

CHAPTER 1
PROGRAM START-UP

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CHAPTER 1

PROGRAM START-UP

I. OVERVIEW

In accordance with the state of Montana's Consolidated Plan and guidelines adopted by the state, the following language provides requirements under which the MDOC HOME Program operates.

This chapter outlines the Grantee's Responsibilities as they relate to **management and compliance**, important **administrative steps** that must be taken before implementing a Home Investment Partnerships (HOME) Program project, and introduces **project set-up**, all of which must be addressed prior to drawing HOME funds.

The first part of Section II summarizes the management and compliance considerations for which the Grantee is responsible and to which the Grantee must agree prior to HOME funds being drawn.

The second part of Section II outlines the important administrative steps that must occur prior to implementing a HOME Program project and drawing funds, including:

- Receiving the grant award letter
- Incurring start-up costs
- Preparing the contract
- Establishing a management plan for program administration
- Establishing program and project files
- Completing project set-up activities

Section III introduces project-set up and describes its importance in the implementation process.

II. GRANTEE RESPONSIBILITIES

A. MANAGEMENT AND COMPLIANCE ISSUES

Grantees receiving HOME funds are responsible for conducting their programs in compliance with state and federal regulations. Major responsibilities of HOME recipients are as follows:

- Carrying out their local programs in a timely and satisfactory manner
- Carrying out the projects described in their HOME applications and contract documents
- Ensuring that only eligible activities are undertaken with HOME funding

- Ensuring that 100% of HOME funding benefits go to low- and very-low income persons
- Maintaining a system for financial management that provides accurate information about HOME expenditures, and assures financial accountability and control
- Promoting fair housing and equal opportunity in the implementation of HOME project activities
- Complying with the National Environmental Policy Act (NEPA) (see **Chapter 2, ENVIRONMENTAL REVIEW**)
- Complying with Lead-Based Paint regulations (see **Chapter 2, ENVIRONMENTAL REVIEW**)
- Complying with all other applicable laws and regulations

B. ADMINISTRATIVE STEPS

1. GRANT AWARD LETTER

The letter you received from the Director of the Montana Department of Commerce (MDOC) announced that you were selected for HOME funding and specified the amount of funds "tentatively" allocated for your program. This letter stated that MDOC cannot commit funds to your program until you have completed budget and contract negotiations with MDOC. The contract with MDOC outlines the Grantee's duties and responsibilities and insures compliance with any conditions imposed as a prerequisite to issuance of HOME funds.

Individual grants were awarded based on the scope of the identified problem, the proposed project activities, and the resources, and administrative capacity of the applicants. Amounts different from the original amount requested may have been awarded at the discretion of MDOC. The tentative award of funds, as outlined in the letter from the Director of MDOC, does not imply approval of all activities or specific costs proposed in your application. The proposed project activities and budget are subject to modification during subsequent contract negotiations between the Grantee and MDOC.

2. PREPARING THE CONTRACT

As part of the program start-up process, MDOC and the grant recipient will work together to prepare the grant agreement or contract. The grant contract is the legal document governing the administration of the grant, and includes the following items:

- Scope of work to be completed
- The amount of HOME funds to be provided
- A detailed budget for the HOME funds and any other funds involved in the program and its projects
- The detailed schedule for implementation of project activities
- The general and special terms and conditions associated with the grant
- All requirements found in *24 CFR §92.504(c), Provisions in written agreements*

The contract negotiation process includes: finalizing the Program Budget and the Implementation Schedule; identifying special conditions to be included in the contract; and defining key elements of the program in the Management Plan. If during this negotiation process, major changes in the project, its activities, and/or major changes in the HOME portion of the project budget occur, it may be necessary for the HOME Program to reevaluate the program's ranking score within the original grant competition. (See **Exhibit 1-B: HOME CONTRACT TEMPLATES.**)

Each contract consists of:

- Provisions common to all HOME contracts (generally referred to as "boilerplate" language) such as provisions regarding contract termination, modification and amendment; method of payment; conflict of interest; and compliance with applicable laws and regulations; and
- Provisions specific to the agreement between MDOC and the Grantee, such as provisions regarding the amount of the grant, scope of services, program budget, program implementation schedule, minimum "match" requirement, and any special conditions.

Each provision is legally enforceable and designed to spell out the respective obligations of MDOC and the Grantee.

A draft contract reflecting key elements of the program will be sent to the Grantee for review. MDOC recommends the Grantee's attorney review the draft contract to ensure consistency with the organization's legal authority and interests. The HOME Program will prepare the final contract for signature by MDOC Director and the Grantee's Chief Elected Official(s) (in the case of a local government grantee) or Executive Officer (in the case of a CHDO or PHA Grantee). **Three copies of the contract must have original signatures.** After the contract has all the necessary signatures, one copy will be returned to the Grantee and two will be retained by MDOC.

It is very difficult to prepare a scope of services, a budget, and an implementation schedule that anticipates all eventualities throughout the term of the project. Therefore, during program start-up and during the course of the program, MDOC will consider requests for contract amendments or budget adjustments. **All Grantees must request approval of modifications to the program, in advance, and provide a written justification that clearly demonstrates the modification is appropriate and will enhance the overall impact of the project.** This request may include the following:

- Alteration of the existing project(s), the budget, or program implementation schedule
- Adjustment of the boundaries of the program area, as originally proposed in the grant application or defined in the grant contract

MDOC will determine whether the modification necessitates reevaluating the project's original ranking score. If the analysis shows the amended project would not have been funded during the original grant competition, the amendment will not be approved. **Substantial changes in project or in the geographic area covered by the program may also obligate the grant recipient to publish legal notices, hold a public hearing**

and conduct an additional environmental analysis in order to comply with federal environmental requirements.

If a project can be completed for less than the grant amount, the grant contract will be amended to reflect the reduced costs and the difference will be reallocated to other projects.

After program start-up if the Grantee needs to make budget adjustments, the procedure for processing these adjustments is outlined in **Chapter 3, FINANCIAL MANAGEMENT**.

3. INCURRING START-UP COSTS

At this point in the program start-up process, **Grantees do NOT have authorization to expend or obligate any HOME funds** for hiring staff, consultants or engineers, or for the payment of any salaries. Likewise, the **Grantee CANNOT take physical action on a site, or make a commitment or expenditure of HOME OR non-HOME funds for property acquisition, rehabilitation, conversion, lease, repair, or construction activities until an environmental review is completed and MDOC or HUD, as applicable, has issued an environmental clearance (Release of Funds).** “Non-HOME funds” means **ANY Federal, state, local, private, or other funds**. An overview of the entire environmental review process is described in **Chapter 2, ENVIRONMENTAL REVIEW**.

The following information outlines the procedure for initially incurring expenses. **You should contact your assigned MDOC HOME Program Officer for guidance before incurring any program or project costs.**

a. Administrative Activities Exempt from Environmental Review Requirements:

Federal law requires that all projects financed with HOME funds conform to **HUD Environmental Review Procedures**, which state a Grantee shall not expend or encumber any HOME or non-HOME funds for any activity until a HOME Grantee has completed an **Environmental Review Record** covering all project activities and MDOC and/or HUD, as applicable, has issued a formal **Release of Funds**. MDOC will issue a specific authorization for each Grantee allowing them to incur costs for "environmentally exempt" activities that are unlikely to cause any environmental impact. If you have any questions regarding "environmentally exempt" activities, contact MDOC HOME Program Officer assigned to your HOME program for guidance.

b. Reimbursement of Activities: HOME funds will not be released to the Grantee until a grant contract is fully executed and all grant conditions have been met. These conditions include, but are not limited to:

- Completion by the Grantee of an Environmental Review Record (ERR).
- Issuance by MDOC or HUD, as applicable, of the Notice of Release of Funds. Upon receiving written authorization from MDOC, the Grantee may incur administrative costs necessary for the preparation of the Environmental Review Record(s) and for planning activities defined as exempt under *24 CFR §58.34*.

- ☑ Evidence of the firm commitment of the other resources necessary for the completion of the project.
- ☑ Approval by MDOC of a Program Management Plan and administrative guidelines and terms for financial assistance.
- ☑ Approval by MDOC of a Program Income or CHDO Proceeds Plan.
- ☑ Establishment by the Grantee of a separate HOME account or accounting classification within the approved accounting and management system to be used exclusively for the receipt and disbursement of HOME and related funds.
- ☑ Submission to MDOC of all the following:
 - ☑ **Exhibit 1-A:** Combined Resolution for the appropriation of HOME funds
 - ☑ **Exhibit 3-B.1:** Signature Certification Form
 - ☑ **Exhibit 3-B.2:** Designation of Depository Form

The Grantee pays start-up expenses until reimbursement occurs. All costs incurred become the responsibility of the Grantee if any of the following occur:

- A grant agreement is not executed
- A Grantee is unable to comply with the terms and conditions of the contract
- The Grantee's program budget did not include a line item or sufficient funds for a particular expenditure
- The Grantee expands the scope of the project
- Funds are obligated or costs are incurred without proper authorization

Procedures outlining what the Grantee must do to be reimbursed for program administration and project activity costs are discussed in **Chapter 3, FINANCIAL MANAGEMENT.**

4. ESTABLISHING A MANAGEMENT PLAN FOR PROGRAM ADMINISTRATION

MDOC requires that Grantees have the administrative capacity to undertake and satisfactorily complete their HOME program. As part of the HOME application, each applicant prepared a preliminary management plan describing how it intends to manage its program. The management plan specifically outlines how the program will be managed and by whom, and designates the person(s) responsible for guaranteeing compliance with all necessary requirements before any project proceeds. (For a copy of the management plan Template, see **HOME Program Application Guidelines, Exhibit 14** for competitive grants and the **Qualification Package** for the Single Family Noncompetitive Program.)

Key elements of the program, including information that is crucial to the timely completion of each project activity, are included in the management plan. Grantees have some flexibility in designing and implementing project activity procedures as long as they are substantially in accordance with the program design and mechanisms proposed in the Grantee's application. While all activities have some requirements in common, individual

activities must comply with specific requirements. The management plan is customized by type of project and activities. Grantees are only required to address sections related to their specific project and activity.

The management plan directs the project from signing the contract with the HOME Program to the end of the project activity and closeout, and continues through the period of affordability.

Grantees will work with their HOME Program Officer to finalize a Management Plan, which is incorporated into MDOC Contract by reference, that addresses all relevant project activities. **The local governing body or CHDO and the HOME Program must sign the approved Management Plan.** Similarly, any subsequent modifications to the Management Plan or Project Activity Procedures must be submitted to the HOME Program for review and approval. **It is the responsibility of the Grantee to administer the project in accordance with the final Management Plan.**

A copy of the final Management Plan should be given to all those involved in managing the program. In the event of staff turnovers, the plan helps familiarize new staff with the responsibilities and operating procedures required to handle program administration.

5. ESTABLISHING HOME FILES

Keeping complete and detailed records is crucial to the successful management of a HOME Program.

This section provides a general outline of the HOME file system for program and project records that meet monitoring requirements. The Grantee's Program Manager will gather and organize all the information needed to assure effective management and document compliance with state and federal requirements.

Grantees are required to maintain sufficient **records** to determine whether HOME Program requirements have been met. Below is an outline of file category descriptions that provides information required to maintain an adequate record keeping system. The Grantee must maintain project and program records as required by paragraphs outlined in *24 CFR* §§92.508(a)(2), (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7). The file categories appropriate for your program will vary depending on the type of project activities involved.

- a. **Application or Qualification File.** The **Application** or **Qualification** file should contain a copy of the Grantee's application or qualification package as submitted to MDOC and all supporting documentation. This includes the publication notices for and records of the required public hearings and any survey or other data used to prepare the application, such as an income survey, a housing conditions survey, or any correspondence related to the application.
- b. **Contract File.** The **Contract** file should contain the executed copy of the contract between the Grantee and MDOC, including all attachments. Related

correspondence, telephone notes, or subsequent amendments to the contract must be retained in this file.

- c. **Program Management File.** The **Program Management** file should contain a copy of the Program Management Plan as approved by MDOC. It also contains a copy of the Grantee's adopted policies and procedures for administering its HOME project. Related correspondence, telephone notes, or subsequent changes to the Plan must be retained in this file. Copies of any legal opinions or recommendations from the Grantee's attorney or from MDOC, which are relevant to the program or individual project, should also be kept in this file.

The Grantee **shall** also include information about the following in the **Program Management File**:

- All interested parties in the program, including:
 - Any developer, contractor or consultant involved in the application or in the planning, development or implementation of the program or any project
 - Any other person or entity having a financial interest in the program or any project activity. Residency in housing for which assistance is to be given is not, by itself, considered financial interest
- The sources of funds that are to be made available for the program or any project activity and the expected uses of the funds. The report must identify the gross amount of funds from all sources, including governmental and non-governmental sources and private capital resulting from tax benefits.

- d. **Environmental Review File.** The **Environmental Review** file should contain all data and documentation prepared in response to the environmental review. This includes all notices, public comments, the preliminary environmental review or environmental assessment, the request for release of funds, and MDOC notice that funds have been released.

- e. **Lead-Based Paint Activity File.** The **Lead-Based Paint Activity** file should contain records demonstrating compliance with the lead-based paint requirements of *24 CFR Part 35, Subparts A, B, J, K, M, and R* for residential property built before 1978. This includes all notices, certifications, and documentation that all lead-based paint activities are performed in compliance with applicable Federal laws and regulations.

- f. **Financial Management File.** The **Financial Management** file will include financial information regarding the status of HOME funds and other funds involved in the project. A complete record must be maintained of all financial transactions concerning the grant. The official and detailed financial records, including all original source documentation for expenditures, must be maintained by the Grantee's financial office. Copies of payroll records for local staff administering the HOME Program, including hourly time and attendance records and brief logs summarizing daily HOME activities should also be included.

- g. **Procurement Standards File.** The **Procurement Standards** file includes information regarding the procurement of goods and services with HOME program funds and should contain records of the procedures followed in the solicitation for services, and a copy of the agreement between the Grantee and their consultant(s), when applicable.
- h. **Construction Bidding & Contracting/Labor Standards File.** The **Construction Bidding & Contracting/Labor Standards** file should contain all the information documenting procedures used in soliciting and awarding contracts for any construction activities. This includes preparing bid packages, advertising for bids, conducting bid openings, awarding the contracts, and compliance with applicable state and federal labor requirements. The Grantee must keep a separate section for each contract awarded.
- i. **Civil Rights File.** The **Civil Rights** file will contain all documentation related to Grantee compliance with state and federal civil rights requirements. It will include any records regarding program benefits, employment practices and procedures, contractor affirmative action, affirmative fair housing marketing plan and procedures, and accessibility for persons with disabilities. See **Chapter 5** for additional guidance.
- j. **Acquisition/Relocation File.** The **Acquisition/Relocation** file will contain documentation outlining the procedures used to acquire any real property and policies and procedures for relocating any displaced households and/or businesses. The Grantee must keep a separate section on each case including copies of all notices, case information, and evidence of successful relocations, with documentation of appropriate compensation or other assistance. See **Chapter 6** for additional guidance.
- k. **Public Relations File.** The **Public Relations** file will contain copies of public notices, press releases or announcements, newspaper articles, council or commission minutes, citizen comments or complaints (with the Grantee's responses to them), and summaries of meetings related to the HOME project. Other records to increase public awareness of the overall program or any individual project, such as photographs of any project sign erected near project activities, should be included in the file. See **Chapter 8** for additional guidance.
- l. **Project Audit/Program Closeout File.** The **Project Audit/Program Closeout** file should contain copies of any audit performed and the preliminary and final closeout reports. The time period covered is between award of the HOME funds and project closeout by MDOC. The file should include a copy of any correspondence to or from MDOC regarding audits and closeout, as well as copies of Grantee comments prepared in response to audit findings. See **Chapter 9** for additional guidance.
- I. **Program Monitoring File.** All written correspondence and telephone notes regarding monitoring of the grant by MDOC or any other agency should be retained in the **Program Monitoring** file. It is especially important to include all monitoring

letters from MDOC along with any responses to those letters from the chief elected official or others. A copy of each year's ANNUAL CERTIFICATION OF INCOME AND AFFORDABILITY MONITORING FORM should be filed here. See **Chapter 10** for additional guidance.

- m. Participant Files.** All documentation necessary to demonstrate that a HOME-assisted unit is properly occupied by an eligible participant should be included in a file, one for each participant. See **Chapter 7** for additional guidance on maintaining participant files.

For rental properties, tenant files should include at minimum the tenant's application, initial income verification documents, subsequent income recertification documents, the tenant's lease, and annual HQS inspections. **Specific records of a personal nature relating to a family's income or disability may be segregated and filed separately to protect the privacy of applicants.**

For homeownership housing activities, participant files should contain at minimum:

- Documents certifying each participant's income eligibility
- Records of appraisals and computations used to determine property value or after-rehabilitation value
- Documents demonstrating compliance with the provisions of the Lead-Based Paint Poisoning and Prevention Act
- Documentation that each homebuyer has completed the HOME Program-approved homebuyer counseling training course
- As applicable, copies of any documents used to secure resale and affordability provisions (i.e., deed covenant, deed restriction, covenants running with the land, etc)
- A copy of the agreement for the acquisition of the property (buy-sell) or documentation verifying ownership (for rehab-only activities)
- The contract between the Grantee and the participant, and as applicable, copies of all work write-ups, contracts, permits, and inspection reports
- Records certifying that the property meets HQS standards at time of acquisition, or required property standards after rehabilitation

The original and complete documentation for all files should be retained in the official offices of the Grantee. These files must be available during normal business hours to any persons authorized to review them, including MDOC or representatives of HUD. Copies of key documents may be retained by the Program Manager at a separate location.

Access to records and all applicable state and federal laws govern all other documentation relating to the program as they pertain to disclosure of information to the public and individual right of privacy. These laws govern what information has to be disclosed about

the parties involved in the program or any individual project and the sources and uses of funds for the program.

Both federal and state laws require that most records and information held by public agencies be made available for public inspection. However, when the information that is sought is of a personal nature, the decision to release it must be based on balancing the public's right to know against the competing right of individual privacy. The "right to privacy" laws will most affect the clients that the Grantee will be serving. If a Grantee has questions regarding these matters, they should contact their local attorney for further assistance.

6. RECORDS RETENTION

All records pertaining to each fiscal year of HOME funds must be retained for the most recent five year period, except as provided below:

- a. For rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five year period, until five years after the affordability period terminates.
- b. For homeownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.
- c. For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates.
- d. Written agreements must be retained for five years after the agreement terminates.
- e. Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with *24 CFR 92.353, Displacement, relocation, and acquisition*.
- f. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

7. GRANT ADMINISTRATION WORKSHOPS

Contact the MDOC HOME Program Officer assigned to your HOME program for guidance.

III. PROJECT SET-UP

A Project Set-up Report must be prepared after the Grantee submits an approved Management Plan, executes a contract with MDOC for HOME funds, submits the required banking and security documents, complies with environmental review requirements, and requests a release of funds. Directions for completing a Project Set-up Report are found in **Chapter 3, FINANCIAL MANAGEMENT**, in the **Project Set-up, Draw Down and Completion Processes** section. Submission of the project set-up report identifies a specific project for which project activities will begin within six months. **Note: Projects must be completed within 36 months** from the date MDOC Director signs the contract with the Grantee. **Contracts between the Grantee and MDOC must be signed within 4 months of grant award and funds must be released within 6 months, which must be reflected in the Grantee's Project Implementation Schedule.**

Once the first draw for the project/activity occurs, **subsequent draw requests MUST BE SUBMITTED AND PROCESSED NO LESS THAN EVERY 120 DAYS.**

A. SINGLE FAMILY NONCOMPETITIVE PROGRAM

NOTE: The HOME Program instituted a program for noncompetitive allocation of HOME funds to homebuyer assistance (HBA) and homeowner rehabilitation (HR) programs that took effect June 1, 2006. Entities conducting single-family programs that are accessing the single-family pool of funds will be required to submit a qualification package.

Details of the Single Family Noncompetitive Program and qualification package can be found at the HOME Program website - http://housing.mt.gov/Hous_HM.asp or by contacting the HOME Program office at 406-841-2820.

EXHIBITS

EXHIBIT 1-A Sample of Combined Resolution/Motion

EXHIBIT 1-B.1 HOME Contract Template – Competitive Grants

EXHIBIT 1-B.2 HOME Contract Template – Single Family Noncompetitive Program Grants