original *AND* three (3) complete copies** of the application to:[c1]

Mailing Address
Montana Department of Commerce
HOME Program
P.O. Box 200545
Helena, MT 59620-0545

Physical Address
Montana Department of Commerce
HOME Program
301 South Park – 2nd Floor, Rm 240
Helena, MT 59601

Applications become the property of MDOC and will not be returned. Successful applications are loaned to potential applicants upon request. Inaccurate information contained in an application will disqualify the Applicant from consideration. The *Minimum Threshold Requirements* for each HOME Application are included in the Ranking Criteria. **Applicants who fail to meet any minimum threshold requirement will not be considered for funding.** Minor corrections to applications may be allowed, but applications requiring substantial revision or which are substantially incomplete will not be reviewed or ranked.

B. ALLOCATION

MDOC will distribute FFY 2013 funds geographically throughout eligible areas of the state. The HOME-specific ranking criteria are designed to help ensure that only projects which can be completed in a timely manner will be approved.

A minimum of 15% of the total HOME funds is available exclusively to MDOC-certified Community Housing Development Organizations performing HOME CHDO-eligible activities. A CHDO is a nonprofit entity that has received a tax-exempt ruling under sections 501(c) (3) and (4) of the Internal Revenue Code of 1986, and is certified by MDOC as meeting the CHDO requirements contained in **Exhibit 12**.

Montana's FFY 2013 HOME estimated allocation is **$3,000,000**[3]**.** Following are the **tentative** allocations.

	2013 Estimate
FFY13 ESTIMATED Allocation from HUD	$3,000,000
Less: MDOC Administration Funds (max. 10%)	$300,000
Estimated Total Available for Distribution to Grantees	**$2,700,000**
ESTIMATED NONCOMPETITIVE GRANT FUNDS	
Single Family Noncompetitive Program	$750,000
ESTIMATED COMPETITIVE GRANT FUNDS	
Estimated CHDO Set Aide Requirement	
FFY13 CHDO Set Aside (min. 15% of allocation)	$450,000
Total Estimated Competitive Non-CHDO Grants	
FFY13 Competitive Non-CHDO Grants	$1,500,000
Total Estimated FFY 2013 Amount for Competitive Grants	**$1,950,000**
ESTIMATED PRIOR YEAR(S) CARRYOVER	**$750,000**
TOTAL ESTIMATED FOR COMPETITIVE GRANTS	**$2,700,000**

If a substantial amount of funds is not awarded during the first application round due to insufficient applications meeting the minimum funding threshold, at the discretion of MDOC, the remaining funds will be awarded through an open application cycle, the “Open Application Pilot Program”. Applications will be accepted for the Open Application Pilot Program funds on a first come, first serve basis until all current HOME funds and any prior year carryover funds are committed. MDOC reallocation of unused funds may result from:

- Uncommitted current fiscal year funds
- Unexpended or uncommitted funds from previous grant awards
- Program income or recaptured funds returned to the state
- Funds withdrawn from a tentative grant commitment when an Applicant is unable to fulfill the required contract conditions, including securing final commitments of all funding sources

C. MAXIMUM GRANT AMOUNT

When allocating funds, HOME considers the total amount of assistance from both public and private sources needed to ensure project feasibility. Applicants may request up to a total of **$750,000** in HOME funds. **NOTE:** Any program Income, recaptured funds, and/or CHDO proceeds the Grantee is allowed to use for the project cannot be used to increase the HOME grant beyond the $750,000 ceiling.

[3] Preliminary estimate from HUD

D. ELIGIBLE APPLICANTS

Each eligible Applicant, other than a CHDO (see discussion under Community Housing Development Organization on page 14), **may submit only one application** for competitive funds in the FFY 2013 HOME grant competition. Applicants may conduct homebuyer assistance and homeowner rehabilitation activities through HOME noncompetitive programs and still apply for competitive HOME funds.

1. Local Governments

A **local government** entity may sponsor an application on behalf of a nonprofit or a for-profit organization. If awarded funds, the Applicant (local government) remains responsible for meeting all HOME requirements, including those related to long-term affordability. Grantees may provide HOME funds to the project in the form of a grant or a loan that will be repaid from operating income.

- **Counties** may apply to use HOME grant funds for activities proposed to resolve housing problems in the unincorporated jurisdiction of the county. A county may apply for a housing project that will include activities within the jurisdiction of an incorporated city or town **if** the proposed project is intended to benefit all county residents. A county may apply for a grant to fund a project that would assist two or more separate, unincorporated communities.

- **Municipalities** may apply to use HOME grant funds for projects proposed within the jurisdiction of the incorporated city or town. A municipality may apply for a project located outside the city's jurisdiction if it can provide assurances that the project area will be annexed by the municipality within the HOME contract period.

- **Consolidated city-county governments** will be considered as two separate jurisdictions: the city jurisdiction and the unincorporated jurisdiction of the county. Each may apply separately for HOME funds. The city and county boundaries, as delineated on the date of consolidation, will define the jurisdiction of each.

- **HOME entitlement cities** (currently Billings, Great Falls, and Missoula) receive HOME funds directly from HUD and, as such, receive and process all HOME applications for projects within their city limits. Entitlement cities are not eligible applicants for MDOC HOME funds unless an open round of competition is proposed.

  NOTE: State HOME funds CANNOT be used in conjunction with entitlement city (Billings, Great Falls, or Missoula) HOME funding in the same rental, homebuyer, or homeownership unit. The HOME units must be **fixed** (i.e., specifically identified) and cannot be floating. (See page 44 for discussion of fixed and floating units.)

2. Community Housing Development Organization (CHDO)

CHDOs are MDOC-certified organizations that are incorporated as nonprofits under State of Montana law. A CHDO must demonstrate staff capacity and development in order to retain CHDO status; a CHDO may not subcontract all program-related duties on a continual basis.

The HOME Program allows a CHDO to submit multiple applications **as long as each application is from a different county within its service area, each application is for a CHDO-eligible activity *and* the spend down requirements listed in the** *Applicant Eligibility Requirements* on page 16 **are met at the county level.** Such activities include new construction of multi- or single-family housing, acquisition of multi- or single-family housing, and rehabilitation of multi- or single-family housing owned by the CHDO in conjunction with acquisition of multi- or single-family housing. **Exhibit 12** contains a chart of eligible CHDO activities. CHDOs can submit and receive funding for only one competitive application per program/funding year in each county that it operates, regardless of the number of funding rounds the HOME Program may hold.

CHDOs are also eligible to participate in non-CHDO housing activities. According to HUD regulations, homebuyer assistance (where the CHDO does not hold title to the property at some time during the grant period, immediately prior to the new homeowner) and homeowner rehabilitation projects are not considered CHDO-eligible activities. A CHDO may apply for funds to perform a non-CHDO activity, **but** would not receive special consideration for the 15% set-aside funds.

A CHDO administratively headquartered in an entitlement city may propose a project within its operational area and compete for MDOC HOME funds, as long as the proposed project is not within the entitlement city's limits or jurisdiction. In the event of an open round of funding, a CHDO may propose a project within its operation area, which is also within an entitlement's jurisdictional area. The CHDO must secure the services of the applicable local government office for initial environmental screening and to prepare the environmental review if awarded HOME funds.

- CHDOs must submit, with their application, a **letter from the unit(s) of local government** for the political jurisdiction in which the HOME activities are proposed. The letter must state the local government is aware of the proposed CHDO housing project **and** the project is consistent with local comprehensive plans and zoning ordinances. (*Minimum Threshold Requirement*)

- The **local government must also agree to prepare the environmental review** (see **Exhibit 2-A:** *Agreement from Local Government to Prepare Environmental Review* for CHDO or PHA, Chapter 2, HOME Administration Manual) if the project is awarded funds[4]. (*Minimum Threshold Requirement*)

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[4] For projects located ***within*** **city/town limits**, the appropriate local government is the city or town
For projects located ***outside*** **city/town limits**, the appropriate local government is the county

3. Public Housing Authority (PHA)

PHAs are eligible applicants in the Montana HOME Program. PHAs apply as quasi-local governmental entities and as such, follow the same application requirements as local governments.

PHAs may apply for projects inside the jurisdictional area (up to 10 miles outside the city limits) they serve. A PHA administratively headquartered in an entitlement city may propose a project within its operational area and compete for MDOC HOME funds, as long as the proposed project is not within the entitlement city's limits or jurisdiction. Under the open round of funding, a PHA may propose a project within its operation area, which is also within an entitlement's jurisdictional area. PHAs must secure the services of the applicable local government office for initial environmental screening and to prepare the environmental review if awarded HOME funds.

- PHAs must submit, with their application for funding, a letter from the unit(s) of local government for the political jurisdiction in which the HOME activities are proposed. The letter must state the local government is aware of the proposed housing project and that the project is consistent with local comprehensive plans and zoning ordinances.[5] (***Minimum Threshold Requirement***)

- The **local government must also agree to prepare the environmental review** (see **Exhibit 2-A:** *Agreement from Local Government to Prepare Environmental Review* for CHDO or PHA, Chapter 2, HOME Administration Manual) in the event the project is awarded funds. (***Minimum Threshold Requirement***)

4. Joint Applicants

Joint Applicants (two or more eligible Applicants) may submit one application under the following conditions:

- The problem to be addressed lies in an area of contiguous jurisdiction
- The solution to the common problem clearly requires cooperative action and is the most efficient strategy
- The total amount of the HOME funds requested does not exceed $750,000
- The joint Applicants do not individually apply for another HOME grant during the same grant competition/funding year
- One joint Applicant is designated as the *Lead Applicant* during the term of the HOME project and period of affordability. The Lead Applicant must accept full responsibility for application submission and for administrative, regulatory, and financial management requirements.

[5] For projects located ***within*** **city/town limits**, the appropriate local government is the city or town
For projects located ***outside*** **city/town limits**, the appropriate local government is the county

E. APPLICANT ELIGIBILITY REQUIREMENTS

Grantees (including all entities of a joint application) currently administering a HOME grant are eligible to reapply for an additional HOME grant **if**:

- The Grantee is in compliance with the project implementation schedule contained in its current HOME contract with MDOC
- There are no unresolved audit, monitoring, or performance findings for **any** previous HOME grant award to the Applicant
- The Grantee with an open FFY 2012 grant has 50% of the project funds drawn down by the date of application submission (see exception for CHDO applications, below)
- The Grantee with an open FFY 2011 grant has 75% of the project funds drawn down by the date of application submission (see exception for CHDO applications, below)
- All projects three years and older (FFY 2010 and earlier grants) are completed and are conditionally closed out before applying for additional funds (see exception for CHDO applications, below)

CHDOs applying for a CHDO-eligible activity must meet the applicable spend down requirements at the **county level**. Contact the HOME Program for additional guidance.

F. INELIGIBLE ACTIVITIES

HOME funds may **not** be used for:

- Tenant-based rental assistance
- Non-federal matching contributions required under any other federal program
- The development or modernization of public housing or to provide annual contributions for the operation of public housing (Section 9 of the 1937 Act)
- Providing assistance to eligible low-income housing under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages)
- Providing assistance to a project previously assisted with HOME funds during an existing affordability period
- Providing operating subsidies or project reserve accounts
- Providing assistance to ineligible properties such as commercial properties (to be used solely for commercial purposes), temporary shelters, emergency shelters, and student housing
- Reimbursement of property in the Grantee's inventory or purchased for another purpose. However, in anticipation of carrying out a HOME project by an eligible Applicant, HOME funds may be used to acquire property. (**CAUTION:** See section on Limitations on Activities Pending Environmental Clearance on page 32.)
- Any emergency repair costs to property such as damage due to flooding, fire, natural disasters, etc.

- Any costs that are not eligible under project costs, project-related soft costs, and operating costs
- Payment of delinquent taxes, fees, or charges on properties to be assisted with HOME funds
- Land banking (purchase of land on speculation of construction)
- Some forms of special purpose repair programs, such as weatherization programs, emergency repair program and handicapped accessibility program, unless undertaken within a more comprehensive scope of work that brings the housing up to standard

G. DISCLAIMERS

- ➢ MDOC reserves the right to reserve and allocate HOME funds to any project. MDOC may deny HOME funds for any project, regardless of the ranking score under the project selection criteria, if it determines, in its sole discretion, the project is unacceptable based on, but not limited to the following:
    - Negative comments or lack of support from officials of local governmental jurisdictions, or
    - Information that a particular market is saturated with affordable housing projects, or
    - The likelihood that the project may not comply with HOME Program requirements in a timely manner, or
    - The applicant's (including any related party's) lack of or unacceptable prior experience and performance related to compliance with housing assistance or other government-sponsored programs, regardless of type and location

- ➢ If MDOC determines not to award HOME funds on such basis, it will set forth the reasons for such determination.

- ➢ All funding decisions made under these guidelines shall be made solely at the discretion of MDOC. MDOC in no way represents or warrants to any Applicant, investor, lender, or any other party that a proposed project is, in fact, feasible or viable.

- ➢ MDOC reserves the right to place special conditions on projects.

- ➢ MDOC reserves the right to modify or waive, on a case-by-case basis for good cause, any condition of these guidelines that is not mandated by the 24 CFR Part 92.

- ➢ MDOC reserves the right to exchange information with other state and federal allocating agencies and with other parties as deemed appropriate. By submitting an application for HOME funds, the Applicant is acknowledging and agreeing to this exchange of information.

- If HOME funds are expended on a project that is terminated before completion, the expended funds must be repaid with interest calculated based on one-year Treasury rates as of the date of cancellation.[c2]

- No executive, employee or agent of MDOC or any other official of the State of Montana shall be personally liable concerning any matters arising out of, or in relation to, the allocation of HOME funds or the approval or administration of these guidelines.

H. DEFERRAL TO FEDERAL LAW

To the extent that anything contained in these Guidelines does not meet the minimum requirements of federal law or regulation, such law or regulation shall take precedence over these Guidelines.

III. PRE-PLANNING REQUIREMENTS AND PROCESS

The HOME Program has a number of basic rules that apply to all activities that a potential Applicant needs to be aware of before deciding to apply for HOME funds. These rules concern:

- Definition of a project
- Eligible types of projects
- Project beneficiary(ies)
- Long-term affordability of the project
- Applicability of other requirements

The information is intended as guidance to assist a potential Applicant in determining if it wants to go forward with a HOME application. If the potential Applicant does decide to prepare an application, the information will also be helpful for completing that application.

A. DEFINITION OF A PROJECT

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

HOME-Assisted Units: The HOME Program distinguishes between the units in a project that have been assisted with HOME funds and those that have not -- hence the term ***HOME-assisted*** unit. This distinction between HOME-assisted and unassisted units allows HOME funds to be spent on mixed-income projects while still targeting HOME dollars only to income-eligible households.

B. DETERMINING TYPE OF PROPOSED PROJECT AND ACTIVITY(IES)

1. General

HOME funds may be used to develop homeowner and rental opportunities in compliance with:

- Title 24 Code of Federal Regulations Part 92 (Home Investment Partnerships Program), and
- The current HOME Program Administration Manual (available upon request or at: **http://housing.mt.gov/HM/hmadminmanual/default.mcpx**).

At the discretion of MDOC and where allowable under federal law, the following list includes project types eligible under Montana's HOME Program. The brief descriptions are intended to assist potential Applicants in initially determining if proposed projects may be eligible for funding.

2. Eligible Project Types

a. Single Family Development Project (for Homebuyers)

HOME funds may be used to construct new housing for homeownership in areas where there is an insufficient supply of appropriate housing. Project design will be guided mainly by community needs and the local housing market. The development of new housing for homeownership can include self-help and Habitat for Humanity programs and other development programs, which involve a specific number of homes and **require longer than 120 days but less than 36 months to complete** from the date the MDOC Director signs the contract.

HOME funds may be used for acquisition of vacant land *ONLY* if construction will begin on the HOME-assisted project within 12 months of purchase *and only* in conjunction with a specific homeownership project intended to provide affordable housing under the HOME Program. If the potential Applicant is proposing to purchase land on which to develop single-family homes for homeownership purposes, the Applicant must demonstrate in its Market Analysis that it has a waiting list of qualified homebuyers. **Land banking**, the purchase of land on speculation of construction, **is prohibited**.

Single family development can also include acquisition and rehabilitation of existing substandard housing in the community. After rehabilitation, the housing will be sold to qualified low-income homebuyers.

If property will be acquired for the project, the potential Applicant needs to be aware of two important considerations that can impact the project's eligibility to receive HOME funding.

- The owner of the property must be informed in writing as soon as feasible about the potential Applicant's interest to acquire the property. Additionally, the property owner must be informed about rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) ***before*** the HOME application is submitted. See **Exhibit 20** for the letter informing the property owner about his/her rights. (*Minimum Threshold Requirement*) *Also, s*ee Chapter 6, Part I - Acquisition, HOME Administration Manual for additional information.

- **The property cannot be acquired until the environmental conditions have been met, regardless of the source of funds that will be used to acquire the property.** (See Environmental Considerations, page 32.) **HOME funds will be withdrawn from any project where an Applicant acquires the property before the environmental clearance for the project has been achieved.**

Housing that is constructed or rehabilitated with HOME funds must meet minimum property standards (see **Exhibit 23**), which include **all** applicable local codes and standards, zoning ordinances, and the 2012 International Energy Conservation Code (IECC) as adopted by the state. (For more information on energy conservation code requirements, visit the Montana Department of Environmental Quality web page, Montana Department of Environmental Quality (DEQ) - Building Codes:

http://www.deq.mt.gov/Energy/conservation/homes/NewHomes/BuildingCodes.mcpx

- Potential Applicants considering establishing a community land trust (CLT) for homebuyer activities can accomplish results similar to that of a CLT by using the resale restriction option, rather than the recapture option, to ensure affordability. Potential Applicants can offer down payment and closing cost assistance through the Single Family Noncompetitive Program to assist homebuyers to purchase homes that are already part of an established CLT.

  Using HOME funds in conjunction with CLTs is a complex issue that needs further investigation and research by the HOME Program and guidance from HUD for a clearer understanding of CLTs under the HOME Program. In the meantime, Grantees can use options available under current HOME Program rules.

- Homebuyer activities other than single family development are more appropriately served through the Single Family Noncompetitive Program. Potential Applicants with questions about the most appropriate funding mechanism should contact the HOME Program for further guidance.

b. Homeowner (Owner-Occupied) Rehabilitation Project

HOME funds may be used to assist existing homeowners with the repair or rehabilitation of owner-occupied units. Applicants who are interested in administering an owner-occupied rehabilitation project need to contact the HOME Program for further guidance in this area. The HOME Program is currently awaiting the finalization of the Proposed Rule, which proposes numerous complex changes to rehabilitation activities.

If a potential Applicant wants to apply for a competitive grant for homeowner rehab to take advantage of economies of scale, the Applicant will need to pre-identify up-front a group of homeowners/homes that would qualify for rehab. The Applicant would be able to procure services of professionals, such an architect or engineer licensed and qualified to work in Montana, lead-based paint clearance inspectors, appraisers, etc., to complete the rehab activities in a specific area.

Housing that is rehabilitated with HOME funds, including homeowner rehab, must meet minimum property standards (see **Exhibit 23**), which include **all** applicable local codes, housing rehabilitation standards, and zoning ordinances. **Note**: The State of Montana does not have state or local codes related to the rehabilitation of residential, single family properties; therefore, housing rehabilitated with HOME funds must meet the requirements of one of the model codes listed in **Exhibit 23,** *Minimum Property Standards*. Additionally, all health and safety deficiencies in the property must be addressed.

HOME funds **cannot** be solely used for addressing weatherization and/or accessibility issues and/or emergency situations. **The entire housing unit must be brought to code.** Successful Applicants will have the responsibility of ensuring the rehabilitated property meets code requirements. The code requirements are complex; so the HOME Program consulted with the Montana Department of Labor & Industry, Business Standards Division, Building Codes Bureau, and determined the certification can only be provided by an **architect or engineer licensed and qualified to work in Montana**.

All work must be performed according to written rehab standards, which must be incorporated into the scope of work for each house rehabilitated.

Because of the additional complexity involved with rehabilitating single-family units comprised of an owner-occupied unit along with one to four rental units, funding for this type of project can only be accessed through the competitive application process (i.e., properties that also consist of one, two, or three rental units are not eligible for HOME assistance under the Single Family Noncompetitive Program).

c. Rental Housing Project

HOME funds may be used to construct, acquire, or rehabilitate **rental** properties.

(1) Acquisition of Newly Constructed Rental Housing

HOME funds can be used to acquire newly constructed rental housing in standard condition. At the time of acquisition, newly constructed housing that is acquired with HOME funds must meet minimum property standards (see **Exhibit 23**), which include **all** applicable local codes and standards, zoning ordinances, and the 2012 International Energy Conservation Code (IECC), as adopted by the state. Where there are not state or local building codes, the national model codes as listed in **Exhibit 23** must be followed.

If proposing to acquire property, the owner of the property must be informed in writing as soon as feasible about the potential Applicant's interest to acquire the property. Additionally, the property owner must be informed about rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) ***before*** the HOME application is submitted. See **Exhibit 20** for the letter informing the property owner about his/her rights. (*Minimum Threshold Requirement*) *Also, s*ee Chapter 6, Part I - Acquisition, HOME Administration Manual for additional information.

The property cannot be acquired until the environmental conditions have been met, regardless of the source of funds that will be used to acquire the property. (See Environmental Considerations, page 32.) **HOME funds will be withdrawn from any project where an Applicant acquires the property before the environmental clearance for the project has been achieved.**

(2) Acquisition of Existing Rental Housing

HOME funds can be used to acquire existing affordable rental housing that requires financial assistance to maintain the affordability of the project. The property must be in standard condition (see **Exhibit 23**, Minimum Property Standards) at the time the property is acquired.

If proposing to acquire property, the **owner** of the property must be informed in writing as soon as feasible about the potential Applicant's interest to acquire the property. Additionally, the property owner must be informed about rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) ***before*** the HOME application is submitted. See **Exhibit 20** for the letter informing the property owner about his/her rights. (*Minimum Threshold Requirement*) *Also, s*ee Chapter 6, Part I - Acquisition, HOME Administration Manual for additional information.

The property cannot be acquired until the environmental conditions have been met, regardless of the source of funds that will be used to acquire the property. (See Environmental Considerations, page 32.) **HOME funds will be withdrawn from any project where an Applicant acquires the property before the environmental clearance for the project has been achieved.**

(3) Rehabilitation of Existing Rental Housing, with or without Acquisition

HOME funds can be used to acquire existing affordable rental housing in need of rehabilitation and that requires financial assistance to maintain the affordability of the project. **Every building rehabilitated with HOME funds must be brought up to all applicable HOME Program housing rehabilitation standards and State and local codes. If there are no local codes, then one of the national model codes (IEBC, BOCA, or SBCC) must be used.** Activities can include energy-related repairs or improvements (see information regarding the 2012 International Energy Conservation Code and the Energy Efficiency Components label on page 20).

"Special purpose" rehabilitation programs, e.g., weatherization, emergency repair, handicapped accessibility, abating lead based paint hazards or asbestos, etc., are **not** eligible **unless** these activities are undertaken within a more comprehensive scope of work that brings the entire building up to applicable code requirements.

HUD defines rehabilitation as:

- **Rehabilitation:** Rehabilitation includes the alteration, improvement or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure, but **adding a housing *unit* is considered new construction**.

- **Reconstruction:** Reconstruction refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. During reconstruction, **the number of *rooms per unit* may change, but the *number of units* may not**.

Conversion: Conversion of an existing structure from another use to affordable residential housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls (envelope) of an existing structure, the entire project will be deemed **new construction**. Conversion of a structure to commercial use is prohibited under HOME regulations.

Acquisition: If proposing to acquire property, the owner of the property must be informed in writing as soon as feasible about the potential Applicant's interest to acquire the property. Additionally, the property owner must be informed about rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) ***before*** the HOME application is submitted. See **Exhibit 20** for the letter informing the property owner about his/her rights (*Minimum Threshold Requirement*). *Also, s*ee Chapter 6, Part I - Acquisition, HOME Administration Manual for additional information.

The property cannot be acquired until the environmental conditions have been met, regardless of the source of funds that will be used to acquire the property. (See Environmental Considerations, page 32.) **HOME funds will be withdrawn from any project where an Applicant acquires the property before the environmental clearance for the project has been achieved.**

(4) New Construction of Rental Housing, with or without Acquisition

HOME funds may be used to construct new multi-family rental housing. Housing that is constructed with HOME funds must meet minimum property standards (see **Exhibit 23**), which include **all** applicable local codes and standards, zoning ordinances, and the 2012 International Energy Conservation Code (IECC), as adopted by the state.

New construction of rental properties is also subject to site and neighborhood standards (see **Exhibit 24,** to be completed as part of the **Project Planning and Need**). The state must administer its HOME Program in a manner that provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of 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.), and E.O. 11063, and HUD's implementing regulations; and that promotes greater choice of housing opportunities. In carrying out the site and neighborhood requirements with respect to new construction of rental housing, a participating jurisdiction is responsible for making the determination that proposed sites for new construction meet the requirements in 24 CFR 983.57(e).

HOME funds may be used for acquisition of vacant land *only* if construction will begin on a HOME project within 12 months of purchase *and only* in conjunction with a specific housing project intended to provide affordable housing under the HOME Program. **Land banking**, the purchase of land on speculation of construction, **is prohibited**.

If proposing to acquire property, the owner of the property being acquired must be informed in writing as soon as feasible about the potential Applicant's interest to acquire the property. Additionally, the property owner must be informed about rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) ***before*** the HOME application is submitted. See **Exhibit 20** for the letter informing the property owner about his/her rights. (*Minimum Threshold Requirement*) *Also, s*ee Chapter 6, Part I - Acquisition, HOME Administration Manual for additional information.

The property cannot be acquired until the environmental conditions have been met, regardless of the source of funds that will be used to acquire the property. (See Environmental Considerations, page 32.) **HOME funds will be withdrawn from any project where an Applicant acquires the property before the environmental clearance for the project has been achieved.**

C. SPECIAL NOTES ON ACQUIRING AND/OR REHABILITATING OCCUPIED PROPERTIES

1. Mixed Income Properties

If a potential Applicant is proposing to develop an occupied project in which over-income tenants occupy some of the units, it may not invest HOME funds in those specific units. Therefore, potential Applicants proposing to acquire and/or rehabilitate an occupied multi-family property, manufactured home park, etc., must verify the incomes of each of the tenants/occupants to determine if the occupants are HOME qualified **before** submitting the application (see income eligibility information on page 27). A "survey" of tenant information is not adequate.

> ***Example 1:*** *A potential Applicant wishes to acquire a building with 20 comparable units, 10 of which are currently occupied. The potential Applicant **certified** the incomes of each of these occupied units and found the following:*
>
> - *5 units have tenants whose incomes are above 80% of the area median income (AMI)*
> - *1 unit is occupied by a tenant whose income is at 74% of AMI*
> - *14 units have tenants whose income is below 60% of AMI*
>
> *The potential Applicant may not invest any HOME funds in the five units occupied by tenants who are not low-income (incomes are above 80% of AMI).*
>
> *It may invest HOME funds in all of the remaining 15 units. Since 15 HOME-assisted units is 75% of the total units, 75% of the total **HOME-eligible** development costs may be paid with HOME funds, not to exceed the HOME maximum per unit subsidy limit.*

Additionally, the potential Applicant must ensure the occupants/tenants of the HOME-assisted units know they will need to continue to provide income and asset information annually for the entire period of affordability (5, 10, or 15 years).

2. Tenant Relocation and Displacement

Applicants must take proactive steps to minimize permanent displacement of current residents of any project funded with HOME funds. MDOC reserves the right to deny funding for any project that involves permanent displacement of current residents.

If the potential Applicant is proposing to acquire and/or rehabilitate any occupied property, all residential tenants in place prior to the submission of an application through the completion of the proposed construction and issuance of the certificate of occupancy are candidates for assistance under the provisions found in 24 CFR §92.353. If there are existing residents who are not eligible for the program, the owner may request HOME assistance for vacant units or those occupied by eligible tenants only. Developments with tenants/occupants in place prior to submission of the application **MUST** comply with Federal Relocation Requirements found in 24 CFR §92.353.

Potential Applicants **MUST** notify MDOC before proceeding with an application to ensure that proper procedures are followed. **Exhibit 2**, *General Information Notice: Residential Tenant Not Displaced*, is the letter that **must** be sent to inform existing residents of their rights **prior to applying** for the HOME funds. (NOTE: Notifications should be provided to tenants before any discussions/meetings regarding the property in question.) Applicants **must include a copy of the letter along with a list of the**

occupants residing in the property as well as proof of delivery (e.g., returned receipt, signed acknowledgement form, etc.) to each household when submitting the HOME application (*Minimum Threshold Requirement*). Note: Additional notices must be sent to tenants if HOME funds are awarded; see Chapter 6, Part II - Relocation, HOME Administration Manual. **Documentation regarding what, to whom, and when the notifications were sent must be included in the application.**

Applicants will need to ensure all costs associated with relocation are adequately reflected in the project budget. (See **Exhibit 26**, Temporary Relocation Plan)

Improper procedures and/or an improperly worded notification letter will substantially increase the costs to the project and/or may render the project infeasible. The project owner will pay relocation payments and other relocation assistance, including replacement-housing costs, moving expenses, and reasonable out-of-pocket costs incurred in the relocation of persons.

Additional information on Relocation and Displacement is available in **Exhibit 21** and in Chapter 6 of the HOME Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch06.mcpx.

D. PROJECT BENEFICIARIES

Expenditure of HOME funds **must result in beneficiaries** (**households) being** assisted. In the contract MDOC executes with a Grantee, the Grantee assures that the project or activities undertaken will result in providing affordable housing to beneficiaries within a specific time period. At the end of 36 months, if funds have been expended and beneficiaries have not resulted (or fewer beneficiaries than expected), the HOME Program and the Grantee will be out of compliance, and some or all the HOME funds may need to be paid back to HUD. In addition, financial and beneficiary information must be reported in HUD in IDIS within 120 days of the final draw for the project or activity [24 CFR §92.502(d)]. If satisfactory project completion information is not provided, HUD may suspend further project set-ups or take other corrective actions.

1. Targeting

The HOME Program is designed to provide affordable housing to low-income and very-low-income households and individuals (i.e., beneficiaries). Therefore, the program has rules about targeting program resources and establishing beneficiary eligibility. The HOME Program must use all of its funds to assist households with incomes below 80% of the area median income (AMI). These “income limits”, which are calculated (by HUD) based on HUD estimates of median family income with adjustments based on family size, are available on HUD’s HOME Program Income Limits - HOME - Programs - Affordable Housing - CPD - HUD web page:

http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/

2. Beneficiary Income Eligibility

a. Income Eligibility

Beneficiaries of HOME funds, homebuyers, homeowners, or tenants, must be low-income (i.e., income not more than 80% of area median) or very-low-income (i.e., income not more than 50% of area median). Their income eligibility is determined based on their annual income. Annual income is the gross amount of income **anticipated** by all adults in a household during the 12 months following the effective date of the determination. To calculate annual (gross) income, the Applicant/Grantee must use one of two definitions of income:

- Section 8 (24 CFR Part 5) annual (gross) income (commonly used for rental projects)
- IRS Form 1040 long form adjusted gross income (commonly used for homeownership projects)

b. Income Verifications

To determine if program applicants are income-eligible, Applicants/Grantees must verify their income using the prior two (2) months of source documentation such as wage statements, interest statements, and unemployment compensation statements. **Income eligibility is based on anticipated income.** When collecting income verification documentation, Applicants/Grantees must also consider any likely changes in the household's income. Last year's tax return does not establish anticipated income; nor is it adequate source documentation. Once an initial income verification is completed, the Applicant/Grantee is not required to re-examine the household's income ***unless*** six months has elapsed before assistance is provided.

c. Annual Re-Examinations

After project completion, annual recertifications of tenant income will be required for rental projects.

E. LONG-TERM AFFORDABILITY

To ensure that HOME investments yield affordable housing over the long term, HOME Program imposes rent and occupancy requirements over the length of an affordability period.

1. Affordability Period

The length of the affordability period depends on the amount of the HOME investment in the property and the nature of the activity funded. After the required affordability period, the property may be sold without HOME restrictions. The following table outlines the minimum affordability periods.

HOME Investment per Unit	Length of the Affordability Period
Less than $15,000	5 years
$15,000 - $40,000	10 years
More than $40,000	15 years
New construction of **or** acquisition of newly constructed *rental* housing	20 years

Throughout the affordability period, the HOME-assisted rental housing must continue to be occupied by income-eligible households. For rental housing, when units become vacant during the affordability period, subsequent tenants must be income-eligible and must be charged the applicable HOME rent.

> Low HOME rental units must be occupied by households at 50% AMI or less. For rental units occupied by households who exceed 80% AMI, please contact the HOME Program for further guidance.

For homeowner and homebuyer projects, if a home that received HOME assistance is sold during the period of affordability, resale or recapture provisions apply to ensure continued affordability.

F. FINANCIAL FEASIBILITY

Applicants should request the level of funding necessary to carry out their programs, subject to the maximum allowable grant amount and subsidy limits. Grant requests must be sufficient in combination with other proposed funding sources, to complete the proposed activities within the contract period.

An Applicant submitting a relatively small grant request should consider whether the proposed activities would result in high administrative-related costs relative to the total program cost.

The Applicant must complete the applicable financial sections, Section C, of the Uniform Application. The Applicant's Pro-Forma for rental projects must demonstrate a reasonable projected cash flow for the project, accounting for its debt capability, reserve replacement account, and repairs. In addition, the Applicant must demonstrate a complete and realistic accounting of annual operating expenses and a realistic statement of projected revenue.

1. Subsidy Layering

For those projects which combine HOME and other government subsidies, MDOC must perform a subsidy layering review to ensure that government subsidy is not excessive in accordance with HUD CPD Notice 98-01, dated January 22, 1998. (See Exhibit 22 for additional information.) The subsidy guidelines are also used by the HOME Program to help determine the level of HOME funds to be used in a project absent other governmental assistance.

a. Project Development Budget

The HOME Program must review the project development budget (Uniform Application, Section C-sources and uses of funds information) to determine whether the development costs are necessary and reasonable. The budget should include all costs associated with the development of the project, regardless of the funding sources.

"Reasonableness" of costs is based on the costs of comparable projects in the same geographic area, the qualifications of the cost estimators for the various budget line items, and comparable costs published by recognized industry cost index services.

b. Proforma

The HOME Program will evaluate the reasonableness of the rate of return on equity investment by looking at the Applicant's proforma (project income and expense statements found in the Uniform Application, Section C-financial information). For rental projects, the proforma should include achievable rent levels, market vacancies, and operating expenses. It should also specify the consequences of tax benefits, if any, and other assumptions used in calculating cash flow. The proforma should represent, at a minimum, the term of the HOME affordability requirements, or longer if other funding sources require longer affordability terms.

2. Maximum per Unit Subsidy Limits and Maximum Purchase Price Limits

The total amount of HOME funds that an Applicant/Grantee may invest on a per-unit basis in affordable housing of any type may not exceed the per-unit dollar limitations established by HUD (see **Exhibit 15A**). For HOME-assisted single family development and homeowner rehabilitation projects, the purchase price of the assisted home may not exceed the purchase price limit and/or after rehabilitation value as set by HUD (see **Exhibit 15B**).

3. Minimum Amount of Assistance

The minimum amount of HOME funds invested in any project is $1,000 for each HOME-assisted unit in the project. The minimum only relates to the HOME funds, not to any other funds that might be used for the project.

4. Match Requirements

HOME Program participants must contribute to qualified housing in an amount equal to at least five percent (5%) of HOME project funds. These contributions are referred to as match. To be considered eligible match, a contribution must be made from **nonfederal sources** and must be made to housing that is assisted with HOME funds. Refer to Matching Contribution Requirements, found in **Exhibit 3**.

An *example* of the HOME Program match obligations for FFY 2013 is shown below.

Total HOME funds..	$ 750,000
Match requirement: $750,000 x .05 =.................	$ 37,500

A match amount of at least five percent (5%) of HOME funds is a *Minimum Threshold Requirement*. Before submitting an application, an Applicant **MUST** consult with the HOME Program Accountant at (406) 841-2832 **at least 10 working days prior to the application deadline** to determine if its proposed match source is eligible and request, in writing, a letter from MDOC confirming match eligibility. The written request for confirmation must include the specific dollar amounts for all proposed sources of match, and the amount of HOME funds to be requested.

The Applicant must submit the confirmation letter from MDOC in its grant application. Applicants must clearly document proposed matching contributions or HOME will not consider the grant application for ranking. **This requirement also applies to open round applications and re-applications, if applicable.**

Applicants/Grantees are strongly encouraged to identify, commit, document, and report all eligible matching funds and provide more than the minimum 5% in non-federal matching funds for competitive grants. HUD regulations require the HOME Program to provide match in an amount equal to ***no less than 25%*** of the total HOME funds drawn for project costs (including soft costs). Match is a permanent contribution to affordable housing. Match is not leveraging; it is the non-federal contribution to the project. Excess match generated in a fiscal year can be carried forward ("banked") to meet the next year's match obligation. This excess (banked) match has allowed the Montana HOME Program to reduce the statutorily required 25% match to 5%. However, the pool of banked match has been dwindling in recent years, in part, because many projects have only committed to and documented the minimum 5% match. If the pool of banked matching fund continues to erode, the HOME Program will be forced to increase the match requirement. The HOME Program encourages Grantees to identify, document, and report all eligible matching funds.

5. Soft Costs

Requesting funds for administration is not allowed; however, Applicants may request dollars for project soft costs in an amount corresponding to the following housing activities:

New Construction, Acquisition	8%
Rehabilitation	12%

Calculate the allowable soft costs for a project as follows:

- *Example 1:* Soft cost calculation for new construction or acquisition; if you know **total** HOME costs will be $750,000:

8%	$750,000 x 8%	=	$ 60,000	maximum allowed for **soft** costs
	$750,000 - $60,000	=	$ 690,000	**project** costs

- *Example 2:* Soft cost calculation for new construction or acquisition if you know **project** costs will be $280,000:

8%	$280,000 ÷ (0.92*)	=	$ 304,348	**total** costs
	$304,348 x 0.08	=	$ 24,348	maximum allowed for **soft** costs
	(* 92% = 100% - 8%)			

- *Example 3:* Soft cost calculation for rehabilitation; if you know **total** HOME costs will be $750,000:

12%	$750,000 x 12%	=	$ 90,000	maximum allowed for **soft** costs
	$750,000 - $90,000	=	$ 660,000	**project** costs

All HOME costs, including soft costs, must be tied to specific housing addresses.

Eligible Project-Related Soft Costs, as described in 24 CFR §92.206(d), are costs that can be directly tied to an address of the project or individual being assisted. These costs must be reasonable and necessary costs associated with the financing or development (or both) of new construction, rehabilitation, or acquisition of housing assisted with HOME Funds. These include the following:

- Project-specific environmental review for a HOME-assisted project (such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees, and fees for an independent cost estimate);
- Architectural, engineering, or related professional services required to prepare plans, drawings or specifications of a project;
- Preparation of work write-ups, work specifications, and cost estimates or review of these items if an owner has had them independently prepared;
- Construction inspections and oversight;
- Project document preparation;
- Costs to process and settle the mortgage financing for a project;
- Pre-purchase homebuyer counseling for a HOME-assisted homebuyer;
- Costs to inspect property for compliance with property standards or to conduct a visual assessment for deteriorated paint;
- Cost of inspecting units for the presence of lead hazards or defective paint;
- Processing of applications for HOME assistance; and
- Staff and fringe benefit costs directly related to a project, such as preparing work specifications, loan processing, inspections, and other services related to assisting owners and homebuyers. However, MDOC must pre-approve the tracking of soft

costs. Examples of approved tracking of direct costs must include supporting documents and direct tracking of time for individual homeowner and address through timesheets and other auditable tracking measurements.

> **NOTE:** An indirect cost allocation plan **cannot** be used to determine project soft costs.

G. ENVIRONMENTAL CONSIDERATIONS

Applicants **must** complete Section D, Uniform Environmental Checklist, found in the Uniform Application, *Env Rqst* tab. ***THIS DOES NOT CONSTITUTE AN ENVIRONMENTAL REVIEW AND DOES NOT CONSTITUTE "ENVIRONMENTAL CLEARANCE".*** Applicants must use this form to initially evaluate environmental circumstances that may affect the proposed project and to raise their awareness of possible problems.

If the application is funded, completion of the environmental review process **is mandatory** before taking a physical action on a site, or making a commitment or expenditure of HOME or non-HOME funds for property acquisition, rehabilitation, conversion, lease, repair, or construction activities.

1. Limitations on Activities Pending Environmental Clearance

According to 24 CFR §58.22, *Limitations on activities pending clearance*, any applicant or any participant in the project development process may **NOT commit *HOME* or *non-HOME funds*** until the environmental review has been completed and approved by MDOC or HUD, as applicable. **This restriction includes acquisition using any source of funds in advance of application to the HOME Program if HOME funds are intended to be invested in the project.**

In short, as soon as a potential Applicant considers an application for federal funds, e.g., HOME, CDBG, etc., it *must cease all activities* for the project, regardless of the source of funds to be used to fund the activities, except for activities that are considered "Exempt" (see **Exhibit 18**, *Exempt Activities*). **Activities may not proceed until the applicable environmental clearance has been achieved and the Grantee receives a letter from MDOC or from HUD, as applicable.**

Contact the HOME Program for more information.

2. Considering Alternatives to the Proposed Action

Since Applicants often go through the process of considering alternatives and tentatively selecting a course of action prior to submitting the HOME application, potential Applicants should meticulously document that process so the requirements of "Alternatives to the Proposed Action" can be completed should an Environmental Assessment be necessary for the project.

Successful Applicants/Grantees completing an Environmental Assessment will be required to:

- Identify and discuss all reasonable alternative courses of action that were considered and were not selected, such as alternative sites, designs, or other uses of the subject site(s).
- Describe the benefits and adverse impacts to the human environment of each alternative, in terms of environmental, economic, and design contexts, and the reasons for rejecting each alternative.
- Discuss the merits of the alternative selected.
- Discuss the benefits and adverse impacts to the human environment of not implementing the “no action” alternative.

The alternatives analysis should be able to give a clear indication of:

- Why the particular range of alternatives were developed.
- The process through which the alternatives were developed.
- With what kind of public and agency input the alternatives were developed.

Another key component is examining why alternatives were eliminated from consideration during the process:

- Through the use of what criteria.
- At what point in the process.
- What parties were involved in the criteria for elimination.

For more complicated projects, Applicants/Grantees may want to consider using a summary table that lists all alternatives and factors considered. For example:

SUMMARY OF PROPOSED ALTERNATIVES					
Alternative Number	**Alternative Description**	**Environmental Pros & Cons**	**Economic Pros & Cons**	**Engineering Pros & Cons**	**Etc.**
1	Rehab Facility				
2	Expand Facility				
3	New Facility				
4	No Action				

3. Site Control

Applicants proposing rental or new construction projects must provide **firm** evidence of site control in the form of fee simple title or deed to the property, a minimum 75-year lease, or a buy/sell agreement signed by both the buyer and seller **BEFORE the application is submitted**. (*Minimum Threshold Requirement*)

According to 24 CFR §58.22, *Limitations on activities pending clearance*, any applicant or any participant in the project development process may **NOT** commit **HOME** or **NON-HOME FUNDS** until the environmental review has been completed and approved by

MDOC or by HUD, as applicable. **This restriction includes acquisition using any source of funds in advance of application to the HOME Program if HOME funds are intended to be invested in the project.** Applicants that intend to acquire land in advance of application and/or award **must** complete an environmental review and have it approved by MDOC before the land is acquired, regardless of the source of funds used for acquisition. Contact the HOME Program for more information regarding site control.

An **option agreement** for a proposed site is allowable prior to the completion of the environmental review **IF, and only IF, the option agreement is contingent on a favorable environmental review determination and the cost of the option is a nominal portion of the purchase price. The option agreement must be executed BEFORE the application is submitted. APPLICANTS NEED TO ENSURE THAT ADEQUATE TIME TO ACHIEVE ENVIRONMENTAL CLEARANCE IS BUILT INTO THE TIMEFRAME IN WHICH THE OPTION AGREEMENT MUST BE EXECUTED, at a minimum 90-plus days; longer for more complex projects.**

H. PROCUREMENT

An Applicant may contract for professional services by a consultant and/or architect/engineer to prepare the project design and/or HOME application. This contract **cannot** be renewed or extended without further competition **unless it can be clearly documented that the original hiring met all federal and state requirements** and included a scope of services that could extend beyond project design or grant writing at the Applicant's discretion. The documentation must be available to the HOME Program for review and approval. AIA contract documents for architects must be used.

Professional services provided for a longer period than originally procured must be re-advertised. The original consultant/architect/engineer may respond to the Applicant's/Grantee's subsequent RFP, and it is legitimate to consider that consultant's/architect's/engineer's prior performance when making the selection.

An Applicant/Grantee may receive a proposal for what is called a "loss leader" arrangement, where the consultant offers to prepare or assist with a grant application or project design at cut rates or for no cost, in return for favorable consideration in the selection process for a project manager or architect/engineer. No such arrangement, whether based on an oral or written agreement, can be valid or binding on the Applicant/Grantee since it clearly violates federal requirements mandating full and open competition.

See Chapter 4, Procurement Standards, HOME Administration Manual for more information on procurement.

I. APPLICABILITY OF OTHER REQUIREMENTS

HOME is subject to a number of other requirements and cross-cutting federal regulations potential Applicants should be aware before deciding to apply for HOME funds.

1. Market Analysis

Applicants must document the need and potential market for any proposed rental, homeowner rehabilitation, or single family development project. Differing levels of analysis are required to determine the need and market for any given project depending on the type and complexity of that project. As with any investor, the higher the risk involved with a project, the more analysis the HOME Program will require with an application. This suggests that there is a spectrum of analysis ranging from a formal market study for newly constructed rental housing to more minimal market analysis for a targeted homeowner rehabilitation project. See page 76, Project Planning and Need for further clarification of the market analysis requirements for your project.

At the base of any market analysis is a housing needs assessment, which is often a survey done as part of a broader community needs assessment. The results of a housing needs assessment should be analyzed for direction, rather than just tabulated for reporting. This analysis should identify a list of housing needs with a corresponding list of opportunities for meeting those needs.

After the list of needs and opportunities is identified, the Applicant must analyze the market to identify a specific potentially feasible project and provide a greater level of detail about that project's market potential. The Applicant should identify the specific demand for a project in terms of who would want to participate in the proposed project, and who would have the capacity and qualifications to do so.

A market analysis will answer a variety of questions and document the market for a specific project. When reviewing the Market Analysis, Ranking Teams will evaluate the Analysis using the questions included on page 77 (Rental Housing) and 78 (Single Family Housing).

2. Public Input and Citizen Participation

Applicants must provide citizens adequate notice and opportunity for involvement in the planning and development of HOME applications. Many Applicants find it advantageous to hold multiple public hearings, meetings, and/or charettes during pre-planning and project planning phases to obtain comments on community needs and then to discuss the nature of the proposed project being considered for application.

Once the Applicant decides to submit an application, the Applicant must:

- Hold a minimum of one public hearing or meeting before submission of the application. The purpose of the public hearing or meeting is to solicit public comment on community housing needs and priorities and to discuss the HOME program as a potential source of funding. The Applicant should give due consideration to all comments before the determination of a proposed project.

- Submit a record of any public hearings or meetings and copies of the public notices for the hearings or affidavits of publication for the notices, held in relation to the application for HOME funds. A verbatim record is not necessary; the names of persons who attended and a summary of comments by local officials and citizens are sufficient. (*Minimum Threshold Requirements*)

3. Accessibility Requirements

a. Fair Housing Act and Section 504 of the Rehabilitation Act of 1973

All HOME-assisted housing must meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.

- For new construction of **multi-family projects**, with five or more units, Section 504 requires that 5% of the total units in the project, but not less than one unit, be accessible to individuals with mobility impairments, **and an additional 2%** of the units, but not less than one unit, be accessible to individuals with sensory impairments.
- The Section 504 definition of substantial rehabilitation **multi-family projects** includes construction in a project with 15 or more units for which the rehabilitation costs will be 75% or more of the replacement cost. In such developments, 5% of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2% (but not less than one unit) must be accessible to individuals with sensory impairments.
- When rehabilitation is undertaken that is less extensive, alterations must, to the maximum extent feasible, make the units accessible to and usable by individuals with handicaps, until 5% of the units are accessible to people with mobility impairments. Alterations to common spaces must, to the maximum extent feasible, make the project accessible.
- Accessible units must be, to the maximum extent feasible, distributed throughout projects and sites and must be available in a sufficient range of sizes and amenities so as to not limit choice.
- Owners and managers of projects with accessible units must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps. They also must take reasonable non-discriminatory steps to maximize use of such units by eligible individuals.
- When an accessible unit becomes vacant, before offering the unit to a non-handicapped individual, the owner/manager should offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.
- The usual standards for ensuring compliance with Section 504 are the Uniform Federal Accessibility Standards (UFAS).

- Architects employed for new construction and substantial rehabilitation projects must be prepared to sign **Exhibit 4-E,** *Architect's Accessibility and Property Standards Certification* (Chapter 4, HOME Administration Manual), which certifies that projects funded with HOME funds meet the applicable accessibility and property standards. **Exhibit 4-E** must also be signed by a successful Applicant's chief elected official or executive director, as applicable.

b. Enhanced Accessibility Features ("Visitability")

The HOME Program also requires enhanced accessibility features for a**ll HOME-assisted new construction, including single family (homebuyer) developments, and major rehabilitation** (i.e., "gut" rehabilitation that includes replacing interior walls and doors). All HOME-assisted new construction will incorporate the following:

- 36-inch doors (32 inches of clear passage space) for all living areas (except pantry, storage, and closets)
- Levered handles for exterior and interior doors (except exterior swing doors)
- Outlets mounted not less than 15 inches above floor covering
- Light switches, control boxes and/or thermostats mounted no more than 48 inches above floor covering
- Walls adjacent to toilets, bathtubs and shower stalls require reinforcement for later installation of grab bars
- Lever style faucets for laundry hook-up, lavatory and kitchen sink
- A minimum of a **ground level half-bath** with a 30 x 48 inch turn space (also required in rehab unless waived by HOME staff for structural limitations or excessive cost, etc.)
- At least one no-step entry to all **ground floor units**

(1) New Construction, HOMEOWNERSHIP Units with One-to-Four Units

All new HOME-assisted construction homeownership one-, two-, three- or four-unit buildings (i.e., single-family unit and/or duplex, tri-plex, four-plex attached units and/or townhomes) must meet the visitability requirements as listed unless otherwise specified below.

- For a multi-story **building** with **no elevator**, all HOME-assisted units must meet the visitability requirements as listed, except for the "no-step" entrance requirement.
- The "no-step" entry requirement is for **one** no-step door per unit; other entries into the unit can be "stepped". The no-step entry can be between an attached garage and the home and the no-step entry can be achieved with landscaping or a ramp.
- For a multi-story **unit**, the visitability requirements apply to only the ground floor of the HOME-assisted **unit**.

- Waiver can be requested from the HOME Program for “good cause”.
- For projects that are not 100% HOME-assisted (i.e., not all the units in the project are HOME-assisted), the visitability requirements apply only to the HOME-assisted units.

(2) New Construction, HOMEOWNERSHIP Units with Five or More Units

All HOME-assisted new construction homeownership projects with five or more units (e.g., condominium buildings) must meet the visitability requirements as listed unless otherwise specified below.

- For a multi-story **unit**, the visitability requirements apply to only the ground floor of the **unit**.
- In a multi-story **building** with elevators, **all** HOME-assisted units must meet the visitability requirements as listed.
- In a multi-story **building** with no elevators, **all** HOME-assisted units must meet the visitability requirements as listed, except for the no-step entrance requirement.
- For projects that are not 100% HOME-assisted (i.e., not all the units in the building are HOME-assisted), the visitability requirements apply only to the HOME-assisted units.

(3) New Construction and Major Rehabilitation, Multi-Family RENTAL Projects with One-to-Four Units

All HOME-assisted multi-family rental projects, new construction and major rehabilitation, with one-to-four units must meet the visitability requirements as listed unless otherwise specified below.

- For a multi-story **unit**, the visitability requirements apply to only the ground floor of the **unit**.
- In a multi-story **building** with elevators, **all** HOME-assisted units must meet the visitability requirements as listed.
- In a multi-story **building** with **no elevators**, **all** HOME-assisted units must meet the visitability requirements as listed, except for the no-step entrance requirement.
- For projects that are not 100% HOME-assisted (i.e., not all the units in the building are HOME-assisted), and are not 100% visitable, the visitability requirements apply only to the HOME-assisted units, which must be “fixed”, not “floating”.
- Waiver can be requested from the HOME Program for “good cause”.

(4) New Construction and Major Rehabilitation, Multi-Family Rental Projects with Five or More Units

All HOME-assisted multi-family rental projects, new construction and major rehabilitation, with five or more units must meet the visitability requirements as listed.

- For a multi-story **unit**, the visitability requirements apply to only the ground floor of the **unit**.
- In a multi-story **building** with elevators, **all** HOME-assisted units must meet the visitability requirements as listed
- In a multi-story **building** with **no elevators**, **all** HOME-assisted units must meet the visitability requirements as listed, except for the no-step entrance requirement.
- For projects that are not 100% HOME-assisted (i.e., not all the units in the building are HOME-assisted), and are not 100% visitable, the visitability requirements apply only to the HOME-assisted units, which must be "fixed", not "floating" (see Designating HOME-Assisted Units: Fixed or Floating, beginning on page 44).

4. Conflict of Interest

There are two sets of conflict of interest provisions applicable to activities carried out with HOME funding. The first set is applicable to the procurement of goods and services and subject to the procurement regulations located at 24 CFR Parts 84 and 85. **HUD cannot** grant any exceptions to the provisions of parts 84 and 85. The second set of provisions cover situations not covered by parts 84 and 85 and are located at 24 CFR §92.356.

a. 24 CFR Parts 84 and 85: Minimum Standard Requirements

Part 84 provisions contain minimum standard requirements that a **CHDO** must ensure are contained in the organization's written standards of conduct governing the performance of its employees engaged in the award and administration of contracts – 24 CFR §84.42.

Part 85 provisions contain minimum standard requirements that a **local government** must ensure are contained in the written code of standards governing the performance of their employees engaged in the award and administration of contracts – 24 CFR §85.36(a).

A potential Applicant must be prepared to include a copy of these standards as part of the Management Plan (**Exhibit 14**) if it decides to apply for HOME funds.

b. Situations not Covered by 24 CFR Parts 84 and 85

The second set of provisions cover situations not covered by parts 84 and 85 and are located at 24 CFR §92.356. These provisions prohibit **1)** employees and other representatives of the Grantee or subrecipient from obtaining a financial interest or benefit from any HOME assisted activity; and **2)** owners and developers of HOME-assisted housing and their employees and other representatives from occupying HOME-assisted units. Under certain conditions, **HUD** *may* grant an exception on a case-by-case basis.

A Grantee may request an exception to the provisions of 24 CFR §§92.356(a)-(f), but **only after complete disclosure of the nature of the conflict at an advertised public hearing held for that purpose**. The Grantee's attorney must issue an opinion that the interest for which the exception is sought does not violate federal, state, or local law. HUD will then review the information concerning disclosure, public hearing, and attorney's opinion.

Additional information can be found in Chapter 4: Procurement Standards, HOME Administration Manual, including a presentation on conflicts of interest, presented by Ellen Dole, Regional Counsel, HUD Region VIII, Denver; August 2010.

The requirements and processes for public disclosure, attorney's opinion, and request for exception by HUD should be described in the potential Applicant's Management Plan (**Exhibit 14**) if it decides to pursue HOME funding.

5. Contract Opportunities to Minority and Women-Owned Businesses

Affirmative steps **must** be taken to assure that minority and women-owned businesses are used, when possible, as sources of services, supplies, equipment, and construction. An Applicant's Management Plan must contain a Grantee's plan to take such affirmative steps. Additional information on the procurement of Minority and Women-Owned Businesses is available in Chapter 4 of the HOME Program Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch04.mcpx

6. Section 3 of the Housing and Urban Development Act of 1968

Section 3 requires that economic opportunities generated by HUD providing financial assistance for housing and community development programs be targeted toward low and very low income persons. In effect, this means that recipients of HUD funding (including HOME funds) must, to the greatest extent feasible, provide employment or contracting opportunities to low and very low income persons and to the businesses owned by or employing low and very low income persons. The Section 3 requirements apply to job training, employment, contracting and subcontracting and other economic opportunities arising from assistance provided for construction, reconstruction, conversion, or rehabilitation (including lead-based paint hazard reduction and abatement) of housing. Additional information on Section 3 is available in Chapter 4 of the HOME Program Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch04.mcpx

7. Affirmative Fair Housing Marketing Policy and Plan

Successful Applicants must adopt affirmative marketing procedures and requirements for all housing projects with five or more HOME-assisted units. Successful Applicants must adopt procedures and requirements that include the elements discussed below:

- Methods for informing the public, owners, and potential tenants about fair housing laws and policies
- Description of what owners and/or Grantee will do to affirmatively market housing assisted with HOME funds
- Description of what owners and/or the Grantee will do 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
- Description of how efforts will be assessed and what corrective actions will be taken where requirements are not met

Applicants must use **Exhibit 7-A**, *Affirmative Fair Housing Marketing Plan* as part of the affirmative marketing procedures for competitive grant applications, multi-family projects, and **Exhibit 7-B** for competitive grant applications, single family housing projects.

8. Lead-Based Paint (LBP)

Housing that was built prior to January 1, 1978 is subject to HUD's Lead Safe Housing Rule (found in HUD's regulations at 24 CFR Part 35). The rule applies to work performed in target housing units receiving HUD housing assistance, such as rehabilitation or acquisition assistance. In addition, the Lead Safe Housing Rule (LSHR) must also comply with EPA's Renovation, Repair and Painting Rule (RRP).

Effective April 22, 2010, the RRP rule affects paid renovators who work in pre-1978 housing and child-occupied facilities, including:

- Renovation contractors
- Maintenance workers in multi-family housing
- Painters and other specialty trades.

Specifically the rule requires that at least one **EPA Certified Renovator** be on the job or available when the work is being performed. Information regarding how to become an **EPA Certified Renovator** can be found at:

http://www.epa.gov/lead/pubs/toolkits.htm

Additional information regarding the RRP rule can be found at:

http://www.hud.gov/offices/lead/training/rrp/rrp.cfm

Required lead hazard reduction activities are based on the **HOME investment per unit**, excluding the cost to address any LBP hazard. (See **Exhibit 6**, *Summary of HUD's Lead-Based Paint (LBP) Requirements*, for details regarding the process for complying with LBP regulations).

Additional information on LBP regulations is available in Chapter 2 of the HOME Program Administration Manual online at:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch02.mcpx

Applicants applying for HOME funds must demonstrate an understanding of LBP regulations and have a process in place to provide satisfactory compliance with the LBP regulations. The HOME Program will thoroughly review the Applicant's written policies and guidelines in its management plan, and assess its ability to provide the necessary personnel and the qualified contractors. Applications for programs that require LBP policies will not be funded unless detailed policies are provided in the application.

For housing that has been kept in good repair and, upon a visual assessment, does not have deteriorated paint (cracking, scaling, chipping or peeling), LBP is not considered a hazard, unless surfaces will be disturbed during rehabilitation activities.

A visual assessment certification is obtained by completing the HUD certified on-line training at:

http://www.hud.gov/offices/lead/training/visualassessment/h00100.cfm

LBP regulations do **not** apply to:

- Housing built after January 1, 1978
- Property that has had all LBP removed and/or has been found to be free of LBP by a certified LBP inspector
- Housing designated (in the lease or residency agreement) as **exclusively** for the elderly or persons with disabilities, unless a child under 6 years of age resides or is expected to reside in the unit. This exemption does **not** apply to owner-occupied single-family housing.
- Any zero-bedroom dwelling, including efficiency apartments and single-room occupancy housing

9. Program Income and Recaptured Funds Generated from Previous HOME Grants

The HOME Program requires Grantees to return program income and/or recaptured funds generated from previously-awarded HOME grants to the HOME Program, unless the Grantee is a Qualified Entity for the Single Family Noncompetitive Program or the HOME Program approves the use of the funds on the Grantee's open competitive grant.

If a Grantee receives approval to use the funds, activities assisted with HOME Program income or recaptured funds are treated the same as those assisted with the HOME allocation. **All** HOME Program rules and requirements apply. **Any program income or recaptured funds a HOME Grantee is allowed to retain must be disbursed by that HOME Grantee before it requests additional HOME funds.**

The HOME Program may not authorize the establishment of multiple HOME accounts for the same HOME Grantee in order to create "de facto" revolving loan funds; **HOME Program rules do not permit the establishment of revolving loan funds**.

Each successful Applicant will prepare a Program Income / Recaptured Funds Plan, as part of its Management Plan.

Additional information on program income, recaptured funds, and CHDO proceeds is also available in Chapter 9 of the HOME Program Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch09.mcpx

10. CHDO Proceeds

CHDO Proceeds are any proceeds resulting from the CHDO's investment of its CHDO set-aside funds that the HOME Program permits the CHDO to retain. The HOME Program requires quarterly reporting of CHDO proceeds. Once CHDO proceeds have been reported and used once for HOME-eligible activities, there are no further HOME requirements.

Each successful CHDO Applicant doing a CHDO-eligible activity will prepare a CHDO Proceeds Plan, as part of its Management Plan, that details how the CHDO will use CHDO Proceeds for affordable housing activities.

IV. PROJECT DEVELOPMENT AND REQUIREMENTS

Regardless of the activity type, **projects must be completed within 36 months** from the date the MDOC Director signs the contract with the Grantee. Contracts between the Grantee and MDOC should be signed within 4 months of grant award, unless otherwise approved in writing by the HOME Program. It is incumbent upon the Grantee to provide the HOME Program with a revised budget, implementation schedule, and management plan and other information needed to prepare the contract. Environmental clearance (either from the HOME Program or HUD, as applicable) must be achieved within 6 months, unless otherwise agreed to in writing by MDOC. (At a minimum, allow at least 60 to 90 days for environmental clearance; see **Exhibit 14**, Management Plan Template, Project Implementation Schedule.) Signing the contract, achieving environmental clearance, and completing the project must be appropriately reflected in the Implementation Schedule of the Uniform Application[6] (SEC B – PROJ INFO tab, PART XIV), and in the implementation schedule narrative.

Additional information on the specific requirements involved for eligible project activities is available in Chapter 7 of the HOME Program Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch07.mcpx

A. RENTAL HOUSING

HOME funds may be used for acquisition, new construction, or rehabilitation of affordable rental housing. The developers or owners of the rental housing may be small scale property owners, for-profit developers, nonprofit housing providers, CHDOs or the local government, redevelopment organizations, or public housing authorities.

Maximum HOME per-unit subsidy limits apply to rental units. The actual subsidy provided will depend on the following:

- The proportion of the total project costs that is HOME-eligible.
- How many of the units in the project are HOME-assisted, for projects with a mix of HOME and non-HOME-assisted units, and the configuration of the units.
- The financial needs of the project – HOME projects may not receive more subsidy than is required to make them financially feasible.

A HOME-assisted unit is one that has been assisted with HOME funds. HOME rent and occupancy rules apply only to HOME-assisted units. The number of HOME-assisted units must be specified – a partial amount of the units or all of the units.

HOME rules create a floor for the number of HOME-assisted units a project must have. This floor is based on the proportional share of total eligible costs to be paid with HOME funds. (See Determining the Number of HOME Units: Fair Share and Subsidy Limit Tests, on page 45.)

1. Designating HOME-Assisted Units: Fixed or Floating

For properties that have both HOME-assisted and non-assisted units, the applicant must select whether the assisted units are "fixed" or "floating". **This designation must be made at the time of *project commitment* (i.e., HOME grant award).**

Fixed units remain the same throughout the period of affordability. **Floating** units are changed to maintain conformity with the requirements of 24 CFR §92.252(j) 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

[6] Go to **http://housing.mt.gov/FAR/housingapps.mcpx**, click on "**Fillable UNIAPP Forms**"; when you right-click on the tab arrows located at the lower left part of the Excel window after you have opened the Fillable UNIAPP Forms, you will see a menu of all the forms and you can use it to select the form you need.

size, features, and number of bedrooms to the originally designated HOME-assisted unit.

a. Fixed Units

When HOME-assisted units are "fixed", the specific units that are HOME-assisted (and therefore, subject to HOME rent and occupancy requirements) are designated and **never** change. If other HOME funds, e.g., city of Billings, Great Falls or Missoula, are involved the state HOME units must be fixed. State HOME funds and other HOME funds cannot fund the same unit.

The HOME Program recommends that the HOME units be "fixed", especially if other funding sources are involved, and all the units are not HOME-assisted because of the complexities involved with complying with varying regulations.

b. Floating Units

When HOME-assisted units are "floating", 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. The units **must remain comparable** to the non-assisted units over the affordability period in terms of size, features and number of bedrooms.

By definition, **floating units must be comparable** in terms of size, features and number of bedrooms.

2. Determining the Number of HOME Units: Fair Share and Subsidy Limit Tests

The amount of HOME funds that may be invested in an affordable housing development are regulated under 24 CFR §92.250. HOME funds may not exceed the per unit dollar limits established by HUD under 221(d)(3) subsidy limits. The current limits may be found in **Exhibit 15A**, *Montana Maximum per Unit Subsidy Limits*.

The published HOME subsidy limits are considered limits and not targets or average costs. Current MDOC HOME project comparables will also be a factor in approving project costs. In determining the minimum number of HOME-assisted units that must be designated for your proposed project, please refer to the automated calculation worksheet located within the Uniform Application (tab "Section D-Home Allocation", the HOME 221(d)(3) and Fair Share Test Spreadsheet)

If the proposed project is located in an entitlement city, and city HOME funds are also being utilized in the project, please contact the HOME Program for further guidance in determining the number of HOME-assisted units.

In no event may the maximum subsidy exceed the actual development cost of the HOME-assisted units, based upon the proportionate share of the total development cost. Rehabilitation costs for common areas may be covered in the same proportion or percentage as HOME-assisted units in the project. For example, if five out of ten units in the structure(s) are HOME-assisted, HOME funds may be used to cover one-half of the rehabilitation costs for the common areas.

All proposed HOME rental projects must meet HUD's **Fair Share** and **Subsidy Limit** tests: the minimum number of HOME units is the **GREATER** of the fair share number of units or the number determined by the subsidy limit test.

$$\textbf{Fair Share} = \frac{\text{Planned HOME Investment}}{\text{Total Eligible Project Costs}} \times \text{Total Number of Units in Project}$$

$$\textbf{221(d)(3) Subsidy Limit Test} = \frac{\text{Planned HOME Investment}}{\text{221(d)(3) Subsidy Limit}}$$

Example (for **comparable** units[7]):

Total eligible cost: $ 1,000,000
221(d)(3): $ 80,000
HOME Investment: $ 750,000
Total number of units: 10

Fair Share Test: $\frac{\$750{,}000}{\$1{,}000{,}000} = 0.75 \times 10 \text{ units} = 8 \text{ HOME units (round up)}$

Subsidy Test: $\frac{\$750{,}000}{\$80{,}000/\text{unit}} = 10 \text{ HOME units (round up)}$

Minimum Number of HOME Units: **10 units**

3. Subsidy

Before determining the allowable HOME subsidy amount, the Applicant must establish the total HOME-eligible cost for the project. For mixed projects with HOME-assisted and non-HOME-assisted units, the Applicant must allocate costs across units. If both the assisted and non-assisted units are comparable in size, features and number of bedrooms, the HOME-eligible costs can be pro-rated across units.

NOTE: Since floating units, by definition, must be comparable, costs should always be pro-rated. HOME funds can pay the pro-rated share of the HOME-assisted units. The units can be either floating or fixed. **If assisted and non-assisted units are *not* comparable, actual costs must be determined and allocated unit-by-unit, charging only actual costs to the HOME Program plus a pro-rata share of common costs. The units must be fixed.**

- **Pro-rating Cost Allocation Method:** To use the pro-rating method of allocating costs, **there must be comparability** between the total inventory of HOME-assisted and non-assisted units in a project. For example, in a 12 unit building in which half the units are one-bedroom and half are two-bedroom and the units of each bedroom

[7] Comparable units have the same number of bedrooms, amenities and square footage. If units are not comparable, contact the HOME Program for further guidance on the Unit-by-Unit Cost Allocation Method.

size are approximately the same square footage, there should be an equal proportion of one- and two bedroom units in the assisted and non-assisted units. Similarly, if one-third of the units are HOME-assisted, designation of two 1-bedroom units and two 2-bedroom units would be required to achieve comparability in the distribution of units.

When assisted and non-assisted units are **comparable**, total eligible development costs (including acquisition, development hard costs to construct or rehabilitate the unit, and project soft costs excluding relocation costs) may be pro-rated in order to determine the HOME share of the total costs. Thus, all eligible project costs may be distributed between the HOME Program and other funding sources, **if** the HOME share does not exceed the maximum per unit subsidy limit. When the assisted and non-assisted units are comparable in size and distribution, a prorated share of the cost of common elements attributable to the HOME-assisted units may be paid with HOME funds.

> *<u>Example</u>: An Applicant/Grantee proposes to replace a heating system, install new water and waste lines, and replace the roof in a 24-unit building, which will bring the building up to code. Since there are eight HOME-assisted units that are comparable to the non-assisted units in the building, HOME may pay one-third of the total HOME-eligible common costs because one-third of the units are HOME-assisted.*

The ratio of the HOME investment to the total eligible development costs is equivalent to the ratio of the minimum number of units that must be HOME-assisted to the total number of units.

- **Unit-By-Unit Cost Allocation Method:** When the HOME-assisted and non-assisted units in a project are **not comparable** in terms of distribution or size, the Grantee must determine and charge the HOME Program for the **actual costs** incurred for the acquisition and development of the HOME units, plus any common costs that can be attributed to the HOME portion of the project.

  To allocate these costs, the Grantee must designate the HOME-assisted units, develop a pro-forma for the assisted units, and TRACK THE COSTS FOR EACH UNIT.

  Common costs attributable to HOME-assisted units are determined by calculating the total square feet in HOME units as a percentage of the total square feet in the project. HOME funds can pay for that percentage of the common costs.

  The actual cost for each unit is charged to the HOME Program, provided the actual cost does not exceed the maximum per unit subsidy. The actual cost is charged, regardless of whether it is more or less than the pro-rated cost would be.

> *<u>Example 1</u>: An Applicant will construct a new 30-unit, mixed-income development. Ten of the units will be luxury units, with a total development cost of $2,000,000. Ten units will have somewhat fewer amenities and will be marketed to middle-income households with incomes between 80 and 120 percent of the area median income. The total development cost of these units will*

be $1,500,000. The remaining ten units will have even fewer amenities and will be rented to low- and very low-income households. The total development cost of these units will be $750,000. Because the units in this project are not comparable, the Grantee may use HOME funds only for the cost of the units that will meet the HOME requirements. Therefore, it may invest up to $750,000 in HOME funds to construct the 10 units for income-eligible families, provided that the per unit subsidy limit equals at least $75,000. All ten (10) units will be designated as HOME-assisted.

Example 2: An Applicant will use $200,000 of HOME funds and $100,000 of local funds to rehabilitate a 15-unit building it already owns. Five of the 15 units are 2-bedroom units and will not be HOME-assisted. The remaining ten units are efficiencies (occupied by income-eligible households) and will be HOME-assisted. The total rehabilitation cost is $300,000. HOME can pay the actual rehabilitation costs, up to the per unit subsidy limit, of the units designated as "HOME-assisted.

Additional guidance on allocating costs in projects with HOME and non-HOME units can be found in HUD Notice CPD 98-02 or by contacting the HOME Program.

4. Period of Affordability

The following table outlines the minimum affordability periods for rental projects:

	Years of Affordability			
Activity	**5**	**10**	**15**	**20**
New Construction of Rental Housing (any $ amount)				**X**
Acquisition of Newly Constructed Rental Housing (any $ amount)				**X**
Rehabilitation or Acquisition of Existing Rental Housing, with HOME funds invested per unit as follows: Under $15,000 per unit	**X**			
$15,000 to $40,000 per unit		**X**		
Over $40,000 per unit			**X**	

5. HOME Rents

The HOME rent limits are the **maximum** rents that can be charged to an income-eligible tenant residing in a HOME-assisted unit. The HOME rent limits include utilities. This means the owner/manager must **deduct** tenant-paid utilities from the published HOME rents to determine the maximum rents that can be charged for a HOME-assisted unit. (See more information on Utility Allowances on page 49.)

The HOME rents are provided by HUD. HUD updates the HOME rents annually, usually in late winter or early spring, per 24 CFR §92.252. The HOME Program has two rent limits: the High HOME rent limits and the Low HOME rent limits. These rent limits are adjusted for different localities and for each bedroom size unit from zero (efficiency) to six bedrooms. The HUD website for current HUD HOME Program Rents is:

http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/index.cfm

Regardless of the rent maximums, consideration must be given to keeping the established rents at or below the actual market rent in the community of the proposed property to ensure marketability.

a. Low HOME Rent

Low HOME Rents apply to at least 20% of the units in properties with five or more HOME-assisted units. The Low HOME rent units must be occupied by very-low-income tenants (households at 50% or less of area median income).

Low HOME Rent Limits can either be set as:

- Thirty percent (30%) of the **tenant's** monthly adjusted income, **OR**
- The HUD-calculated and published Low HOME rent. [HUD calculates this rent amount as thirty percent (30%) of the annual income of a household whose income equals 50% of the median income; Grantees do not calculate].

NOTE: If a project has a **Federal or State project-based rental subsidy and** the very-low-income tenant pays no more than 30% of his or her adjusted income toward rent, the maximum rent may be the rent allowed under the project-based rental subsidy program.

b. High HOME Rent

HUD-published High HOME Rents apply to units that are designated as High HOME Rent units and are occupied by low-income tenants (households at 80% or less of area median income).

HUD calculates the High HOME rents as the lesser of:

- The Section 8 Fair Market Rents (FMRs) for existing housing; **OR**
- Thirty percent (30%) of the adjusted income of a household whose annual income equals 65% of the median income (HUD calculates the rent amount and makes it available on its website; Grantees do not calculate).

c. Utility Allowances

The 2013 HOME Final Rule requires that a utility allowance schedule be developed initially for each HOME rental project using the HUD Utility Schedule Model (See Exhibit 27 and Exhibit 28) or by otherwise determining the utility allowance for the project based on the type of utilities used at the project. The allowances must be updated annually.

HUD's calculation of HOME rents **includes** the established utility schedule noted above. The maximum allowable HOME rents must be reduced if the tenant **directly pays** for utilities – NOTE: the unit must be separately metered for those utilities the tenant is responsible for.

Examples:

$728	High HOME Rent	$577	Low HOME Rent
$ 50	(minus) Utility Allowance	$ 50	(minus) Utility Allowance
$678	Maximum HOME Rent	$527	Maximum HOME Rent

HUD updates the **HOME Program rent limits** every year, usually in late winter or early spring, which is **not** the same as the Section 8 annual rent adjustments. If rent limits go up and utility allowances remain steady, rents may be raised accordingly. If the HOME rent limits go down or utility allowances go up, rents may need to be decreased; except that rents are never required to be less than the initial rents approved by the HOME Program at the time of project commitment.

d. Fees and Other Surcharges

HUD discourages mandatory fees and services in HOME projects. Such mandatory fees, surcharges, and services are subject to HOME Program written approval before they can be imposed on a tenant. Generally, if imposed, HUD requires the owner/manager to deduct all mandatory fees from the HOME rent limit to determine the maximum rent that can be charges for a unit. In addition, the Montana HOME Program must consult with its HUD representative for guidance on mandatory fees on a project-by-project basis before approving the mandatory fee, surcharge or service.

e. Rent Adjustments

The MDOC HOME Program must approve a property's rent structure prior to lease up. Additionally, the HOME Program Final Rule requires participating jurisdictions to review and approve the rents for HOME-assisted rental projects each year to ensure they comply with the HOME limits and do not result in undue increases from the previous year. The MDOC HOME Program requires that the rent schedule for a project be submitted for review and approval at least 30 days prior to implementation. Rent increases might occur when:

- HUD-published HOME rent limits increase; or
- The tenant pays utilities and the project's utility allowance decreases; or
- The tenant becomes over-income.

- Rent decreases might occur when:
  - HUD-published HOME rent limits decrease; or
  - If the tenant pays utilities and the project's utility allowance increases the tenant's rent to more than the HUD-published HOME rent limits.

f. Changes in Tenant Income

If a tenant's income changes during the affordability period, the project owner must take certain steps to maintain compliance with HOME rent and occupancy requirements.

- The project must maintain the correct number of High and Low HOME rent units.
- Rents must be adjusted for tenants whose incomes rise above 80% of the area median income.

MDOC must review and approve any increase in rents to HOME-assisted units. **The owner MUST request MDOC approval and provide a minimum 30-day *written* notice to tenants prior to any increase in rents.** Additionally, any changes in rent for occupied units are subject to terms of the tenant's lease. If the published HOME rent decreases for HOME-assisted projects, an owner may continue to use the rents in effect at the time of **initial project commitment**.

6. Occupancy Requirements and Income Eligibility Requirement

Owners may not refuse to lease HOME-assisted units to a housing choice voucher holder under the Section 8 Program.

HOME rental housing has two constraints on occupancy. (See **Exhibit 19**, *Unit Mix Examples for Projects with Five (5) or More HOME-Assisted Units*.)

- **At *initial occupancy***, in projects of five or more HOME-assisted units, the program rule specifies that *90% of the total households assisted* through the rental program have *incomes that do not exceed 60% of the area median income* (AMI); the balance of rental units (10%) must assist tenants with incomes that do not exceed 80% of the area median income, as follows:
  - ***At least 20%*** *of the HOME-assisted rental units* must be occupied by households who have annual *incomes that are 50% or less of AMI*. These very-low-income tenants must occupy units *at or below the Low Home Rent* level.
  - ***At least an additional 70%*** *of the HOME-assisted rental units* must be occupied by households with annual *incomes that are 60% or less of AMI* with rents not exceeding the High HOME Rent level.
  - ***The remaining 10%*** *of the HOME-assisted rental units* must be occupied by households with annual *incomes that do not exceed 80% of AMI* with rents not exceeding the High HOME Rents.
- **For *subsequent occupancy*** and for the duration of the period of affordability, in projects of five or more HOME-assisted units, at least *20% of the HOME-assisted rental units* must be occupied by households with annual *incomes that are 50% or less of AMI with unit rents at or below the Low HOME Rent*.

The balance of the units may be occupied by tenants with incomes up to 80% of the median income with rents not exceeding the High HOME Rents.

A project that includes fewer than five HOME-assisted units is exempt from the 20% occupancy requirement both at initial and subsequent occupancy.

Current HUD HOME Income and Rent Limits are available at:

http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm

7. Combining Funds with Low Income housing Tax Credits (LIHTC)

Projects using HOME funds with LIHTC have to consider a number of items in blending the two sets of program rules. **Exhibit 16** provides an overview of tax credit rules and the requirements of combining the two programs.

8. "Mixed Income" Project

A "mixed income" project is comprised of housing units with differing levels of affordability, typically with some market-rate units and some units available to low-income persons at below market-rate. The "mix" of affordable and market-rate units differ from community to community, and can depend, in part, on the local housing market and marketability of the units themselves. Communities and developers must evaluate local market conditions and develop locally supported concepts and characteristics of the mixed-income development.

All HOME funds used in conjunction with a mixed income project must be used solely for the benefit of the affordable, HOME-assisted units in the project. Any HOME-assisted units must meet the occupancy requirements and rent limitations identified in this section.

For purposes of meeting affordable housing requirements for a project, the dwelling units specified as affordable housing may be changed over the affordability period, so long as the total number of affordable housing units remains the same (see information on "floating" units beginning on page 44), and the substituted units are, at a minimum, comparable in terms of size, features, and number of bedrooms to the originally designated affordable housing units.

Common area costs will be prorated based upon the number of affordable units and market rate units.

Additional information on mixed income housing and the HOME Program is available at:

http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/2004/200315.cfm

9. "Mixed Use" Project

The term "mixed use" refers to housing in a project that is designed in part **for uses other than residential**, i.e., commercial space, office space, etc., that is not used as rental housing. A building that is designed in part for other than residential housing may qualify as affordable housing under the HOME Program if such housing meets the rent limitations identified in this section. The laundry and/or community facilities that a project contains for the exclusive use of the project residents and their guests are considered residential use. Costs for common areas shared by both residential and commercial tenants shall be prorated.

10. Special Needs Housing: Group Homes and Single-Room Occupancy (SRO) Units

Permanent housing for disabled homeless persons, group or transitional housing and single-room occupancy housing are eligible project activities. Applicants may choose to consider the housing unit as a single unit for HOME assistance purposes or, depending upon their size, choose to classify them as SRO units. The maximum HOME subsidy amount will differ according to whether the housing unit is classified as a group home or an SRO.

- A **group home** is 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 units and separate private space for each household, except in the case of shared one-bedroom units. It also includes group homes for elderly or disabled persons. These structures are usually large single-family units.

  A group home is considered by HUD to be a **one-unit** project. A one-unit project consists of separate bedrooms and shared kitchen, dining, sanitary and/or other common area facilities. **All occupants** of single-unit HOME-assisted projects, except supportive service providers, must be low-income. Bedrooms occupied by resident supportive service providers are counted as eligible bedrooms for subsidy purposes. The **entire project is considered a single-unit for determination of the maximum HOME subsidy limit. The subsidy limit is based on the number of bedrooms in the unit.** (See **Exhibit 15A**, *Montana Maximum per Unit Subsidy Limits*.)

  Group homes frequently include food and/or other supportive services to its residents. Group home rents may **not** include food costs or the costs of any supportive services. **Costs for such services must be billed as separate charges.** For group home units developed for persons with disabilities, disability-related services **must be non-mandatory**. The lease must also state whether the fee-based services are optional or mandatory and must identify the amount of the additional fees or surcharges separately from the basic HOME rent for each tenant. If there any other mandatory fees, the MDOC HOME Program must approve them in writing. Generally, these costs are deducted from the HOME rent limit. Prior to approving any mandatory fees, the MDOC HOME Program must consult with its HUD representative on a project-by-project basis.

- HUD considers an **SRO** to be a **multiple-unit** project. **Single-room occupancy** is housing consisting of multiple single-room dwelling units that are the primary residence of the occupant or occupants. If the project consists of new construction, conversion of non-residential space, or reconstruction, each unit must contain either food preparation or sanitary facilities, or both. For acquisition or rehabilitation of an existing residential structure, neither food preparation nor sanitary facilities are required to be in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. **SROs do not include facilities for students**. All occupants of HOME-assisted units must be low-income. The subsidy limit is based on the zero-bedroom subsidy amount times the number of units.

SRO unit rents may **not** include food costs or the costs of any supportive services. **Costs for such services must be billed as separate charges.** For SRO units developed for persons with disabilities, disability-related services **must be non-mandatory**. Each SRO tenant's lease must clearly state whether the fee-based services are optional or required and must identify the amount of the additional fees or surcharges separately from the basic HOME rent for each tenant. The MDOC HOME Program must approve the cost of any mandatory services; generally, these costs must be deducted from the HOME rent limit. Prior to approving any mandatory fees, the MDOC HOME Program must consult with its HUD representative on a project-by-project basis.

Applicants may wish to meet the standards for an SRO project by installing **either or both** sanitary or food preparation facilities. Doing this would create individual units, thereby increasing the number of units that may be assisted with HOME funds.

Also see **Exhibit 8**, *SROs and Group Homes Compared*, for a summary of the differences between SROs and group homes. **Exhibit 15A**, *Montana Maximum per Unit Subsidy Limits*, outlines the maximum per unit subsidy.

11. Tenants

a. Tenant Selection

An owner of rental housing assisted with HOME funds must adopt written tenant selection policies and criteria. A list of the minimum criteria is found in **Exhibit 10**, *Tenant Selection Procedures*. Owners may not refuse to lease a HOME-assisted unit to a household because it holds a HUD Section 8 Housing Choice Voucher.

b. Initial Tenant Certifications and Tenant Recertifications

Household incomes must be determined at the time of move-in (tenant certifications). Applicants should keep in mind that if their proposed project is already occupied at the time of application (such as would be the case for most rehabilitation projects), they should confirm that at least the projected number of HOME-assisted units (by bedroom size) is occupied by income eligible tenants at the time of application. (See Beneficiary Income Eligibility on page 27.) Grantees must use one of the following two definitions of "annual income" for eligibility purposes.

- The HUD Section 8 or "Part 5" definition (found at 24 CFR 5.609). This is the definition used in most HUD programs. (*Recommended for rental projects*)

- The IRS adjusted gross income definition. This is the definition used for reporting individual taxable income to the IRS. (*Recommended for homebuyer projects*)

[c3]Grantees must identify in the management plan which method will be used throughout the project's period of affordability. Prior approval from the HOME Program is required, if using the IRS adjusted gross income definition

Tenant income must be reexamined at least annually. The recertification must use the same definition of income as the initial certification.

Additional information on Tenant Certifications and Recertifications is available in Chapter 7 of the HOME Program Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch07.mcpx

c. Tenant Income Increases

Tenants who no longer qualify under the HOME income restrictions MUST pay for rent **not less than** 30% of the household's adjusted monthly income, as re-certified annually, and the unit must be marketed to HOME-eligible households when vacated. (**NOTE:** Not applicable for combined HOME/Low-Income Housing Tax Credit Properties. See **Exhibit 16**, *Rules for Combining HOME Funds and Low Income Housing Tax Credits*.)

d. Tenant Protections

- **Lease.** There **MUST be a lease** between a tenant and an owner of rental housing assisted with HOME funds. The lease should be for at least one year, unless otherwise mutually agreed to by the tenant and owner.

- **Prohibited Lease Terms.** The lease between the owner and tenant in a HOME-assisted property cannot contain any of the prohibited lease terms listed in **Exhibit 9**, *Prohibited Lease Terms and Checklist to Verify the Lease Conforms to HOME Requirements*.

- **Termination of Tenancy.** An owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for:

  - Serious or repeated violation of the terms and conditions of the lease;
  - Violation of applicable Federal, State or local law;
  - Completion of the tenancy period for transitional housing; or
  - For other good cause.

  To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

12. Property Maintenance, Repair, and Replacement

An owner must maintain the total development in compliance with all applicable housing quality standards and local code requirements. All HOME-assisted properties must be maintained as decent, safe and sanitary housing.

HOME-assisted properties are valuable assets. Maintaining the physical condition of the properties helps owners retain the value in their investments and promotes financial viability. Management of the property should include and adequately address the following operational issues:

- Routine and preventative maintenance
- Property security
- Work order systems
- Operating deficit account
- Capital repairs and improvements

See **Exhibit 25**, *Property Maintenance, Repair, and Replacement*, for additional information.

B. HOMEOWNERSHIP

Homebuyer programs can be structured in any number of ways to encourage the acquisition, acquisition and rehabilitation, or the new construction of affordable homes. Program design will be guided mainly by community needs and the local housing market. **The following information pertains to single family housing development through the competitive process.**

1. Homebuyer Qualifications

The homebuyer must have an annual income that does not exceed 80% of the area median income (see Beneficiary Income Eligibility on page 27) and must utilize the HOME-assisted residence as his/her principal residence. The homebuyer household must be income-eligible at the time HOME assistance is provided to the homebuyer.

2. Purchase Price Limits

The purchase price of the property cannot exceed HUD purchase price limits. See **Exhibit 15-B**, *Maximum Purchase Price and After-Rehabilitation Value*.

3. Property Standards

The assisted property must meet housing quality standards (HQS) at the time of purchase. HQS inspections must be conducted by employees of the Grantee or by a party under contract with the Grantee. The HUD HQS Inspection Checklist, either form HUD-52580-A (long form), or form HUD-52580 (short form), must be used to document the inspection. This inspection must be independent of any inspection or appraisal conducted on behalf of the lender or homebuyer; i.e., the Grantee cannot rely upon inspections performed by appraisers on behalf of the lender and/or home inspections conducted on behalf of the homebuyer. The HQS inspector needs to be qualified / certified to conduct the inspection.

4. Period of Affordability

Homebuyer assistance activities are subject to the minimum period of affordability requirements listed below.

Amount of HOME Funds Provided	Minimum Affordability Period
<$15,000	5 years
$15,000 - $40,000	10 years
>$40,000	15 years

Grantees are responsible for ensuring the property continues to be owned by the assisted homebuyer, is owner occupied, and is used as the owner's principal residence throughout the period of affordability. The Grantee will be required to verify the status of the property and homeowner and annually report the status to the HOME Program.

5. Recapture/Resale Restrictions

Homebuyers assisted under HOME will be subject to ***either*** **recapture** ***or*** **resale** guidelines as specified by 24 CFR §92.254. (Note: Applicants **may not** choose to do both.) Applicants for single-family development projects must submit, as part of the Management Plan, the policy for recapture or resale if a home is sold during the period of affordability. Applicants should also outline equity sharing policies, if any. [**Note:** If HOME funds are used for new construction, the resale option **must** be used if there is no additional direct subsidy (i.e., down payment and closing cost assistance) to the homebuyer.]

a. Recapture

A homeowner whose subsidy is subject to recapture is required to **repay all or a portion of the HOME subsidy** if the property is sold or transferred during the affordability period. The seller is allowed to sell the home to any willing buyer at any price as long as the HOME debt remaining on the property is repaid. If the sale of a HOME-assisted house during the affordability period results in repayment of the HOME subsidy and/or a share of the increased equity, the Grantee can use the proceeds for any HOME-eligible activity as long as the grantee has an MDOC-approved program income or recaptured funds plan or CHDO proceeds plan (see **Exhibit 14**, Management Plan Template).

The applicant's recapture policy must comply with the requirements set forth in Chapter 7 of the HOME Program Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch07.mcpx

b. Resale

The objective of the resale option is to **continue the affordability of a property** in the event of sale of the property. The Grantee must ensure that the terms of resale are both affordable to the new buyer and fair to the seller. Finding this balance may be complicated by fluctuations in price, interest rates, and availability in uncertain housing markets. In a typical program using this option, the seller is obligated to either find an income-eligible buyer who can afford the sales price, or sell the property to the Grantee at a price that will keep the property affordable for the next low-income buyer. In situations that might benefit from such controls, the resale option offers Grantees an attractive alternative to searching for other affordable properties in the future for homebuyer programs.

***If HOME assistance provides only a development subsidy* (construction, infrastructure, land acquisition, etc.), *the resale option must be used because construction and development subsidy is not subject to recapture*.**

The Applicant's resale policy must comply with the requirements set forth in Chapter 7 of the HOME Program Administration Manual:

http://housing.mt.gov/HM/hmadminmanual/hmadminmanualch07.mcpx

c. Equity Sharing

In housing markets where property values increase rapidly, Grantees may want to consider how the appreciated value of a home would be shared between the Grantee and the homeowner at the time of sale. An equity sharing policy must be included with an Applicant's recapture or resale policy if the Applicant elects to use equity sharing.

d. Foreclosure

HUD released an interpretation of recapture/resale provisions in cases of foreclosure. The interpretation could result in Grantees paying the HOME investment back to the US Treasury. In order to avoid that scenario, Grantees must set recapture policies based on **net proceeds available** from the sale of a home. Such a policy allows a Grantee to collect some of the HOME investment from the homebuyer, while preventing repayment of its HOME investment to the US Treasury. **Net proceeds** are defined as the sales proceeds minus superior non-HOME loan repayments and seller-paid closing cost.

C. HOMEOWNER REHABILITATION

- An eligible entity that wants to access the Single Family Noncompetitive Program to conduct homeowner rehabilitation activities needs to contact the HOME Program.
- If an eligible entity wants to apply for a competitive grant for homeowner rehab to take advantage of economies of scale, the entity first needs to contact the HOME

Program. The entity will need to pre-identify up-front a group of homeowners/homes that would qualify for rehab. The entity would be required to procure services of professionals, such an architect or engineer licensed and qualified to work in Montana, lead-based paint clearance inspectors, appraisers, contractors, etc., to complete the rehab activities in a specific area.

1. Homeowner Qualifications

The homeowner must have an annual income that does not exceed 80% of the area median income (see Beneficiary Income Eligibility on page 27) and must utilize the HOME-assisted residence as his/her principal residence. The homeowner household must be income-eligible at the time HOME assistance is provided.

2. Property Standards

The State of Montana HOME Program delegates the responsibility of ensuring the rehabilitated property meets code requirements to its Grantees conducting rehab activities. Code requirements are complex; so the HOME Program consulted with the Montana Department of Labor & Industry, Business Standards Division, Building Codes Bureau, and determined the certification can only be provided by an architect or engineer licensed and qualified to work in Montana.

HUD regulations found at 24 CFR 92.251, Property Standards, state in part that:

> *Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion…In the absence of a local code for new construction or rehabilitation, HOME-assisted new construction or rehabilitation must meet, as applicable: one of three model codes [Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI)]; or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926…*

Housing that is rehabilitated with HOME funds, including homeowner rehab, must meet **ALL** applicable local codes, HOME Program housing rehabilitation standards, and zoning ordinances. The State of Montana does not have state or local codes related to the rehabilitation of residential, single family properties; therefore, housing rehabilitated with HOME funds must meet the requirements of one of the model codes previously listed. Additionally, all health and safety deficiencies in the property must be addressed. HOME funds cannot be solely used for addressing weatherization and/or accessibility issues; the entire housing unit must be brought to code.

3. After Rehabilitation Value

The value of the HOME-assisted property after rehabilitation may not exceed the after-rehabilitation value as established by HUD (see **Exhibit 15B**, *Maximum Purchase Price and After-Rehabilitation Value*). To establish eligibility, the after rehabilitation value must be established **PRIOR** to **ANY** work being performed. To establish the housing unit's eligibility, the after-rehabilitation value **must** be established by an **appraisal that incorporates the proposed rehab work conducted by a qualified appraiser**. The homeowner files must document the appraised value and the appraisal approach used. The purchase price of the property cannot exceed HUD purchase price limits.

4. Period of Affordability

The Montana HOME Program requires that homeowner (owner-occupied) rehabilitation activities be subject to the minimum period of affordability requirements listed below.

Amount of HOME Funds Provided	Minimum Affordability Period
<$15,000	5 years
$15,000 - $40,000	10 years
>$40,000	15 years

Grantees are responsible for ensuring the property continues to be owned by the assisted homeowner, is owner occupied, and is used as the owner's principal residence throughout the period of affordability. The Grantee will be required to verify the status of the property and homeowner and annually report the status to the HOME Program.

5. Recapture Restrictions

The Applicant/Grantee must have a mechanism in place to recapture all or a portion of the HOME subsidy if the HOME-assisted homeowner decides to sell the house within the period of affordability. The Applicant/Grantee may require full or partial repayment of the HOME subsidy from net proceeds when the property is resold during the affordability period. The amount subject to recapture must be limited to what is available. Net proceeds are defined as the sales proceeds minus superior non-HOME loan repayments and seller-paid closing cost. The exact amount to be repaid can be determined by only one of the following ways:

- Recapture the entire amount: The Applicant/Grantee may recapture the entire amount of the HOME investment from the homeowner. If there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, the Applicant/Grantee can only recapture the amount of the net proceeds, if any, and the remaining balance is forgiven. If the homeowner does not sell and continues to occupy the home for the entire period of affordability, the loan is forgiven at the end of the period.
- Reduction (forgiveness) during the period of affordability: The Applicant/Grantee may decide to forgive part or all of the HOME subsidy. The decision to forgive must be a part of the overall homeowner rehabilitation program design, and not decided on a case-by-case basis. Forgiveness must be tied to the length of time the

homeowner has occupied the home in relation to the period of affordability (i.e., the Applicant/Grantee would forgive 50% of the subsidy amount for an owner who sold the home half-way through the period of affordability).

D. MANUFACTURED HOUSING (EXCLUDING MODULAR HOUSING)

HUD has a specific definition for manufactured homes as well as specific requirements in order to be eligible for assistance with HOME funds. Frequent problems have arisen when attempts have been made to rehabilitate manufactured homes. For example, Applicants should consider whether it is the best use of public funds to spend $20,000 rehabilitating a unit, which will be worth only $5,000 when the rehabilitation is complete. Similarly, significant problems have arisen when households are relocated to older manufactured homes. The HOME Program encourages extra care and analysis when contemplating applications involving manufactured homes. Consideration of other alternatives, such as residual value, relocation to a conventional "stick-built" home in standard condition, purchase of modular housing, as well as down payment assistance, should be carefully evaluated. These alternatives may prove to be far more cost-effective in the long run.

1. Property Standards

- HOME funds may be used to purchase and/or rehabilitate a manufactured housing unit. Eligible activities are limited to rental rehabilitation; homeowner rehabilitation, or homebuyer assistance. Manufactured housing that is new manufactured housing or is replacing an existing substandard manufactured home under the HUD definition of reconstruction must be on a permanent foundation that meets the requirements for foundation systems set forth in 24 CFR 203.43f(c)(i) The housing must also:Meet or exceed the standards established by the Manufactured Home Construction and Safety Standards Act in 24 CFR 3280. All transportable sections of manufactured homes built in the U.S. after July 15, 1976, must contain a red label, which is the manufacturer's certification that the home section is built in accordance with HUD's construction and safety standards. HUD standards cover body and frame requirements, thermal protection, plumbing, electrical, fire safety and other aspects of the home.
- Be connected to permanent utility hook-ups;
- For homeowner rehabilitation or homebuyer assistance activities, the manufactured housing must be located on land that is owned by the manufactured housing unit owner or on land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability. The manufactured house needs to be on a foundation that meets the requirements stated above and meet the Department of Revenue's definition of qualifying as real property vs. personal property for tax purposes so that the house can be "de-titled". (See 42.20.117, Administrative Rules of Montana.)

- Replacement manufactured homes that are used must be inspected by a Certified Mobile Home Inspector. A list of certified inspectors can be found at:

  http://housing.mt.gov/content/FAR/docs/2009mobilehomeinstpectorlist.pdf

Applicants considering any housing activity involving manufactured housing must clearly state this in their application and provide a clear, justifiable rationale for the request.

2. Subsidy

If a potential Applicant is proposing to develop an occupied project in which over-income households occupy some of the units/lots, it may not invest HOME funds in those specific units/lots. Therefore, potential Applicants proposing to acquire and/or rehabilitate an occupied manufactured home park must verify the incomes of each of the tenants/occupants to determine if the tenants/occupants are HOME qualified **before** submitting the application (see income eligibility information on page 27). A "survey" of tenant information is not adequate.

> ***Example:*** *A potential Applicant wishes to acquire a manufactured home park with 40 lots of comparable size, all of which are currently occupied. The occupants own their own homes and rent the lots upon which the homes rest. The potential Applicant certified the incomes of each of these occupied units and found the following:*
>
> - *10 lots are rented by homeowners whose incomes are above 80% of the area median income*
> - *2 lots are rented by homeowners whose incomes are between 61% and 80% of AMI*
> - *28 lots are rented by homeowners whose incomes are below 60% of AMI*
>
> *The potential Applicant may not invest any HOME funds in the 10 lots rented by homeowners who are not low-income (incomes are above 80% of AMI). It may invest HOME funds in all of the remaining 30 lots (provided the manufactured homes on those lots met code requirements). Since 30 HOME-assisted lots is 75% of the total units, 75% of the total HOME-eligible acquisition costs may be paid with HOME funds, not to exceed the HOME maximum per unit subsidy limit.*

This type of project is considered to be a rental project; therefore, the potential Applicant must ensure the occupants/tenants of the HOME-assisted units know they will need to continue to provide income and asset information annually for the entire period of affordability (5, 10, or 15 years).

V. APPLICATION PROCESS

Applicants must use the Uniform Application[8] **and** these HOME Program Application Guidelines to request funding through the Competitive process for qualified projects. Applicants should also reference the HOME Program Administration Manual when developing an application. The current year's Administration Manual is available upon request or at **http://housing.mt.gov/HM/hmadminmanual/default.mcpx.**

Applications that do not meet *Minimum Threshold Requirements* identified in the Ranking Criteria (page 66) will not be ranked or considered for funding. In addition, an application must receive at least 100 points for Financial Management in order to be ranked or considered for funding (i.e., if the application does not receive at least 100 points for Financial Management, the other sections of the application will not be reviewed and scored).

Funds expended prior to grant award are not reimbursable. Reimbursement of funds expended after grant award but prior to the release of funds is contingent on completion of an executed HOME Contract, an approved Environmental Review Record, a firm commitment of all funds, and an approved Management Plan. If a HOME Contract is not executed or a Grantee is unable to comply with the terms and conditions of the agreement, any costs incurred will be the responsibility of the Applicant.

A. CONSOLIDATED PLAN

HOME Program Applicants must submit proposals that are consistent with the Montana Consolidated Plan. Before submitting an application, an Applicant MUST consult with the State of Montana's Consolidated Plan Coordinator to determine if the proposed project is consistent with the Consolidated Plan. The Applicant must request, in writing on the Applicant's letterhead, a Certificate of Consistency with the Consolidated Plan. The letter must include a brief description of the project including type of project, location, beneficiaries, etc. **The Applicant must submit the MDOC Certificate of Consistency in its application**. (*Minimum Threshold Requirement*)

Requests for a Certificate of Consistency **should be made at least two weeks in advance of the application due date** and should be addressed to:

Julie Burk, Consolidated Plan Coordinator
Montana Department of Commerce
Business Resources Division
PO Box 200505
Helena, MT 59620-0505

[8] Go to **http://housing.mt.gov/FAR/housingapps.mcpx**, click on "**Fillable UNIAPP Forms**"; when you right-click on the tab arrows located at the lower left part of the Excel window after you have opened the Fillable UNIAPP Forms, you will see a menu of all the forms and you can use it to select the form you need. HOME Applicants will need to complete Sections A, B, and C, and Env Rqst (Section D)

This requirement also applies to open applications and re-applications, if applicable.

B. ORDER OF APPLICATION

Each Applicant must submit an original and three copies of the application to the HOME Program, each copy in a three-ring binder. Applications also must follow the *Required Order of Application* found in **Exhibit 11**.

Applications are competitively ranked. Having all applications submitted in three-ring binders and organized following the Order of Application will result in a fair and equitable comparison of each application as well as making it easier for ranking team members to find justification for the Applicant's request. If the application is disorganized, the teams may not find information necessary to rank the application.

C. DOCUMENTS INCLUDED BY REFERENCE

- The current HOME Program Administration Manual
- Title 24 Code of Federal Regulations Part 92 (Home Investment Partnerships Program)

D. RESOLUTION TO SUBMIT AND AGREEMENT TO CERTIFICATIONS

Applicants must include a signed original *Resolution to Authorize Submission of Application* and *Agreement to Certifications for Application* (including the *Certifications for Application)* with their application, found in **Exhibit 1.** The Resolution/Agreement must be signed by the Chief Elected Official for Local Government Applicants or by the Executive Officer/Director for CHDO and PHA Applicants.

Within the six-month period prior to submitting an application, each Applicant's governing body must adopt or pass, sign and date the resolution and agreement. Applicants should read this section carefully and fully understand the commitment and responsibilities associated with it. MDOC assumes the Applicant has determined its own legal authority under Montana law to apply for the grant and to conduct the activities proposed in the application. **NOTE:** If the signed original Resolution is not available, a certified copy of the original resolution is acceptable.

E. EVALUATION

In evaluating applications, MDOC will rank each application based on its own merits in comparison to those submitted by other HOME Applicants. After reviewing each application, a ranking team will evaluate the degree to which each proposed program responds to applicable criteria.

After submission of an application, Applicants are expected to keep MDOC informed of any developments that could affect the viability of the proposed project. MDOC may contact the Applicant to clarify issues, or to verify information contained in the application. A failure to respond to any criterion will result in *no points* being awarded for that criterion.

Numerical or percentage claims will be accepted and considered valid only to the extent they are clearly substantiated. *Do not* assume that ranking team members are aware of important details regarding your HOME proposal. Such details should be communicated as clearly and succinctly as possible. Likewise, Applicants must submit only information that supports or validates statements made in the application. Submitting a 200-page Needs Assessment may be more detrimental to the overall evaluation than simply including a complete summary that is short and understandable. Similarly, providing no documentation to support or validate information will result in an equally low score.

F. DETERMINATION OF HOME AWARD

HOME funds are intended to be used in conjunction with other funds to ensure that no more than the necessary amount of HOME funding is invested in any one project to provide affordable housing. The difference between total project costs and total available financing resources (including owner equity requirements) is referred to as the "gap". A typical HOME financing project includes owner equity; conventional, Board of Housing and/or other financing; CDBG and/or other grants; LIHTC and other local public and private sources of funding; and HOME funds to fill the gap. Based on the combination of funding and anticipated project costs, an analysis to determine the necessary amount of HOME funds will be done at the time of application.

MDOC *will not* process/approve any application that is not financially feasible.

Ranking will be completed and staff recommendations provided for consideration by the Montana Department of Commerce Director. Upon the Director's approval, all Applicants will be notified, in writing, whether or not their applications have been selected for funding. Funding decisions are final. There is no appeal process. The HOME Program will not negotiate with any Applicant for an award of funds. The HOME Program encourages applicants not awarded funds to review the ranking narratives and contact the HOME Program for technical assistance in applying again for a later round of funding.

NOTE: Applicants awarded HOME funds will need a Data Universal Number System (DUNS) number in order to access HOME funds. The DUNS number is a unique nine-digit identification number provided by Dun & Bradstreet (D&B). If you are not sure if you have a DUNS number or if you know you do not have one, call D&B using the toll-free number, 1-866-705-5711 and indicate that you are a Federal grant applicant/prospective applicant. D&B will ask for certain information and will then assign a number, free of charge.

VI. RANKING CRITERIA

All projects under consideration for a HOME grant award are evaluated using the following specific criteria **after** the *Minimum Threshold Requirements* are met.

Financial Management........................200 points

A minimum Financial Score of 100 must be met in order for ranking to proceed

Program Management........................200 points
Project Planning and Need.................100 points
Capacity Determination......................100 points
Total points possible………………..600 points

In addition, a possible **50 bonus points** are available for innovative design in energy efficiency and green building (see page 82). To receive bonus points, the energy efficiency and green building aspects must be supported by the plans and specifications for the project. The energy efficiency and green building aspects must be included in the base bid for project construction. If an Applicant that receives funding fails to follow through and does not include the proposed features in the final design, bid specifications, and construction of the project, any future applications will be negatively impacted. For more information, go to HUD's Office of Environment and Energy.

Each criterion has been assigned a number of points representing its relative priority or worth. Each application is awarded points based on the Applicant's overall response to each specific criterion, in comparison to other applications. It is incumbent upon the Applicant to prepare and submit documentation to verify standards, conditions or statements presented in response to any of the ranking criteria. If you have a question or concern regarding any of the ranking criteria, you should contact the HOME Program before submitting an application. Each of the four criteria listed above will be issued points according to the following point system:

Points Assigned	**100**	**200**
No Response: Applicant did not provide a response for criterion	0	0
Minimum Response: Applicant has provided minimal response	25	50
Average Response: Applicant has met regulatory requirements	50	100
Good Response: Applicant has met regulatory requirements and has taken extra measures to address this criterion	75	150
Excellent Response: Applicant has met regulatory requirements and has utilized an exemplary approach to address this criterion	100	200

- Each application may be assigned up to a maximum of 650 points.
- Applications must receive at least **100 points for Financial Management** in order to be evaluated.
- Applications for funding must receive at least **300 points** in order to be eligible for funding.

- **[Bonus points](#) may not be used to bring an otherwise non-fundable application up to the fundable level.**

A. MINIMUM THRESHOLD REQUIREMENTS

Applications must be complete when submitted to the Montana Department of Commerce (MDOC). The following identifies the minimum regulatory requirements to compete for HOME funds. Documentation must be provided where applicable. Omitting any information will result in an Applicant's non-consideration for funding.

APPLICANT:____

☐ Local Government
☐ CHDO
☐ PHA

Type of activity: ______________________________________

APPLICANTS WHO FAIL TO MEET ANY OF THE FOLLOWING MINIMUM THRESHOLD REQUIREMENTS WILL NOT BE CONSIDERED FOR FUNDING AND THE APPLICATION WILL NOT BE RANKED. Applicants are encouraged to provide tab references, page numbers, etc., to help ensure none of the minimum thresholds are overlooked.

NOTE: If you feel a section is *not applicable* to your project or organization, contact the HOME Program for verification before proceeding.

MINIMUM THRESHOLD REQUIREMENTS

Included (X)	Page No. or Tab	
	For HOME use only	Application postmarked, receipted into other delivery service (e.g., FedEx, UPS, etc.), or received at 301 S Park Ave Room 240 on or before application deadline?
	For HOME use only	Did Applicant use current year format for Uniform Application and HOME Program Application Guidelines (effective December 1st, 2012)?
	For HOME use only	If local government, PHA, or CHDO doing non-CHDO activity, did Applicant apply to HOME only once this round?
	For HOME use only	If CHDO doing CHDO-eligible activities, did the CHDO-Applicant apply to HOME once per county in which it operates?
		Did the Applicant include an ***overall narrative***, not to exceed two pages, describing the proposed program? ▪ Does the narrative enable the ranking team to gain an immediate understanding of the overall scope of the HOME proposal, including the key elements of the program?
		If the Applicant is a CHDO or PHA, is there a letter of support for the project from the local jurisdiction(s)? ▪ Does the letter specifically state the proposed housing project is consistent with the local comprehensive plans and zoning ordinances?

Included (**X**)	Page No. or Tab	
		Is the Resolution to Authorize Submission of Application and Agreement to Certification for Application dated within 6 months of the application submission and signed by the Chief Elected Official (Local Government Applicant) or Executive Officer (CHDO or PHA Applicant)? ▪ Does it include an **original signature** or a **certified copy** of an original?
		Is a copy of the MDOC "Certificate of Consistency with the Consolidated Plan" included in the application?
		Does the Implementation Schedule show that: ▪ a contract between the grantee and MDOC will be signed within 4 months of grant award; ▪ funds will be released within 6 months, and ▪ project completion within 36 months of contract execution?
		Are the resumes of the members of the development team attached?
		Is an Independent Market Analysis attached?
		Is a copy of **Exhibit 7-A** or **7-B** *Affirmative Fair Housing Marketing Plan* (AFHM) attached for all projects with 5 or more HOME-assisted units? (Draft plan is acceptable)
Citizen Participation Process		
		Did the Applicant hold a public meeting within two months of the application due date?
		Did the Applicant submit: ▪ a record of the public hearing, ▪ proof of advertisement, ▪ summary of comments, and ▪ a sign-up sheet of persons attending the meeting?
Match Eligibility		
		Will the minimum 5% match requirement be met with match eligible funds?
		Is a copy of the MDOC HOME match confirmation letter included in the application? ▪ Are copies of commitment letters for the match included?
Site Control		
		For rental or new construction projects, does the Applicant have **firm** evidence of site control? (*Title, deed, 75-year lease, etc.*)
		If property will be acquired for the project, is a signed copy of **Exhibit 20**, *Voluntary Agreement*, included?
Zoning		
		Is the site properly zoned at the time of application? ▪ Is evidence of appropriate zoning attached?

Included (X)	Page No. or Tab	
		Is site adequate in size, exposure, and contour to accommodate the number and type of units proposed?
Environmental Review		
		Is Section D-UNIFORM ENVIRONMENTAL CHECKLIST of the Uniform Application (*Env Rqst* tab) completed? ▪ Does it include **sources of information for EACH item** and is it **signed by the preparer**?
		Have CHDOs and PHAs provided documentation that the unit(s) of local government(s) has(have) agreed to conduct/prepare the ER on behalf of the CHDO or PHA?
CHDO Requirements		
B (1-3)	**For HOME use only**	Is there a current year MDOC CHDO certification on file for the Applicant?
Tenant Relocation		
		Have existing tenants been properly informed of relocation procedures? ▪ Are copies of the tenant notifications sent to each tenant included? (See **Exhibit 2**, *General Information Notice: Residential Tenant Not Displaced*). Documentation must indicate the **manner in which this notice was delivered** (e.g., personally served or certified mail, return receipt requested), **to whom** it was delivered, and the **date of delivery.** ▪ Is a list of tenants that received the notice included?
Past Grantee Eligibility		
	For HOME use only	Are all HOME grant(s) more than 3 years old (FFY 2010 and earlier) complete and with a conditional closeout submitted?
	For HOME use only	Are all open FFY 2011 HOME grants at least 75% spent down?
	For HOME use only	Are all open FFY 2012 HOME grants at least 50% spent down?
	For HOME use only	For CHDO applications, are the above requirements met for open CHDO grants within the same county?
	For HOME use only	If prior HOME grant(s) is/are outstanding, have all audit, monitoring, or performance findings been resolved?
	For HOME use only	If prior HOME grant(s) is/are outstanding, is Applicant in compliance with project Implementation Schedule?
Applicant Eligibility		
	For HOME use only	Upon receipt of the grant application, the HOME Program will conduct a debarment check of the applicant. The HOME Program will check the name of the applicant (local government, CHDO, PHA) to determine if the applicant is listed on the U.S. General Services Administration's "System for Award Management" and will then notify the applicant if found ineligible.

B. FINANCIAL MANAGEMENT (200 Points)

This ranking criterion will establish the financial feasibility of an application. Points will be awarded to applications based on the extent that application material supports project feasibility and viability. **An application must receive at least 100 points in this ranking category to be further evaluated.**

The ranking team will consider the items listed below during its evaluation of information provided in the Uniform Application, underwriting criteria as outlined in the checklist below, and the supporting financial documentation provided in the Application. Applicants will likely need to provide additional narrative information to enhance the Ranking Teams' understanding of the project.

If the Development Team includes both a CHDO and a Developer, the information MUST be provided for both entities

Organization completing checklist below: ☐ **CHDO** ☐ **Developer**

MINIMUM FINANCIAL REQUIREMENTS		
Included (X)	**Page No. or Tab**	
Organization Financial Statements		
		Is the current Organizational Budget attached (including all activities and programs)?
		Is the current Profit and Loss Statement attached?
		Is a Statement of Activity covering the last 12 months attached?
		Is the current Balance Sheet attached?
		Is the most recent Independent Financial Audit attached?
		(If checklist is being completed by a CHDO or a nonprofit developer) Is a letter of support from the organization's auditor showing the organization meets 24 CFR 84.21 standards attached?
If CHDO and or Developer Own Rental Property		
		Is a list of each property attached?
		Does the list include property description including number of units, location, and vacancy rate?
		Is the Annual Budget for each property attached?
		Is the 12 Month Profit & Loss Statement for each property attached?
		Is the list of other rental projects currently under development attached?
Project Underwriting – Uniform Application Sec C Parts I & II		
		Is Section C Parts III-VI of the Uniform Application complete?
		Is there a mix of public and private funding sources?

MINIMUM FINANCIAL REQUIREMENTS		
Included (X)	**Page No. or Tab**	
		Are written funding commitments provided – either firm or contingent on receipt of HOME funds (i.e. grant award letter or letter of interest)?
		Are letters from permanent and/or construction lenders attached that outline loan terms and conditions?
		If the applicant is a partnership, did it include a copy of the partnership agreement specifying cash contributions of partners?
		Do Sources of Funds (Uni-App Part I) equal Uses of Funds (Uni-App Part II)?
		Is a Preliminary Architectural Report attached?
		Did applicant include all uses of funds?
		Does the construction budget include contingency?
		If project includes acquisition – is an appraisal attached?
		If project includes relocation, is there a budget line-item for relocation costs as well as a justification for the number?
		Are only HOME-eligible costs located in the HOME column of Part II – Uses of Funds?
		Does the Project come in at or below the following percentages in Part II-Uses of Funds: 1. General Requirements – maximum of 6% of construction costs excluding general requirements 2. Contractor Overhead – maximum of 2% of construction costs and improvements 3. Contractor Profit – maximum of 6% of construction costs 4. Developer Fees – maximum of 15% of total project costs excluding the developer and builder fees, land costs, and costs of acquisition if a rehabilitation project. 5. Project Soft Costs: a. 8% for New Construction and Acquisition b. 12% for Rehabilitation
		Are the uses of funds sufficiently documented? (e.g., preliminary bids, appraisals, cost estimates, options to buy)
		Are the project costs reasonable when compared to comparable projects in the same geographic area and/or published industry cost indices?
		Are the basis for the cost estimations for the various budget line items defined and reasonable?
Project Underwriting – Uniform Application Parts III-VI		
		Does the rent schedule (Section C, Part IV) adhere to current HOME Program Rent Limits?

MINIMUM FINANCIAL REQUIREMENTS		
Included (X)	**Page No. or Tab**	
		If applicable, does Part III – Utility Allowances use the correct utility schedule?
		Is the HOME Program Project Rent Schedule attached? Does it adhere to current HOME Program rent limits?
		Is all income included in the pro forma?
		Does the project have net positive cash flow throughout the Period of Affordability
		Is all debt service included in the cash flow projections?
		Are operating expenses comparable to other similar rental projects?
		Are the property management fees comparable to other rental projects (e.g., 5-7 percent of gross rents)?
		Are the total HOME funds requested necessary to provide affordable housing?
		Are all cash operating expenses associated with the particular project included?
		Is the Fair Share Test tab complete and does the Operating Budget reflect the proper number of units?
		Does the Operating Budget (Revenues, Expenses and 15-year Pro Forma) for the project adhere to the following underwriting assumptions: (In very rare situations different assumptions may be justified, but must be documented.) 1. Vacancy rate: at least 7% 2. Replacement Reserves: at required per unit level as listed in the *Uniform Application*, Section C – Cost Fees, Part VII Operating Reserves: four months of projected operating, replacement reserve and debt coverage 3. Debt Coverage Ratios: 1.15 - 1.25 4. Operating Expenses: 1 - 2% greater than percent of increase in income
		If the project is multi-family rental rehabilitation, are the proposed HOME-assisted units occupied by income-qualified?

C. PROGRAM MANAGEMENT (200 Points)

The Applicant must provide a Management Plan following the outline provided in **Exhibit 14**. A Management Plan is essential for both administration of the grant funds, **and** long-term compliance and management throughout the period of affordability.

The outline provided in **Exhibit 14** is a tool that must be used to organize the entire program before the application is submitted. The Applicant's Management Plan must demonstrate an understanding of the entire project's life, from application through the end of the period of affordability. Familiarity with HOME requirements and regulations, and how they are integrated in the organization, must be evident in the Management Plan. The Management Plan submitted with the application will be reviewed more thoroughly by the HOME staff before final adoption if the grant is awarded.

The Management Plan ensures continuity in the administration of the program, regardless of changes in personnel. Applicants must follow the outline provided to receive points in this criterion. Do **NOT** delete the numbered outline/question/area to which the Applicant is providing a response. The HOME Program requires the numbered outline/question being addressed be included. The Applicant's response/explanation must follow the numbered outline/question/area being addressed. For example:

A. PROGRAM OVERVIEW

General Program Description

1. Provide a brief description of the project including the type of program, the total number of units/homes to be impacted, the number of HOME-assisted units, and the target population of the program.

The Sunrise CHDO will construct 18 new units multi-family rental housing, 9 of which will be HOME-assisted...

   a. If doing a rental project containing both HOME-assisted and non-HOME-assisted units, specify whether HOME-assisted units will be fixed or floating as well as the size of the units, number of bedrooms, features, and amenities..

The Sunrise CHDO will construct 18 new units multi-family rental housing, 9 of which will be HOME-assisted. The units will be fixed. Nine of the units will have two bedrooms, one bathroom and will be approximately 900 square feet...

The Management Plan must demonstrate the ability of the Applicant or its management entity to manage the project throughout the period of affordability regardless of internal changes (loss of staff, reorganization, etc.).

D. PROJECT PLANNING AND NEED (100 Points)

In this section, the Applicant describes the planning process and local need that led to this project. Applicants **must** provide documentation to support quoted statements or data. Unnecessary or duplicative documentation beyond what is required will result in a lower score.

1) Provide a summary of the planning that led to this project. Include when planning started, what entities were instrumental in the process, and why this project was undertaken (i.e., what need does this project fulfill in the local community).

2) Outline the public meeting process and other methods used to encourage maximum citizen participation during the planning process and development of the housing project. Include a record of hearings or meetings, copies of the public notice or affidavits of publication, names of persons attending, summary of comments received at the public hearings or meetings, minutes, and records of any other meetings in addition to the meetings specified in the minimum requirements. Applicants showing additional citizen involvement beyond the minimum requirements may rank more competitively.

3) Identify if the project will serve special housing needs populations, i.e., homeless persons, people with serious disabling mental illness, people with developmental disabilities, people with physical disabilities, elderly individuals or households, TANF recipients, single heads of households, etc.

4) If supportive services are to be provided, describe the services and their level of intensity, and provide a firm letter of intent from the service provider.

5) Submit a proposed development site plan showing build-up of the site including location of all proposed buildings, streets, parking areas, service areas, playgrounds, and any other significant details of the site.

6) Provide evidence of availability of utilities (water, sewer, gas and electricity) and streets available to service the site. Acceptable documentation includes a letter from the municipality where the project will be located, or from the applicable utility company. Include all required easements.

Market Analysis

Any Applicant seeking HOME funds must provide an independent market analysis that documents both the need for additional affordable housing as well as sufficient demand to support the new development. The market analysis used to apply for LIHTC funds is acceptable. If an Applicant is **not** seeking LIHTC funds, a limited market study, which can be completed for a reduced cost, is acceptable to the HOME Program. If the independent, limited market study does not address all the criteria required by the HOME Program, a full market study may be required.

For New Construction Rental Projects Only: Applicants must also complete **Exhibit 24**, *New Construction Site and Neighborhood Standards for Rental Projects*, as required at 24 CFR 92.202 and set forth in 24 CFR §983.57(e).

For nontraditional projects (i.e. group homes or transitional housing), contact HOME Program staff for guidance on how to structure a market analysis to meet the needs of the project.

Market Analysis – Rental Housing

When reviewing the Market Analysis, Ranking Teams will evaluate the Analysis using the questions below:

1. Is the Market Analysis complete and relevant to the project proposed in the application?
2. How is the market area defined?
    a. What is the market area?
    b. What are the population and household trends?
3. What are the site location advantages and disadvantages?
    a. Local amenities such as parks, shopping and recreation?
    b. Access to essential community services including hospitals, schools and transportation?
4. What is the demand for rental housing?
    a. Demand analysis:
        i. Is there more demand than there is supply? How much more? Is there too much supply?
        ii. Of the estimated overall effective demand, what is your capture rate? How much of that would you have to capture to make your project viable?
        iii. Estimate the absorption rate – how fast are the units going to be leased up?
5. What is the current supply of rental housing?
    a. What are the competing properties?
    b. How comparable are they to competition?
        i. Is the project really competitive? How affordable is it compared to the real market rate units?
        ii. Can people afford a market rate unit by spending a little more a month or do they really need some kind of assistance?
        iii. Will the new development draw people from the other subsidized developments from down the block and around the corner?
    c. What do competing properties tell us about likely property feasibility/operations?
    d. What do key indicators tell us about timing/lease-up, likely tenants, etc…?
6. If the Application is for Rental Rehabilitation, the ranking team will also consider:
    a. What is the property to be rehabilitated and its current condition?
    b. Is there a survey of existing households to determine their incomes, preference to continue to reside in project and their priorities for

rehabilitation from the tenant perspective and do the results of the survey show the project to be viable?
   c. Is there a potential source for tenant and/or a recruitment plan for replacement families?

Market Analysis - Single Family Housing

1. **Homeowner Rehabilitation** for competitive applications (not required to access HOME funds under the [Single Family Noncompetitive Program](#))
   a. Determine the rehabilitation needs in the community based on property standards deficiencies
   b. Document number of eligible and interested households with rehabilitation needs
   c. Document number of eligible and interested contractors to perform the rehabilitation

2. **Single Family Development** (not required to access HOME funds for homebuyer assistance under the [Single Family Noncompetitive Program](#))
   a. Is the Market Analysis complete and relevant to the project proposed in the application?
   b. How is the market defined?
      i. Did the analysis define the market area that will justify the number of units?
      ii. How does it estimate the number of households that are going to be assessed?
      iii. Is the assessment realistic in assessing and assigning the area?
   c. What are the advantages/disadvantages of the location
      i. Is the neighborhood solid? (e.g. home values, foreclosures, length of time homes are on market)
      ii. What is the condition of the other homes in the area?
      iii. Is the proposed site within an area that would be of interest to the target population (e.g. parks, shopping)?
      iv. What is the access to essential community services including hospitals, schools and transportation?
      v. Are there households living outside the area that would move into the proposed project area?
   d. What is the demand for single-family housing?
      i. Is the market growing, contracting, stable?
      ii. Assess for-sale housing supply activity such as sales volume, prices, and length of time on market
      iii. Are there excess for-sale units on the market?
      iv. Are sales prices rising, stable, or declining?
   e. What is the supply of single-family housing?

    i. What are the choices for buyers in the market. Does analysis include availability of foreclosed properties or homes that were priced higher in past years but have been losing value that may offer more amenities?
    ii. Will the project be able to sell in the market within 6 months after construction completion?

f. Who is the target market?
    i. Are the potential homebuyers first-time?
    ii. What is the typical family size?
    iii. Document number of eligible and interested households (e.g. waiting list)
    iv. Document the availability of homebuyer classes to interested households

E. CAPACITY DETERMINATION (100 Points)

These ranking criteria measure the ability of the **APPLICANT** to meet the housing purposes and goals presented in its application. If the APPLICANT is partnering with another entity, the Developer's information must be included **in addition to** the APPLICANT'S information; however, please note: the Developer's information **CANNOT** be substituted for the **APPLICANT'S** information.

Attach a list of all housing projects completed by the Applicant (and/or) the Developer in the last five years:

- **Date completed**
- **Project size (units)**
- **Targeted population**
- **Major Funding Sources including any Federal Funds**
- **Approximate cost**
- **Any additional information (LEED or Energy Star certification, Awards for Project Design or Operation, etc…)**

1.a) Explain how the APPLICANT has the capability to carry out the project and to what degree the project is ready to proceed.

1.b) If applicable, explain how the DEVELOPER has the capability to assist the APPLICANT to carry out the project.

In assessing the **APPLICANT'S** readiness to proceed, the ranking team will consider the following, depending on the type of project:

1. Organizational structure
   a. What does the CHDO/Developer have as its current project pipeline and program responsibilities? Will it be able to handle the additional project proposed?
   b. Does it show the capacity to take on this additional activity and continue to manage everything that it has ongoing?
2. Development team roles
   a. Are all of the key development team roles filled with qualified individuals or firms?
3. Partner/consultant
   a. Does the CHDO/Developer have a need for a partner or a consultant to supplement its skills and help it to ensure success, while still maintaining development control?
4. Prior experience
   a. Do team members have prior experience directly relevant to the proposed project?
   b. Does the development team have adequate experience to tackle project of this complexity?

c. Has the CHDO/Developer performed adequately in the past in HOME, CHDO/Developer, and/or other real estate development activities?

   i. Has the Applicant received any Concerns, Questions of Performance, or Findings on past monitoring reviews? Are they resolved?

   ii. Has the Applicant successfully managed past funding awards for itself and/or other Grantees under contract?

   iii. Has the Applicant adhered to its Implementation Schedule and completed past HOME projects within 24/36 months from date contract was signed by MDOC Director?

d. Has the Applicant successfully fulfilled its commitments from prior year(s) grant awards? For example:

   i. Is the Applicant continuing to meet the needs at the income level committed to in previous applications through the required period of affordability?

   ii. If the Applicant received bonus points for energy conservation and green building measures for a previously funded application, did the Applicant follow through and include the proposed measures in the design, bid specifications, and final construction of the project?

5. Experience working together
   a. Have the team members worked together before or demonstrated the ability to work effectively as a team?
6. HOME Program Compliance
   a. Is the CHDO/Developer currently in good standing on all its development and administrative activities?

      i. Has the Applicant completed and submitted all past year's annual certifications as required in their contracts?

      ii. Has the Applicant completed and submitted all past year's program income/CHDO proceeds reports as required in their contract?

      iii. Has the Applicant expended program income/CHDO proceeds or returned them to MDOC in a timely manner?

F. INCENTIVES FOR INNOVATIVE DESIGN (50 Points)

A possible **50 bonus points** are available to Applicants who document that energy conservation and green building measures will be implemented in the project.

- To be eligible for bonus points, **the Applicant must first meet all the minimum threshold measures before any discretionary points will be counted**.
- The Applicant must provide a narrative documenting to what extent each proposed item will be implemented and the energy efficiency and green building aspects must be supported by the plans and specifications for the project.
- The Applicant must include energy efficiency and green building aspects in the base bid for project construction.
- The Applicant's architect or engineer must provide certification upon completion of the project confirming that the initiatives were incorporated.

NOTE: The standards prescribed by *ResCHECK* will NOT be accepted.

If an Applicant is funded and receives Bonus Points but fails to follow through and does not include the proposed features in the final design, bid specifications, and construction of the project, the Applicant's Capacity score for future applications will be negatively impacted.

ENERGY	**Scoring Items**	**New**	**Rehab**	**Points Received**
Threshold	Insulation and Windows exceeding **IECC 2012** standards			
Threshold	Add Air Lock Doors			
Threshold	Furnace/Boiler that exceeds **IECC 2012** standards			
Threshold	Energy Star appliances (describe to what extent)			
20 Minimum Threshold Points *(Must first meet all minimum threshold measures before receiving discretionary points)*				20
*Discretionary	Water Flow Saving Devices			
*Discretionary	Florescent Lights (describe to what extent)			
*Discretionary	Solar Photovoltaic Panels			
*Discretionary	Ceiling Fans – Living Room & Bedroom			
*Discretionary	Geo-Thermo heating/Ground Source			
*Discretionary	Light Colored Roofing/Metal Roofing			
*Discretionary	Whole Unit Circulating Fan			
*Discretionary	Permeable Paving (describe to what extent)			
*Discretionary	Programmable Thermostats			
*Discretionary	Hot Water Pipe Insulation			
*Discretionary	Minimize Glass on North Exposure (describe)			
*Discretionary	Building Orientation (describe how building orientation provides for greater efficiency)			
*Discretionary	Commissioning Conducted			
*Discretionary	Window Overhang (describe)			

ENERGY	Scoring Items	New	Rehab	Points Received
*Discretionary	Other *(List)*			
Number of Scoring Items				
Subtotal Energy Discretionary Points (10 Maximum)				
TOTAL ENERGY POINTS (30 Maximum)				
Discretionary items for new construction:* ***5 points* *for 4 to 7 of 15 items;* ***10 points*** *for 8 to 15 of 15 items*	**Discretionary items for rehab construction:* ***5 points*** *for 3 to 5 of 15 items;* ***10 points*** *for 6 to 12 of 15 items*			

GREEN BUILDING	Scoring Items	New	Rehab	Points Received
Threshold	Low/No VOC paint/adhesive (describe to what extent)			
Threshold	Use of Montana products (describe to what extent)			
10 Minimum Threshold Points *(must first meet all minimum threshold measures before receiving discretionary points)*				10
*Discretionary	Engineered Lumber (GluLam, etc.) (describe to what extent)			
*Discretionary	Flyash Concrete Greater than 30%			
*Discretionary	Recycled Insulation (describe to what extent)			
*Discretionary	Recycled Sheetrock (describe to what extent)			
*Discretionary	Water Efficient Landscaping (describe)			
*Discretionary	Formaldehyde Free/Full Sealed Counter-Top and Cabinets (describe to what extent)			
*Discretionary	Dimmable Lights in Common Areas			
*Discretionary	Task Lighting (Shine Down) (describe to what extent)			
*Discretionary	Motion Sensor Light Switches			
*Discretionary	On-site Recycle of Construction Material (describe to what extent)			
*Discretionary	Vented Range/Bathroom Fans			
*Discretionary	Recycled material Carpet/Flooring (describe to what extent)			
*Discretionary	Other *(List)*			
*Discretionary	Other *(List)*			
*Discretionary	Other *(List)*			
Number of Scoring Items				
Subtotal Green Building Discretionary Points (10 Maximum)				
TOTAL GREEN BUILDING POINTS (20 Maximum)				
Discretionary items:* ***5 points* *for 3 to 5 of 15 items;* ***10 points*** *for 6 to 10 of 15 items*				
TOTAL BONUS POINTS (50 Maximum)				

For information/assistance on energy conservation measures for multi-family projects, contact Montana Department of Environmental Quality, Energize Montana web page: **http://deq.mt.gov/energy/default.mcpx;** or the Montana Rebuild America Partnership Program web page: **http://deq.mt.gov/Energy/buildings/rebuild.mcpx**.

VII. LIST OF EXHIBITS