AFFORDABLE HOUSING PROGRAM

Policies & Procedures Manual

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INTRODUCTION

Spokane County ("County") receives funds through the U. S. Department of Housing and Urban Development’s ("HUD") HOME Investment Partnerships Program ("HOME" – CFDA No. 14.239). The County allocates the funds to eligible activities under the guidance of citizen committees while using competitive request for proposal funding applications. While managed by the County’s Housing and Community Development Department ("HCD"), these funds are subject to a number of federal requirements. Some of the requirements are specific to the program; however, the program also incorporates several other cross-cutting federal regulations, as well as Washington State and Spokane County requirements.

The purpose of this guide is to outline the administration of HUD’s program requirements and to help recipients of HOME funds understand their responsibilities when accepting these funds. The information presented should only be used as a guideline. It should not be used as a substitute for federal laws and regulations related to the program. Recipients of federal funds are responsible for compliance with all program requirements. The contents of this manual do not relieve recipients of this obligation. Non-compliance with the federal requirements can trigger a requirement to repay funds to HUD and/or a reduction in future allocations to the County. In addition to information on the regulations, descriptions of the County’s programs that use the funds are attached.

HOME regulations and information can be found on HUD’s website at: https://www.hudexchange.info/programs/home/.
Additional information on HUD programs is available at https://www.hudexchange.info, which includes the federal laws and regulation, policy guides, tools, on-line and in-person training opportunities, and other resource materials.

HOUSING AND COMMUNITY DEVELOPMENT ADVISORY COMMITTEE (HCDAC)

The Committee’s primary responsibility is to provide representation from the Cities/Towns and unincorporated areas of Spokane County. The HCDAC is made up of 17 citizen representatives from throughout Spokane County. Each of the twelve participating cities and towns in the Urban County Consortium is represented on the Committee by a local resident, mayor, councilperson, or employee. The remaining "at large" positions are comprised of citizens from the remaining unincorporated areas of the County. Incorporated area representatives are nominated by their local elected official (Mayor) and receive formal approval and appointment through the Spokane County Board of County Commissioners (BoCC). Unincorporated area representatives are regularly recruited through the BoCC office as positions become open. In making Committee appointments, the County Commissioners give special consideration to geographic representation, professional skills, community interest, and representation of the low and moderate-income target populations.

The HCDAC is responsible for taking part in and the review of:

- Citizen Participation Plans, Consolidated Plans, and Annual Performance Reports
- Applications for Federal Community Development Block Grant (CDBG), HOME, and affordable housing funds
- Making preliminary funding recommendations to the BoCC
- Development of the Consolidated Community Development and Housing Plan and Annual Action Plan

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The Housing and Community Development Department’s mission is to invest public dollars in collaborative partnerships with organizations that provide social services, affordable housing, and economic development opportunities to achieve the highest level of self-sufficiency, safety, and quality of life for Spokane County’s extremely low-to-moderate income households. The staff manages the utilization of public funds within the requirements of the various programs, including the competitive applications for funding, project implementation, grant monitoring, compliance, and reporting. HCD’s plans and program documents are available at https://www.spokanecounty.org/1232/Housing-Community-Development.

Glossary of Terms

Action Plan - A one-year portion of the Consolidated Plan, included in the Action Plan is the Participating Jurisdiction’s (“PJ”) annual application for HOME funds.

Adjusted Income - The annual (gross) household income that is reduced by deductions for the following: dependents, elderly households, medical expenses, handicap assistance expenses, and childcare (these are the same adjustment factors used by the Section 8 program). Adjusted income is used to compute the actual tenant payment in Tenant Based Rental Assistance programs and the low HOME rent in rental projects when rents are based on 30% of a household’s adjusted gross income.

Affirmative Marketing - Actions to provide information and otherwise attract eligible persons who are underrepresented in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability.

Affordability - HOME Program requirements as they relate to the cost of housing at both initial occupancy and over established timeframes, as prescribed in the HOME Final Rule. Affordability requirements vary depending on the HOME-assisted activity. Another definition is that affordability is achieved when a household’s rent or mortgage payment and utility costs do not exceed 30 percent of the monthly income for the targeted income group as adjusted for household size.

Affordable - According to the Spokane County Comprehensive Plan - In general, housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities.

Annual Income - The HOME Program allows the use of one of two definitions of annual income. These include: Section 8 annual income; adjusted gross income as defined for reporting on IRS Form 1040.

Applicant - The individual or organization that is submitting the application and is usually the legal entity that will contract with the County to complete the proposed project.

Area Median Income (AMI) - AMI is the midpoint in the income distribution within a specific geographic area. By definition, 50% of households earn less than the median income, and 50% earn more. HUD calculates AMI levels for different communities annually, with adjustments for family size. AMI is used to determine the eligibility of applicants for both federally and locally funded housing programs.

Commitment - Commitment means the PJ has executed a legally binding agreement with a recipient, subrecipient, or contractor to use a specific amount of HOME funds to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance. To commit to a specific
project, the project must have all necessary financing secured, have a budget and timeline, have underwriting completed, and be scheduled to start construction within 12 months of the agreement.

**Community Housing Development Organization (CHDO)** - A private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 C.F.R. Part 92, and is not under the direction of an entity seeking to derive profit from the CHDO’s activities nor created by a for-profit entity whose primary purpose is the development or management of housing. A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs.

**CHDO Eligible Project** - Each year a minimum of 15 percent of the HOME annual allocation must be set-aside for award to a project in which a certified CHDO is the developer, owner or sponsor as established in 92.300. If the CHDO owns the project in partnership or LLC, it must be the sole managing general partner or sole managing member with effective control.

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

**Construction Loan** - A short-term interim loan to finance the cost of construction.

**Conversion** - A rehabilitation of a structure from a use which does not provide permanent housing to one which provides permanent housing. For example, the rehabilitation of a hospital, nursing facility, office building, or warehouse to apartments.

**Correctional Facilities** - Facilities such as jails, prisons and detention centers.

**Deferred Loan** - Principal or principal and interest payments are deferred for a specified period of time or until the occurrence of a defined event (e.g., the transfer of property). Deferred amount may be due and payable in full at this time, depending upon the loan terms.

**Developer Fee** - A fee paid to the developer for services. It is used to offset overhead and is paid through the development process. It is usually based on a percentage of the costs, dollars per buildable square feet, or dollars per unit.

**Displace** - Causing the permanent or temporary relocation of a person (to include families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with federal funds through the County.

**Environmental Review** - National Environmental Policy Act of 1969 (NEPA) 24 CFR 58 - County staff will perform a NEPA assessment of the subject property following receipt of a project application. A 30-day public comment period and HUD Release of Funds may be required. Mitigation of environmental impacts may be required. This environmental assessment does not supersede state and local environmental review.

**Equity** - The amount of the total value of the development owned by the owner.

**Extremely Low-income Families** - Those households earning less than 30 percent of the median family income is evaluated and guidelines are issued on an annual, countywide basis.

**Fair Market Rent (FMR)** - Published by HUD, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing
of a modest (non-luxury) nature with suitable amenities. The FMRs are the maximum eligible rent levels allowed under the Section 8 Housing Choice Voucher Program. HOME rents based upon income cannot exceed FMR.

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

**Floating HOME Unit** - When HOME assisted units are “floating” in a rental project, the units that are designated as HOME assisted may change over time as long as the total number of HOME assisted units in the project remains constant. Units of the same bedroom size within the project must be comparable (square footage, amenities) for units to be designated as floating units.

**Group Home** - Usually a large single-family structure, group homes are housing occupied by two or more unrelated single persons or families consisting of common space and/or facilities for group use by the occupants of the unit and (except in the case of shared one bedroom units) separate private space for each family. It also includes group housing for elderly or disabled persons. Supportive services may be provided.

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

**HOME Funds** - All appropriations for the HOME Program, plus all repayments and interest or other returns on the investment of these funds.

**HOME Rents** - The HOME Program restricts the rents of HOME assisted units. Rents of HOME assisted units cannot exceed the High and Low HOME rent levels that have been established by HUD. Rents cannot exceed 30 percent of the targeted AMI for the appropriate unit size.

**Homeownership** - Homeownership means ownership in fee simple title or a 99-year leasehold interest in a one- to four-unit dwelling or in a condominium unit. For housing located on Community Land Trust, the ground lease must be for 50 years or more. For manufactured housing, the ground lease must be for a period at least equal to the applicable HOME period of affordability. Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not an equivalent form of ownership. The ownership interest may be subject only to the restrictions on resale required under 92.254(a) of the HOME regulations; mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the County; or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

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

**Housing** - Housing includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing also includes elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings. Housing does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).
**Housing Quality Standards (HQS)** - Units assisted with HOME funds must meet minimum standards. For tenant based rental assistance, HOME uses HUD’s housing quality standards. New construction must meet State and local residential and building codes, as well as requirements for accessibility and disaster mitigation. Currently, rental projects must meet HUD’s HQS and local rehabilitation standards. New standards will apply to projects to which funds are committed on or after January 24, 2015. These include inspection requirements, reviews of plans and cost estimates, and housing quality requirements based upon the Uniform Physical Condition Standard.

**Interest** - The amount of money charged by the lender for the use of a principal amount of money. It is expressed as a percentage and may be calculated in a variety of ways. The interest rate may be fixed over the life of the loan or may be adjustable at regular intervals as defined by the lender.

**Lease** - A lease provides site control for the term of the lease. The person holding the lease has the use of the property as long as they comply with the terms of the lease. Any lease must state the term and amount due during any given period. Any period for which the rental amount is not set is not part of the site control period.

**Leverage** - The ratio of total project dollars from other sources as compared to County HOME funds in a project. Leverage of public resources is the ratio of resources from government sources or programs to the resources from non-government sources.

**Lien – Security** - Interest in a property when it is used as collateral to support a loan. When the property is sold, the first lien holder is paid first; the second lien holder is paid second and so forth. Any funds remaining after all liens have been satisfied are paid to the owner. This is important in the case of defaults and other legal matters associated with borrowing funds to purchase or improve property.

**Loan** - Funds provided by a lender to the housing project, which must be repaid to the lender within a specified period of time and under certain conditions.

**Low-Income Families or Households** - For HOME, low income households are those whose annual incomes do not exceed 80 percent of the area median income (adjusted for family size). For CDBG, “low-income” means household income does not exceed 50% of the area median income (AMI).

**Moderate Income** - For CDBG, “moderate income” means household income does not exceed 80% of the AMI. This includes “Low to Moderate Income.” HOME does not use the term “moderate income”.

**New Construction** - The creation of new dwelling units. Any project which includes the creation of new or additional dwelling units outside the walls of an existing structure is considered new construction.

**Non-Profit Corporation** - A corporation which has received certification from the Internal Revenue Service as to its non-profit status. Typically, these receive a tax-exempt ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the IRS Code of 1986.

**Option** - An option states that the holder has the right to purchase or lease a property for a specific dollar amount during the term of the option. An option is often renewable for a set time period for a set fee.

**Participating Jurisdiction (PJ)** - The term given to any state, local government, or consortium that has been designated by HUD to administer a HOME Program. HUD designation as a PJ occurs if a state or local government meets the funding thresholds, notifies HUD that they intend to participate in the program and has a HUD-approved Consolidated Plan.
**Period of Affordability** - The period of time for which the applicant commits the development for use as proposed in the County’s application. Under the County’s program, the period of affordability is at least 5 years for acquisition and rehabilitation and 20 years for new construction.

**Pre-Development Cost** - Generally, these are costs associated with the planning of a housing project. They include a variety of costs which must be incurred prior to the start of construction but which may be necessary in order to obtain financing commitments for the project. Examples are market analyses, preliminary architect fees, engineering fees, surveys, application fees, site option costs and environmental assessments.

**Project** - A site or an entire building or two or more buildings, together with the site or sites on which the building or buildings is located, that are under common ownership, management and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking.

**Project Completion** - Under the HOME regulations, the affordability period begins at project completion, which means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of 24 CFR Part 92, including the property standards under §92.251; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD.

**Relocation** - Titles I and II of the Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-55) and 49 C.F.R. Part 24, for displacement of persons, businesses, nonprofit organizations, and farms occurring as a direct result of any project receiving federal funds to the extent said statutes apply to the loan agreement.

**Relocation Expenses** - Costs paid to households or businesses when temporary or permanent relocation is necessary. The applicant must provide notices and pay certain relocation expenses.

**Senior** - A person 55 years of age or older, unless a program sets a different limit.

**Shelter Housing** - Developments offering short term temporary residency ranging from a few days to two months for homeless families and individuals. Shelter housing is not eligible for HOME funds.

**Single Room Occupancy (SRO)** - Housing consisting of single-room dwelling units that are the primary residence of its occupant or occupants. The unit must contain food preparation and/or sanitary facilities if the project involves new construction, conversion of non-residential space, or reconstruction. If the units do not contain sanitary facilities, the building must contain sanitary facilities shared by the tenants.

**Tenant Based Rental Assistance (TBRA)** - A form of direct rental assistance in which the recipient tenant may move from a dwelling unit with a right to continued assistance. This includes security and utility deposits associated with the rental of dwelling units.

**Term** - The period of time over an agreement is valid, such as a lease or loan.

**Title** - Evidence of legal ownership interest in a property and the right to encumber the property (e.g. to borrow funds, which will be secured by a loan against the property).

**Transitional Housing** - Developments offering intermediate term temporary residency ranging from two months to two years. Social services are typically included in this kind of development.

**Very Low Income Families or Households** - Under HOME, families or households whose annual incomes do not exceed 50 percent of the median income for the area (adjusted for family size).
HOME INVESTMENT PARTNERSHIPS PROGRAM

The HOME program was created by the National Affordable Housing Act of 1990; the HOME Final Rule was published on September 16, 1996, updated on December 22, 2004, and amended on August 23, 2013. The HOME Program provides federal funds that are allocated to State and local governments to strengthen public-private partnerships, and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families. The recipients of the grants are referred to as Participating Jurisdictions (PJs). At least 15% of the annual HOME allocation must be set aside for award to nonprofit housing providers that are certified as CHDOs.

USE OF HOME FUNDS

HOME funds are primarily used to provide incentives to develop and support affordable rental and homeownership projects. Eligible activities are assistance for first-time homebuyers, rehabilitation of owner-occupied housing, and the acquisition, rehabilitation, and/or construction of single-family and multifamily rental housing, and tenant-based rental assistance. Each of these activities has specific guidance and requirements, although some requirements apply to all HOME-assisted activities. Eligible costs depend upon the nature of the program activity. Projects using HOME funds allocated to the County generally must be located within Spokane County excluding the City of Spokane. Acquisition or refinancing of projects located in the City of Spokane may also be considered for County HOME funds, subject to HCD’s consultation with the City of Spokane Community, Housing and Human Services Department. County HOME funds may only be invested into a City of Spokane project if the City of Spokane makes a substantial financial investment into the project. County HOME funds will only be invested in projects located in the City of Spokane that increase the supply of permanent supportive affordable housing units for high priority, special needs populations as defined in the County’s Consolidated Plan.

INCOME LIMITS

The HOME Program was designed to benefit low-income families. HOME describes a low-income household as a household with an income at or below 80% of the AMI, adjusted for family size. These figures are revised annually by HUD and are available at: https://www.spokanecounty.org/5644/Subrecipient-Resources.

In the table, “low income” means 80% of area median income for a household of the size listed at the top of the column. Similarly, “60% limits” means 60% of area median income; “very low income” means 50% of area median income; and “30% limits” means 30% of area median income, which is sometimes referred to as “extremely low income”. Each use of HOME has specific income limitations for its beneficiaries.

RENT LIMITS

HOME rents are updated at least annually by HUD. HOME program rent limits are prepared into a table by the county and are available at: https://www.spokanecounty.org/5644/Subrecipient-Resources.

Rents are typically applicable to the unit size although different rent limits apply to group homes and SRO’s. For group homes, the sum of the rents paid by all tenants cannot exceed the Spokane area’s Fair Market Rent for a comparably-sized unit. Each tenant’s rent is a proportionate share of the total unit rent. Rent limits include utilities but do not include food or the cost of any supportive services. Bedrooms occupied by resident supportive services providers are counted as eligible bedrooms for subsidy purposes. For SROs, the maximum HOME rent is based on the zero-bedroom fair market rent if
the SRO has both sanitary and food preparation facilities. For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75% of the zero-bedroom fair market rent.

**UTILITY ALLOWANCES**

Rents under the HOME program assume that all utilities are paid by the landlord. If the tenant pay utilities, the maximum allowable HOME rent is reduced. Previously, the amount used was based on HUD Section 8 Existing Housing Allowances for Tenant-Furnished Utilities and Other Services or the calculated based upon the specific utilities used at the project. Under the HOME Rule, PJs are no longer permitted to use the utility allowance established by the local Public Housing Authority (PHA) for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013. Projects to which HOME funds were committed before the effective date of the 2013 HOME Rule may continue to use the PHA utility schedule. Application of these standardized utility allowances may result in undercharging or overcharging of rent, particularly in projects where tenants pay utilities directly. As more projects are constructed or rehabilitated to higher energy-efficiency standards, thus enhancing affordability of units, the use of a standard utility allowance may not represent actual utility costs. The option established in the HOME regulations to “otherwise determine the utility allowance for the project based on the type of utilities used at the project” means that, if PJs choose not to use the HUSM, the UA must be established using a project-specific methodology. A project-specific methodology is based on actual utility usage at the property or estimates an allowance based on project-specific factors such as size, orientation, building materials, mechanical systems and construction quality, as well as local climate conditions.

The following five methodologies used in other Federal housing programs will meet the HOME regulatory requirement that the utility allowance for a specific project be based upon the utilities used at the project. The county may approve one or more of these options across its HOME rental program, however, the county must use the same UA methodology for all HOME units within a single project. HUD encourages PJs to align with other funders, to the extent feasible, when determining the UA for a project with multiple funding sources. The acceptable methods include, but are not limited to:

1. **HUD Utility Schedule Model**: The HUSM enables users to calculate utility schedules by housing type after entering utility rate information (tariffs). This model is based on climate and survey information from the U. S. Energy Information Administration of the Department of Energy and it incorporates energy efficiency and Energy Star data. This model is allowed for LIHTC projects per IRS regulations at 26 CFR 1.42-10(b)(4)(D). The HUSM and use instructions can be accessed on HUD User at [https://www.huduser.gov/portal/resources/utilallowance.html](https://www.huduser.gov/portal/resources/utilallowance.html). The HUSM is available as either a spreadsheet model in MS EXCEL or a web-based model on HUD User at [https://www.huduser.gov/portal/datasets/husm/uam.html](https://www.huduser.gov/portal/datasets/husm/uam.html). Additional information can be found on the HUD Exchange website.

2. **Multifamily Housing Utility Analysis**: In 2015, HUD published Multifamily Notice H-2015-4 to provide instructions to owners and management agents for completing the required utility analysis. This analysis is also used for the USDA Rural Housing Service program and allowed for LIHTC projects per IRS regulations at 26 CFR 1.42-10(b)(3). HOME PJs may use the methodology from the notice, including the required baseline utility analysis; the optional factor-based utility analysis; and, the utility analysis sample size.

3. **Utility Company Estimate** (26 CFR 1.42-10(b)(4)(B)) – The county may approve a UA based on estimates obtained from a local utility company for each of the utilities used in the project. IRS regulations state that the estimate must be obtained in writing and must be based on the estimated cost of that utility for a unit of similar size and construction for the geographic area in which the building containing the unit is located.
4. **LIHTC Agency Estimate** (26 CFR 1.42-10(b)(4)(C)) – Under IRS regulations, the tax credit allocating agency estimate entails two options: 1) an agency estimate that is a prospective projection of utility costs based on site and building characteristics, and 2) an actual usage methodology. If a project is receiving both HOME and LIHTC funding, a PJ may accept a UA approved by the LIHTC agency based on its actual usage methodology.

5. **Energy Consumption Model (Engineer Model)** (26 CFR 1.42-10(b)(4)(E)) – The county may approve a UA based on an energy and water and sewage consumption and analysis model (energy consumption model) prepared by a properly licensed engineer or a qualified professional. IRS regulations require that such professionals be independent from the property owner and they specify the building factors that must be included in the model.

**Important Note:**
Spokane County must review and approve rents and utility allowances prior to project completion and then annually during the period of affordability to ensure that they comply with the HOME limits. Prior to increasing rents in the HOME-assisted units after the initial lease period, you must first submit a request to the Housing and Community Development Division for review. Rent increases in HOME-assisted units cannot be implemented until you have received approval from the County.

**PROGRAM MATCH REQUIREMENT**

**Match Obligation & Carryover**
HUD requires that 25% of HOME funds (gross HOME award, less allocated admin, less any CHDO operating assistance, and excluding program income) drawn from IDIS be matched by nonfederal funds within each federal fiscal year (not HOME program year).

1. **Eligible Match**
   Eligible forms of match are identified in 24 CFR 92.220 and are listed briefly below:
   - Cash Contributions/Cash Equivalents
   - Foregone Fees, Taxes, and Charges
   - Donated Land or Other Real Property
   - On-Site & Off-Site Infrastructure
   - Proceeds from Affordable Housing Bonds
   - Donated Use of Site Preparation & Construction Materials
   - Donated Use of Site Preparation & Construction Equipment
   - Donated or Voluntary Labor & Professional Services
   - “Sweat” Equity
   - Direct Cost of Supportive Services Provided to HOME-Assisted Families
   - Homebuyer Counseling Services

2. **Ineligible As Match**
   The following resources cannot be counted as match (they are ineligible):
   - Contributions made with or derived from federal resources or funds, regardless of when the funds were received or expended, including CDBG funds.
   - Interest rate subsidy attributable to federal tax exemption on financing (e.g., state or local bonds), or the value attributable to federal tax credits.
   - Owner equity or investment in a project, except “sweat” and state tax credit equity. Owner equity or investment is generally ineligible because it is not considered a permanent contribution to the project, but rather value accruing to the owner.
   - Any contributions from applicants for, or recipients of, HOME assistance or contracts, or from investors who own, are working on, or are proposing to apply for, assistance under the HOME
program. (This does not prohibit contractors who do not own any HOME project from contributing professional services, in accordance with 24 CFR 92.220(a)(8), or prohibit persons from contributing “sweat equity”, in accordance with 24 CFR 92.220(a)(9).)

- State Recipient or CHDO cost of administering HOME-assisted programs or projects, or HOME match-eligible projects.
- Contributions already counted as match toward any other federally funded program.
- Any form of match not meeting the requirements of 24 CFR 92.220.

3. **Match Reporting**

Match is documented and reported yearly as part of the Consolidated Annual Performance and Evaluation Report (CAPER).

### SUBSIDY LAYERING & UNDERWRITING

Each project must be evaluated to ensure that HOME funds invested in the project are not more than necessary to provide affordable housing. The AHP manager verifies this by requesting that applicants submit a completed Combined Funders Application listing all funding sources for their proposed project. All direct or indirect government assistance must be identified and considered, including contributions of federal, state, and local governments and/or agencies. Any federal funds invested in a project through a non-federal funding source are considered to be federal funds. For example, the federal funds for weatherization that are managed by SNAP, a local nonprofit, or HOME funds allocated by the Washington State Commerce Department, are included as federal funds in the analysis. To ensure that a project is cost-reasonable and has the highest chance of success, the program manager follows a departmental affordable housing procedure checklist. Some tools that are used to verify that price per unit/sq. ft. are within regulatory limits and reasonable are the HOME Cost-allocation Tool, Combined Funders Application, and the Mortenson Construction Inflation Cost Index.

### HOME SPENDING RESTRICTIONS

The minimum HOME investment is $1,000 per unit. The maximum HOME per unit subsidy may not be increased above 240 percent of the base limits authorized by §221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(iii)). The maximum HOME subsidy that may be provided for each project is established by HUD, updated annually, and is not reduced by the presence of Low Income Housing Tax Credits. HUD will issue further guidance on the subsidy limits due to the discontinuance of the 221(d)(3) Mortgage Insurance Program.

### SPOKANE COUNTY AHP-FUNDED ACTIVITIES

The requirements of HOME vary, depending upon the activity that is undertaken. Therefore, the requirements shown below are identified for the four main uses of HOME funds. While some may be the same for more than one activity, they are repeated in the relevant section as needed. This is to allow the reader to focus on the type of activity in which he/she has an interest.

In each of the following sections, a description of the local HOME program, if available, will come before the regulatory requirements. Some sections will note that materials relating to the local program are provided as an attachment.
SUMMARY OF SPOKANE COUNTY’S AFFORDABLE HOUSING PROGRAM

The County receives funds through the U. S. Department of HUD HOME Investment Partnerships Program (“HOME” – CFDA No. 14.239). The County allocates a portion of these funds for the acquisition, rehabilitation, or construction of rental housing units within the County boundaries, excluding the City of Spokane. The County’s program targets housing that is affordable to people who are at or below 50% AMI. In exchange for low-cost loans, property owners agree to rent restrictions and to rent to low-income tenants for at least 5-15 years for projects involving rehabilitation or acquisition, or 20 years for new construction projects (See HUD Requirements for affordability periods). Projects selected for funding must provide rental housing that is affordable to families with incomes at or below 50% of Spokane’s AMI. A greater subsidy is available when units are affordable to families with incomes at or below 30% of AMI. The program priorities and evaluation factors are listed in the County’s RFP Guidelines and updated annually. Projects are monitored for compliance during the affordability period. Project sponsors must coordinate funder requirements when there are multiple funding sources.

In addition to HOME program requirements, other Federal requirements may apply. These include, but are not limited to, the payment of wage standards under the Davis-Bacon Act, relocation benefits payable to the tenants under the Uniform Relocation Act, the testing and/or mitigation of lead-based paint hazards, and accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.

The County currently accepts applications for HOME funds once per annum. The funding amount available varies, depending on the allocation from HUD, loan payoffs and/or funds recovered from projects that do not move forward.

The County must reserve funds for projects owned, sponsored, or developed by Community Housing Development Organizations (CHDO), a designation for non-profits specializing in housing development that meet specific HOME requirements.

The County’s application includes many forms that are used by other Washington public funders. Information that is not required as part of the County’s initial application may be requested later. For example, a full market study and appraisal are not required at the time of application to the County. Such information should be submitted when available, and final approval may be conditioned upon its receipt and content.

When applications are submitted to Spokane County HCD, HCD staff reviews and ensures the applications are complete (requesting additional information, as needed), summarizes the information, and distributes materials to the HCDAC. The HCDAC then recommends funding to the BoCC for approval. Applicants are usually notified of the Committee’s recommendations 6-8 weeks after applications are submitted. Once the BoCC approves and the Chair of the Board signs, contracts are executed.

SUMMARY OF HUD REQUIREMENTS FOR RENTAL HOUSING

HOME funds may be used to develop affordable rental single-family and multifamily housing through site improvements, acquisition, new construction, and rehabilitation. HOME funds may also be used to pay for project development soft costs including finance, predevelopment, and relocation.

Eligible recipients
- For-profit and non-profit housing owners.
- CHDOs.
- Government agencies, including housing authorities and redevelopment organizations.
Forms of assistance
- Equity investment.
- Interest bearing or non-interest-bearing loan.
- Interest subsidy.
- Deferred payment loan.
- Loan guarantee.
- Other forms of assistance that HUD determines to be consistent with HOME.

HOME Eligible Rental Housing Project Types
- Construction, conversion, purchase, or rehabilitation of permanent rental housing or transitional housing.
- Purchase and/or rehabilitation of manufactured homes are eligible under certain conditions. After renovation, the home must be on a permanent foundation with permanent utility connections and meet the Manufactured HOME Construction and Safety Standards of 24 CFR part 3280.
- Initial purchase and initial placement costs of Elder Cottage Housing Opportunity (ECHO) units that meet the HOME requirements. ECHO units are small, freestanding, barrier-free, energy-efficient and removable units designed to be installed adjacent to existing single-family dwellings.
- Properties must meet the property standards at §92.205.

HOME Rental Project Eligible Activities
All costs must relate to a specific housing project, which must meet various requirements upon completion. This list is a summary of §92.205-§92.206, which should be consulted for any questions. Costs must be necessary and reasonable. The County’s list of eligible activities may be more restrictive.
- Accessibility improvements.
- Accounting/audit expenses relating to the project during the development period, including costs certifications performed by a certified public accountant.
- Affirmative marketing and fair housing services to prospective tenants of an assisted project.
- Acquisition costs of real property. Acquisition of vacant land is eligible if construction of a HOME project will begin within 12 months. Land banking is prohibited.
- Appraisal.
- Architectural and engineering costs. Reimbursement of these expenses is allowable if: the expenses were incurred before HOME funds are committed; are authorized in the written agreement; and costs have been incurred 24 months prior to the commitment of HOME funds.
- Builder and developer fees.
- Construction and rehabilitation costs to make essential improvements, improve accessibility, make energy-related repairs, abate lead-based paint hazards.
- Demolition costs, if construction will begin on a HOME project within 12 months. Note: Not eligible as a stand-alone activity.
- Fair housing promotion and information.
- Fees relating to financing (e.g., loan fees, Low Income Housing Tax Credit fees, closing, title and recording fees, attorneys’ fees, permits, etc.).
- Hazardous abatement and monitoring, including environmental site assessments, mold, asbestos, and lead-based paint testing, abatement, and monitoring.
- County-charged impact fees.
- Infrastructure improvements within the project’s property boundaries.
- Marketing/leasing, including marketing outreach materials to households that might not apply for housing without special outreach.
• Operating deficit reserve (initial) for new construction or rehabilitation, which should meet any shortfall in project income during project rent-up (not to exceed 18 months) and which may only pay project operating expenses, scheduled payment to a replacement reserve, and debt service.
• Permits, fees, hookups.
• Project management.
• Refinancing existing debt, if: rehabilitation is the primary activity; is needed to maintain affordability; the loan being refinanced is not made by or insured by any Federal program; and it meets multiple other requirements. To be eligible, this use of funds must explicitly be included in the Consolidated Plan with details of the local refinance program. Rehabilitation costs must exceed the amount of debt to be refinanced. (The County’s program does not include debt refinance.).
• Relocation expenses of any displaced persons, families, businesses, or organizations.
• Repayment of interest and principal of a construction loan or bridge financing loan only if the funds were used for eligible costs and HOME assistance is part of the original financing for the project and the project meets the requirements of HOME.
• Site improvements in keeping with improvements of surrounding, standard projects, e.g., landscaping.
• Soft costs, including architectural/engineering and other professional fees, legal fees, insurance and utility costs during development, and boundary and topographic surveys.
• Staff and overhead costs directly related to carrying out the project, such as work specifications preparation and loan processing inspections.
• Tenant counseling, provided the recipient of counseling becomes the tenant of a HOME-assisted unit.
• Utility connections, including off-site connections from the property line to the adjacent street.

HOME Rental Project Ineligible/Prohibited Projects and Activities, §92.214
• Acquisition of property owned by the County, except for property acquired by the County with HOME funds, or property acquired in anticipation of carrying out a HOME project.
• Correctional facilities.
• Costs not eligible under §92.206-92.209.
• Delinquent taxes, fees, or charges on properties to be assisted with HOME funds.
• Emergency shelters (including shelters for disaster victims).
• Facilities that provide continual or frequent nursing, medical or psychiatric services including nursing homes, convalescent homes, hospitals, and residential treatment facilities.
• Furnishings, office equipment, computers.
• General overhead.
• Improvements to or construction of commercial space.
• Improvements to owner-occupied units.
• Offsite infrastructure improvements, other than connections to offsite utilities.
• Operating and replacement reserves, except initial operating reserves as explained above.
• Operating subsidies.
• Projects previously assisted with HOME funds during the minimum federal Period of Affordability (except those funded in the prior 12 months).
• Properties with outstanding Rental Rehabilitation Program loans (as program requirements conflict).
• Public housing financed under the 1937 Act (Public Housing Capital and Operating Funds); see §92.213 for clarification when HOME can be used in public housing.
• Public facilities.
• Refinancing permanent debt, unless tied to HOME financed rehabilitation and within specific requirements.
• Student dormitories.
• Tenant-based rental assistance with an existing Section 8 program.
• Upgrades such as cable television hookups, garbage disposals.
• Use as a non-federal matching contribution required under any other Federal program.
• Work on the structure prior to loan commitment.

Tenant Protections and Leases §92.253(a) and (b)
Tenants are to be afforded certain protections in any HOME-assisted project. The major tenant protections include the following provisions:
• Leases must be for a minimum of one year unless mutually agreed to by the owner and tenant;
• Restrictive provisions in the lease requiring the tenants to waive any rights are prohibited;
• An owner may not terminate tenancy or refuse to renew the lease except for violations of the terms of the lease or for violation of applicable federal, state or local law;
• An owner may not charge fees that are not customarily charged in rental housing such as laundry room access fees, and other fees; and
• An owner must have written tenant selection policies and criteria that:
  ❖ are consistent with the purpose of providing housing for very low-income and low-income families;
  ❖ are reasonably related to program eligibility and the applicants’ ability to perform the obligations of the lease;
  ❖ provide for selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
  ❖ give prompt written notification to any rejected applicant of the grounds for any rejection.
• The term of the lease between the tenant and the owner must be at least one year, unless both agree otherwise.
• Leases are required for all HOME-assisted units.
• The lease may not contain the following provisions:
  ❖ Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
  ❖ Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. Borrower may dispose of this personal property in accordance with Washington state law;
  ❖ Agreement by the tenant not to hold the owner or its agents legally responsible for any action or failure to act, whether intentional or negligent;
  ❖ Agreement by the tenant that the owner may institute a lawsuit against a tenant or affecting a tenant’s interests without notice to tenant;
  ❖ Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the owner and tenant.
  ❖ Agreement by the tenant to waive any right to a trial by jury;
  ❖ Agreement by the tenant to waive the tenant’s right to appeal, or otherwise challenge in court, a court decision in connection with the lease;
  ❖ Agreement by the tenant to pay attorney’s fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
  ❖ Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.
Property Standards §92.251
Upon completion, the housing must meet the County’s rehabilitation standards, including health and safety issues, major systems work, lead based paint, and accessibility. Units must meet state and local codes, ordinances, and requirements.
- In 2013, the HOME rule was modified. New standards were scheduled to go into effect on January 24, 2015. As of this date HUD has not issued guidance on the new standards so until then the county will continue to use Housing Quality Standards (HQS). At some point in the future, HUD will issue guidance that specifies which components of UPCS will apply. The County’s rehabilitation standards will be modified as guidance is available. Copies of the County’s standards are available from Pavel Parfilo at pparfilo@spokanecounty.org or (509) 477-4520.
- Newly constructed rental housing must meet state and local code requirements, the current Model Energy Code published by the Council of American Building Officials, and site and neighborhood standards of 24 CFR 893.6(b).
- All assisted rental housing must meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.
- Operating budgets must include adequate maintenance reserves to ensure that they can continue to meet property standards at least as long as the required period of affordability.
- Owners must maintain properties in accordance with property standards throughout the affordability period. This requires periodic property inspections.

Fixed and Floating Units
- In a project with units assisted with HOME funds (“HOME-assisted units”), the rent and tenant income requirements only apply to the HOME-assisted units.
- The number and type of HOME-assisted units must be specified in the loan agreement. It must also state if the units are fixed or floating (see below). The determination about which specific unit are HOME-assisted or non-assisted must be made no later than the time of initial occupancy.
- HOME rules create a floor for the number of HOME-assisted units a project must have; however, the PJ may require a higher number of HOME-assisted units.
- “Fixed units” are specifically designated and do not change over the course of the affordability period.
- “Floating units” are HOME units that change, as long as the units are comparable in size and amenities to the non-assisted units over the affordability period in terms of size features, and number of bedrooms.

Affordability Restrictions
To ensure that HOME investments yield affordable housing over the long term, HOME imposes rent and occupancy requirements over the length of an affordability period. The length of the affordability period depends upon the amount of the HOME funds in the property and the nature of the activity funded. Affordability periods range from 5 to 20 years. §92.252(e)

<table>
<thead>
<tr>
<th>Activity</th>
<th>HOME Investment per unit</th>
<th>Minimum Affordability Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeownership assistance, including acquisition, rehabilitation and new construction of homes</td>
<td>Less than $15,000/unit $15,000 - $40,000/unit Over $40,000/unit</td>
<td>5 years 10 years 15 years</td>
</tr>
<tr>
<td>Rental Housing- Rehabilitation or acquisition of existing rental housing</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Rental Housing – Rehabilitation involving refinance of debt

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any $ amount</td>
<td></td>
<td>15 years</td>
</tr>
</tbody>
</table>

### Rental Housing – New construction or Acquisition of New Rental Housing

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any $ amount</td>
<td></td>
<td>20 years</td>
</tr>
</tbody>
</table>

- Affordability requirements remain in force regardless of transfer of ownership.
- At the PJ’s discretion, affordability requirements may be terminated only upon foreclosure or transfer in lieu of foreclosure. However, the termination of the affordability restrictions before the minimum period of affordability does not relieve a PJ of its repayment obligation for housing that does not remain affordable for the required period. The PJs payment to the US Treasury must come from non-federal sources.
- In the event of foreclosure and termination of the affordability requirements, the requirements will be revived if the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the property or project.

#### Initial occupancy of vacant units

- Within 6 months from the date of project completion, if a rental unit remains unoccupied, the PJ must provide to HUD information about current marketing efforts and, if appropriate, an enhanced plan for marketing the unit so that it is leased as quickly as possible.
- Within 18 months from the date of project completion, if efforts to market the unit are unsuccessful and the unit is not occupied by an eligible tenant, HUD will require repayment of all HOME funds invested in the unit. A unit that has not served a low- or very low-income household has not met the purposes of the HOME program. Therefore, the costs associated with the unit are ineligible.

#### Income

- The “program rule” requires that 90% of the total households assisted through the rental or TBRA program (counted together) have incomes that do not exceed 60% of AMI. The balance of rental units and TBRA assistance must assist tenants with incomes that do not exceed 80% of AMI. This applies to all funds expended from each fiscal year allocation; it is not project specific.
- The “project rule” specifies the occupancy of units in each rental project. In projects of **five or more** HOME-assisted units, at least 20% of the HOME-assisted rental units must be occupied by families who have annual incomes that are 50% or less of median income. These very-low-income tenants must occupy units at rents calculated using the Low HOME rents, which tie to the 50% AMI level. Projects with **fewer than five** HOME-assisted units do not have to restrict any units to the Low HOME rents or limit occupancy to tenants at 50% or below AMI.
- Tenant income eligibility must be documented with source documents, such as wage statements, interest statements and unemployment compensation statements, before the tenant occupies a unit. Owners must establish systems to recertify tenant income on an annual basis.
- Owners may not refuse to lease HOME-assisted units to a certificate or voucher holder under the Section 8 Program, or comparable rental assistance program because of the status of the prospective tenant as a recipient of such support.
Summary of Spokane County’s CHDO Role
Spokane County welcomes all non-profit organizations who are pursuing the CHDO designation. Since HUD requires a minimum threshold of funding to go to organizations with this designation, the chance of receiving funding for a CHDO activity is higher than applying as a regular developer. Some organizations choose not to apply for this specialized HUD designation due to not knowing what is exactly required. If you need any information on CHDO designation, you may reach out to the AHP manager at HCD.

CHDO Set-Aside
HOME requires that at least 15% of the County’s allocation be used for housing projects that are owned, sponsored, or developed by CHDOs. The allocation of CHDO set-aside funds is handled through the Affordable Housing Program. Qualifying CHDO projects may receive more than one year’s minimum set-aside, as funds from multiple years may be used and/or the County may designate non-CHDO funds as CHDO funds.

CHDO Operating Assistance Funds
HUD allows up to 5% of the County’s HOME allocation to be used to assist CHDOs that are developing housing with administrative costs. The designation of HOME funds as CHDO operating assistance is optional and reduces the entitlement grants funds available for other purposes.

Summary of HUD Requirements for CHDOs

A CHDO is defined as a private nonprofit organization that:

- Is organized under State or local laws;
- Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:
  - The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
  - The for-profit entity may not have the right to appoint more than one-third of the membership of the organization’s governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;
  - The community housing development organization must be free to contract for goods and services from vendors of its own choosing; and
  - The officers and employees of the for-profit entity may not be officers or employees of the CHDO;
- Has a tax exempt ruling from the IRS under section 501(c)(3) or (c)(4) of the IRS of 1986, is classified as a subordinate of a central organization non-profit, the private non-profit organization is an wholly-owned entity that is disregarded as an entity separate from its owner for tax purposes, the owner organization is tax-exempt, and meets the definition of a CHDO;
- Is not a governmental entity (including the participating jurisdiction, public housing authority, and other specified entity types) and is not controlled by a governmental entity. An organization that is created as a governmental entity may qualify as a CHDO; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization’s
governing body and no more than one-third of the board members can be public officials or employees of the governmental entity. Board members appointed by a governmental entity may not appoint the remaining two-thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a CHDO;

- Has standards of financial accountability that conform to 24 CFR 84.21 “Standards for Financial Management Systems;”
- Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions, or by-laws;
- Maintain accountability to low-income community residents by:
  - Maintaining at least one-third of its governing board’s membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations. For urban areas, “community” may be a neighborhood or neighborhoods, county, or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
  - Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing.
- Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a CHDO, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of 92.300(a)(2). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
- Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations, or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

A jurisdiction must certify that a nonprofit qualifies as a CHDO each time HOME CHDO funds are committed. The specific role of the CHDO must be specified in the agreement between the County and the CHDO. Using the minimum 15% CHDO set-aside, a CHDO may undertake any of the following activities:

- Acquisition and/or rehabilitation of rental property;
- New construction of rental housing;
- Acquisition and/or rehabilitation of homebuyer property;
- New construction of homebuyer property; and/or
- Direct financial assistance to purchaser of HOME-assisted housing sponsored or developed by a CHDO with HOME funds.

Using the minimum 15% set-aside, a CHDO may not:

- Rehabilitate existing homeowners’ properties; or
- Provide tenant-based rental assistance.
Acting as a subrecipient, a CHDO can use non-set-aside HOME funds for all other HOME eligible activities such as:

- Tenant-based rental assistance;
- Homeowner rehabilitation;
- Providing downpayment or closing cost assistance; and
- Brokering or other real estate transactions that are not counted toward the set-aside.

Rental housing is “owned” by the CHDO if:

- CHDO is owner in fee simple absolute of multifamily or single-family housing (or has a long-term ground lease).
- For rehabilitation or construction, the CHDO hires and oversees the developer that rehabilitates or constructs the housing.
- At a minimum, CHDO must hire and oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work, and determining the reasonableness of costs.
- CHDO must own the rental housing during development and for a period at least equal to the minimum affordability period.
- If the CHDO acquires housing that meets the property standards in 92.251, it must own it for a period at least equal to the minimum affordability period.

Rental housing is “developed” by the CHDO if:

- CHDO is owner in fee simple absolute of multifamily or single-family housing (or has a long-term ground lease) and the developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for rental to low-income families.
- CHDO must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work, and determining the reasonableness of costs.
- The CHDO must select the nonprofit organization that will obtain ownership of the property before the commitment of HOME funds.
  - The nonprofit organization assumes the CHDOs HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.
  - If the housing is not transferred to the nonprofit organization, the CHDO sponsor remains responsible for the HOME assistance and the HOME project.

Housing for homeownership is “developed” by the CHDO if:

- CHDO is the owner (in fee simple absolute) and developer of new housing that will be constructed, or existing substandard housing that will be rehabilitated for sale to low-income families in accordance with §92.254.
- To be the “developer”, the CHDO must arrange financing of the project and be in sole charge of construction.
- The CHDO may provide direct homeownership assistance (e.g., downpayment assistance) when it sells the house to low-income families and the CHDO will not be considered a subrecipient. HOME funds for down payment assistance shall not be greater than 10% of the amount of HOME funds for development of the housing.
The written agreement with the PJ must set forth the actual sales prices of the housing or the method by which the sales prices will be established and whether the proceeds must be returned to the PJ or may be retained by the CHDO.

**Rental housing is “sponsored” by the CHDO if:**

- It is “owned” or “developed” by:
  - a subsidiary of a CHDO (in which case the subsidiary, which may be a for-profit or nonprofit, must be wholly owned by the CHDO);
  - a limited partnership (LP) (in which the CHDO or its wholly owned subsidiary is the sole general partner); or
  - a limited liability company (LLC) (in which the CHDO or its wholly owned subsidiary is the sole managing member).
- If the LP or LLC agreement permits the CHDO to be removed as sole general partner or sole managing member, the agreement must require that the removal be “for cause” and that the CHDO must be replaced by another CHDO.
- The HOME funds must be provided to the entity that owns the project.

**Rental housing is also “sponsored” by a CHDO if:**

- The CHDO “developed” the rental housing project that it agrees to convey to an identified private nonprofit organization at a predetermined time after completion of the development of the project, subject to the following requirements:
  - The private nonprofit organization may not be created by a governmental entity;
  - The HOME funds must be invested in the project that is owned by the CHDO;
  - The CHDO must select the nonprofit organization that will obtain ownership of the property before the commitment of HOME funds.
    - The nonprofit organization assumes the CHDOs HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.
    - If the housing is not transferred to the nonprofit organization, the CHDO sponsor remains responsible for the HOME assistance and the HOME project.

**TENANT-BASED RENTAL ASSISTANCE (TBRA)**

**Summary of Spokane County’s TBRA**
The County’s TBRA provides HOME funds to serve very low and extremely low-income individuals and/or families who have been determined by the Program Administrator to be homeless and who need safe and decent rental housing.

**Summary of HUD’s Requirements for TBRA**
TBRA provides assistance to individual households to enable them to rent market rate units. Units may be publicly or privately owned. The assistance moves with the tenant, should the tenant decide to relocate to another rental property. The amount of the subsidy varies and is based on the income of the household, the particular unit it selects, and the rent standard of the jurisdiction.

**Payment Limits**
- The minimum assistance payment may be established as a dollar figure (such as $75) or at a percentage of income (such as 10% of monthly income).
• The maximum payment to assist any given household is the difference between 30% of the household’s adjusted monthly income and a jurisdiction-wide rent limit established by the PJ, known as the payment (rent) standard.
• HUD has guidance on establishing the payment (rent) standard. As of August 23, 2013, the PJ can use either local market conditions, or base the rent standard on those established in 24 CFR part 982, which governs the Section 8 Housing Choice Voucher Program.
• The PJ must establish a minimum tenant payment.
• HOME TBRA contracts with individual households may not exceed two years. Contracts can be renewed, subject to availability of funds.

HOME Eligible Costs
• Payments to make up the difference between the amount a household can afford to pay for housing and local rent standards. Costs associated with tenants’ housing, such as security and utility deposits. However, utility deposit assistance can only be provided in conjunction with rental assistance programs or security deposit programs.

HOME Ineligible Activities
• Certain existing Section 8 program uses, such as Section 8 rent subsidies for troubled HUD-insured projects.
• Project-based rental assistance, although rehabilitation funds may be used to rehabilitate units receiving project-based assistance from another source.
• Utility deposit assistance independent of TBRA or security deposit assistance.

Tenant Selection
• Tenant selection policies and criteria must be based on local housing needs and priorities consistent with the PJs consolidated plan.
• Households on a public housing authority’s Section 8 waiting list that accept HOME TBRA must be permitted to remain on the Section 8 waiting list with the same preference status and must be offered Section 8 Housing Choice Voucher assistance when it becomes available to them.

Income Standards
• At least 90% of the families receiving rental assistance must have incomes that do not exceed 60% of AMI, adjusted for household size at the time of occupancy, or at the time funds are invested, whichever is later. Alternatively, at least 90% of the units assisted must be occupied by households with such incomes.
• The remainder of the families receiving rental assistance must have incomes that do not exceed 80% of AMI at the time of occupancy or at the time funds are invested, whichever is later, or the units must be occupied by such households.

Targeted Assistance
• Local TBRA programs can be tailored to the housing needs of the community. This includes programs designed specifically for persons with special needs (such as homeless persons or elderly persons) and to persons with disabilities, in certain situations.
• PJs may provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) if doing so is necessary to provide housing, aid, benefit, or services that are as effective as those provide to others, in accordance with the requirements in 24 FR 8.4(b)(1)(v). The specific category must be identified in the PJ’s consolidated plan as having an unmet housing need and the preference is needed to narrow the gap in benefits and services received by such persons.
A PJ may not require participation in medical or disability-related services as a condition of receiving or continuing to receive HOM-funded TBRA.

Tenant Protections and Leases §92.253(a) and (b)

- The term of the lease between the tenant and the owner must be at least one year unless both agree otherwise.
- The lease may not contain the following provisions:
  - Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
  - Agreement by the tenant that owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. Borrower may dispose of this personal property in accordance with Washington state law;
  - Agreement by the tenant not to hold the owner or its agents legally responsible for any action or failure to act, whether intentional or negligent;
  - Agreement by the tenant that the owner may institute a lawsuit against a tenant or affecting a tenant’s interests without notice to tenant;
  - Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the owner and tenant.
  - Agreement by the tenant to waive any right to a trial by jury;
  - Agreement by the tenant to waive the tenant’s right to appeal, or otherwise challenge in court, a court decision in connection with the lease;
  - Agreement by the tenant to pay attorney’s fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
  - Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

Self-sufficiency programs

- Participation in a self-sufficiency program may be required by the PJ as a condition for selection for HOME TBRA.
- The family’s failure to continue participation in the self-sufficiency program cannot be a basis for terminating the assistance; however, renewal of the assistance may be conditioned upon participation in the program.
- Tenants living in a HOME-assisted rental project who receive TBRA as relocation assistance must not be required to participate in a self-sufficiency program as a condition of receiving assistance.

Tenant-to-Homebuyer Programs

- HOME TBRA may assist a tenant who has been identified as a potential low-income homebuyer through a lease-purchase agreement, with monthly rental payments for a period of up to 36 months (i.e., 24 months, with a 12-month renewal). The HOME TBRA may not be used to accumulate a downpayment or closing costs for the purchase; however, all or a portion of the homebuyer-tenant’s monthly contribution toward rent may be set aside for this purpose.

Protections for Persons with Disabilities that have a preference in the TBRA Program

- Persons given preferences for HOME TBRA may not be excluded from applying for or participating in other programs or forms of assistance. Persons who are eligible for a preference must have the
opportunity to participate in all programs of the PJ, including programs that are not separate or different.

Property Standards
- All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the housing quality standards in 24 CFR 982.401, or the successor requirements, as established by HUD. Every TBRA unit must be inspected at least annually, effective July 24, 2014.

**HOMEOWNER ASSISTANCE**

Summary of HUD Requirements for Homebuyer Assistance
HOME funds may be used for homebuyer assistance with the acquisition, acquisition and rehabilitation, or new construction of homes for potential homeowners who’s family is designated as low-income. Spokane County has the option to decide what form of financial assistance an applicant may receive depending on the applicant’s unique circumstances.

Eligible Recipients
- The housing must be acquired by a homebuyer whose family income is at or below 80% of the area’s median income.
- The housing must be the principal residence of the family throughout the period of affordability, which is a minimum of 5 years for homeownership assistance using HOME funds of under $15,000 per unit, 10 years for HOME assistance from $15,000 to $40,000 per unit, and 15 years for HOME assistance over $40,000 per unit.
- All homebuyers that receive HOME assistance or purchase a unit developed with HOME funds must receive housing counseling.

Eligible Activities and Costs
- Acquisition of land and existing structures.
- Site preparation or improvements, including demolition.
- Construction materials and labor.
- Financing fees, credit reports, title insurance, recording fees.
- Legal and accounting fees.
- Appraisals.
- Builders and developers’ fees.
- Project costs incurred by the PJ that are directly related to a specific project.
- Repairs to assist individuals in purchasing a home.
- Major systems must have a useful life of at least 5 years.
- Homebuyer counseling provided the recipient of counseling become the owner of a HOME-assisted unit.
- Down payment assistance.
- Refinancing secured debt is eligible if: the housing is owner-occupied; HOME funds are loaned for the rehabilitation; and refinancing allows the borrower’s overall housing costs to be reduced and the housing is made more affordable.
- Lease-purchase if used in conjunction with a homebuyer program. Ownership must be conveyed to an eligible homebuyer within 36 months of signing the lease-purchase agreement, or within 42 months of project completion.
Eligible Properties
The property must be occupied by an income-eligible homeowner and be the owner’s principal residence. Ownership must be through:
- Fee simple title;
- 99-year leasehold interest (50 years on trust or restricted Indian land); or
- Ownership/membership in a cooperative or mutual housing project.

Eligible property types include:
- Single-family unit.
- A unit in a two to four-unit property where the unit will be the principal residence of the purchaser. Non-owner-occupied units are not subject to HOME restrictions, unless HOME funds are used to rehabilitate them under the rental program.
- Condominium unit.
- A cooperative unit or unit in a mutual housing project (if state law recognizes these as forms of homeownership).
- A manufactured home, which must be connected to permanent utility hookups and located on land that is owned by the unit owner, or on which the unit owner has a lease for a period at least equal to the applicable period of affordability.
- Additional considerations affect the maximum per unit subsidy. These include the proportion of the total project costs that is HOME eligible, the mix of HOME and non-HOME units, and the financial need of the project.

Purchase price limits
- The HOME Program statute requires that no housing have a purchase price or after rehabilitation value that exceeds 95% of area median purchase price, in order to ensure that HOME-assisted housing is modest and non-luxury.
- Effective August 23, 2013, the limit for newly constructed single-family housing units to be developed or acquired with HOME funds is based on 95% of the median purchase price for the area using FHA single-family mortgage program data for newly constructed housing. PJs can use the greater of this limit or 95% of the statewide nonmetropolitan area median purchase price for newly constructed housing.
- Effective August 23, 2013, the limit for existing single-family housing units being acquired and/or rehabilitated with HOME funds is based on 95% of the median purchase price for the area using FHA single-family mortgage program data for existing housing in the area using data from the FHA single-family mortgage program data for existing housing and other appropriate data that are available nationwide for sales of existing housing. PJs can use the greater of this limit or 95% of the statewide nonmetropolitan area median purchase price using this data.
- Applicable sales price and after-rehabilitation values are available at the HUD Exchange. The HOME Homeownership Values table for each year has states in alphabetical order, then counties or MSAs. The table has separate sections for new homes and existing homes.

Conversion of Unsold Homeownership Units to Rental Housing
- If units for a homeownership program are developed using HOME funds, the units must be sold in a timely manner.
- If homebuyer housing does not have a ratified sales contract with an eligible homebuyer within 9 months of the completion of construction or rehabilitation, the PJ must convert the homebuyer housing to rental housing. If converted, this rental housing must comply with all provisions of rental housing in HOME.
- If an unsold homebuyer unit is not converted to rental housing, the PJ must repay the HOME funds expended on it.
Income Restrictions

- All HOME funds invested for homeownership assistance must be for dwelling units that are occupied by households with incomes that do not exceed 80% of the median income for the area, adjusted for family size. However, that HUD may establish income ceiling higher or lower than 80 percent of the median for the area on the basis of HUD finding that such variations are necessary because of prevailing levels of construction cost or fair market rents, or unusually high or low family incomes.
- The income of all persons residing in HOME-assisted housing must be included when determining the income of a family applying for homebuyer assistance. This includes where all household members are not related, or where several adult members will reside in the HOME-assisted unit. This applies to the extent a person’s income “counts” in accordance with the PJ’s adopted income definition. For example, if the PJ adopts the Part 5 definition of income, then the earned income of a minor is not included in the determination of income, even though the minor will reside in the housing unit.

Forms of assistance

- Grant
- Below-market-rate loan
- Deferred payment loan
- Loan guarantee

Resale and/or Recapture of HOME assistance

Spokane County will impose the Recapture Provisions on the Downpayment Assistance Program. These Recapture Provisions apply when a homebuyer voluntarily sells, refinances, transfers ownership, or if the property ceases to be homebuyer’s primary residence anytime during the Minimum Period of Affordability. The County also imposes these Recapture Provisions beyond the Minimum Period of Affordability for as long as the Homebuyer retains legal ownership and upon one of the above-described changes in ownership, or if the homebuyer satisfies terms of the first position mortgage.

- If a home purchased with HOME assistance is sold during the affordability period, recapture provisions apply to ensure the continued provision of affordable homeownership.
- Recapture means all or a portion of the direct HOME subsidy is repaid to the jurisdiction if the HOME recipient decides to sell the house within the affordability period at whatever price the market will bear.
- PJs must obtain HUD’s specific and written approval of its resale and/or recapture requirements. While these must also be submitted as part of the consolidated plan or annual action plan approval, HUD’s approval of the plan is not sufficient; HUD must issue separate, written approval of these provisions.
- The HOME Rules §92.254 includes specific requirements for resale and recapture provisions.

Property Standards

Property that is acquired for homeownership must be decent, safe, sanitary, and in good repair.

- Rehabilitation of housing after transfer of the ownership interest (92.251b):
  - Before the transfer of the homeownership interest the County must:
    - inspect the housing for any defects that pose a danger to health;
    - notify the prospective purchaser of the work needed to cure the defects and time by which defects must be cured and applicable property standards met.
In addition, the housing must be free of all noted health and safety defects before occupancy and not later than 6 months after the transfer and the housing must meet the property standards not later than 2 years after transfer of ownership.

- In 2013, the HOME rule was modified. Effective January 24, 2015, new property standards (92.251) are effective, replacing Housing Quality Standards with Uniform Physical Condition Standard as the standard.
- HUD will issue guidance that specifies which components of Uniform Physical Condition Standards (UPCS) will apply.
- The County’s multi-family rehabilitation standards will be modified as guidance is available.
- All standards must be met at the time of occupancy, except when the project involves acquisition and rehabilitation by the homebuyer.
- The property must be inspected prior to occupancy for health and safety defects; it must be free from any such defects before occupancy and not later than six months from property transfer. The property must be inspected again at project completion; it must meet written rehabilitation standards and local codes and ordinances at completion and within two years of property transfer to the owner.

OTHER HOUSING PROGRAMS

Affordable Housing Trust Fund SHB 2060

- History of the Bill
  After years of effort by affordable housing advocates, the WA State Legislature passed House Bill 2060, which requires county auditors to collect fees when documents are recorded. The fees are used to support affordable housing within the State. The auditor may retain up to 5% to administer the collection of the funds. Of the remaining funds, 40% is transmitted monthly to the state treasurer to be administered by the Office of Community Development with the Washington housing trust account. The County retains the remaining 60%. The bill passed the State Legislature on March 11, 2002, and was signed by the Governor April 2, 2002. It was effective June 13, 2002.

- Legislative requirements for County funds:
  - Housing projects must be affordable to very low-income persons (at or below 50% AMI).
  - Can be used for: acquisition, construction, or rehabilitation. (New construction is only permitted if the vacancy rate is below 10%).
  - Funds will be allocated within the county according to an interlocal agreement between the county and the cities within the county, consistent with countywide and local housing needs and policies.

On April 30, 2002, the Board of County Commissioners of Spokane County appointed the HCD to administer the local funds generated from SHB 2060. The Department is responsible for developing and submitting plans for allocating funds, establishing policies and procedures governing all activities that are expected to receive funding, and developing interlocal agreements with the County’s twelve cities and towns. The Department was directed to make every effort to consult with city and town representatives in identifying activities to address local affordable housing needs.

In order for the County to carry out its administrative responsibilities, the Department has provided opportunities for interested groups, individuals and local governments to participate in identifying activities and developing draft goals and objectives. Those interested in participating in the process are identified as stakeholders.
• Funding Priorities
After several years of competitive RFP’s, public input, and stakeholder meetings the County will focus Affordable Housing Trust Fund (AHTF) (2060) to the following AHTF (2060) activities:

❖ Capital Improvement;
❖ Acquisition with or without rehabilitation of Affordable Housing; and
❖ New Construction of Affordable Housing County wide including the City of Spokane.

Annual funding priority will be given to applications that provide units serving populations with special needs, such as those serving the homeless, chronically mentally ill, and persons with developmental disabilities with incomes at or below 30% of AMI.

CROSS-CUTTING REGULATIONS

For all HUD programs, there are many other requirements known as “Cross-cutting Regulations” that must be met in addition to the specific requirements of the HOME and CDBG programs. Those who receive HOME and CDBG funds must comply with these requirements as well. The list of other federal requirements below is not all-inclusive. Applicants should refer to the HOME regulations to identify other federal requirements.

Environmental Review
All organizations receiving HOME funds must agree to comply with the National Environmental Policy Act of 1969 and the HUD Environmental Review Procedures (24 C.F.R., Part 58). More information is available at:
https://www.onecpd.info/resource/2360/notice-cpd-01-11-environmental-review-home/
https://www.hud.gov/program_offices/comm_planning/environment_energy/regulations

Federal Prevailing Wages/Davis-Bacon
Housing projects with 12 or more HOME-assisted units in the project must pay federal prevailing wages for all on-site construction work related to the project. The wages are determined by the U. S. Department of Labor. All construction contracts must contain a Federal Labor Standards Provisions attachment, which is available at https://www.hud.gov/sites/dfiles/OCHCO/documents/4010.pdf. Also, all contractors must complete federal certifications and payrolls. Contact County staff if your project may be subject to the Davis-Bacon Act.

Section 3
When federal funds invested in housing and community development activities, they should also provide employment opportunities for low-income people. HUD’s regulations state that “to the greatest extent feasible,” businesses and employers working on HUD-funded projects must make a good faith effort to train and employ low-income individuals in the area (called “Section 3 residents”) and also to contract with other businesses that employ Section 3 residents.

In summary, the obligations of Section 3 are:

• Provide outreach/training for Section 3 residents, and report on the outreach and training undertaken.
• To the greatest extent feasible hire and train Section 3 residents, and report on employees and new hires.
• To the greatest extent feasible contract with Section 3 businesses, and report on contracts and subcontracts.

**Lead-Based Paint**
Sponsors acquiring and/or rehabilitating housing constructed before 1978 with federal financial assistance must comply with HUD regulations regarding lead-based paint. Depending on the type and extent of activity, certain inspections and repairs must be performed by certified inspectors and contractors. Completion of these requirements may affect the project’s work list, timeline, and budget. Please consult County staff if you believe these requirements will apply to you.

Lessors of housing constructed prior to 1978 must provide tenants with the HUD/EPA approved Protect Your Family from Lead in Your Home pamphlet (https://www.epa.gov/lead/protect-your-family-lead-your-home-english), disclose known lead-based paint hazards, and notify tenants of the results of any lead paint testing performed on the unit or common areas. Tenants must be instructed to notify the owner of any deteriorated lead-based paint surfaces. In addition, maintenance or repair that disturbs paint that may contain lead must use Safe Work Practices and pass a Certified Clearance Test.

Some of the federal regulations include:

**EPA – 40 C.F.R. Part 745** and any other regulations issued pursuant to Section 403 of the Toxic Substances Control Act (TSCA) as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992.

**OSHA – 29 C.F.R. Part 1910 and Part 1926.**


**Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and Section 104(d) (also known as the Barney Frank amendments)**
The Uniform Relocation Act (URA) applies to all occupied residential and/or commercial property assisted with Federal funds. The URA protects all tenants in occupancy at the time of application for federal funds. You may not deny tenancy to current tenants - including refusal to renew a lease unless the tenant has violated the lease. The URA also protects tenants occupying or vacating units following application for funding unless specific procedures are followed. Tenants must be notified of their rights and receive assistance in finding replacement housing, as well as payment for displaced tenants’ moving expenses and replacement housing costs. URA guarantees that after the project is completed, tenant’s initial rent, including the estimated average monthly utility costs, will not exceed the greater of: (a) tenant’s current rent and average utility cost, or (b) 30% of tenant’s average monthly gross household income.

Temporary relocation results when a tenant cannot reasonably enjoy their unit due to construction. The tenant must be provided with suitable temporary housing at no additional cost and have the opportunity to reoccupy a suitable unit in the building within 12 months of temporary relocation.

Permanent relocation can occur when tenancy is terminated to avoid URA impact, or when a tenant moves prior to receipt of a URA notice, cannot occupy a suitable unit in the building after project completion, is temporarily relocated for more than 12 months, or otherwise moves permanently as a direct result of the project. **Project owners must notify and work with County staff if there is any tenant relocation.**

More information on Titles I and II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-55) and 49 C.F.R. Part 24, for displacement of persons, businesses,
nonprofit organizations, and farms occurring as a direct result of any project receiving federal funds can be found at:  

**Affirmative Marketing**

Affirmative marketing steps are actions taken to provide information and attract eligible persons in the housing market area to the housing assisted with HOME funds, without regard to race, color, national origin, sex, religion, familial status or disability. Rental and homebuyer projects containing 5 or more HOME-assisted units must adopt affirmative marketing procedures and requirements. Examples of special outreach to attract persons who are not likely to apply for housing without special outreach are advertising vacancies with the Spokane Housing Authority; including the Equal Housing Opportunity logo in advertising; and displaying the Fair Housing poster. More information is available in §92.351 of the HOME regulations.

**Fair Housing**

New construction of 4 or more units in a building must have fully accessible ground floor units and common spaces. If constructing a multistory building with an elevator, then all units and common spaces must be fully accessible and on an accessible route.

From the Fair Housing Act, as amended (Title 8): “It is an unfair practice for any person to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person, whether acting for himself, herself, or another, because of sex, marital status, race, creed, color, national origin, families with children status, the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a disabled person.”

Sponsors shall not refuse to rent HOME-assisted units to a Section 8 certificate or voucher holder.

More information is available at:  

**American Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended (504)**

24 CFR 8

New construction projects of 5 or more units must make, at a minimum, 5% of units accessible to handicapped persons and an additional 2% of units accessible to sensory impaired persons. If rehabilitating 5 or more units, perform planned repairs and improvements so that they increase handicapped and sensory accessibility as much as feasible. Major rehabilitation of a project with 15 or more units must also make 5% of units accessible to handicapped persons and an additional 2% of units accessible to sensory impaired persons.

**Historic Preservation**


Section 106 of the National Historic Preservation Act (36 C.F. R. Part 800) was established to protect sites, buildings and objects with national, state or local historic, cultural and/or archeological significance. The Section 106 requirements mandate organizations using federal funds to determine the potential effects of their activities on historic properties. The 106 process provides a framework for organizations to inform national, state and local historic preservation officials during the project
planning process about potential projects. Historic preservation officials will assess any potential effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. The regulations can be found at: https://www.achp.gov/sites/default/files/regulations/2017-02/regs-rev04.pdf

**Model Energy Code**
Developers are encouraged to incorporate ENERGY STAR qualified products and practices when conducting rehabilitation or constructing new housing. HOME funds may be used to finance rehabilitation activities to meet local codes and, at the same time increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment. Energy auditing and home energy rating are also an eligible use of HOME funds.

New housing constructed with HOME funds must meet the HUD standard, which is the 1992 Model Energy Code, or a higher standard adopted by the jurisdiction. https://www.hud.gov/sites/documents/19758_200809ENERGYSTAR.PDF

**Site and neighborhood standards**
The HOME program requires participating jurisdictions to promote greater choice of affordable housing opportunities, which includes full compliance with the Civil Rights Act of 1964 and the Fair Housing Act. (24 C.F. R. 92.202) Plus, new rental housing units must also comply with the requirements outlined in the 24 C.F. R. 983.6 (b) of the Public and Indian Housing, and Section 8 Project-based certificate programs. Additional information is located at: http://www.gpo.gov/fdsys/pkg/C.F. R.-1999-title24-vol4/xml/C.F. R.-1999-title24-vol4-sec983-6.xml

**Flood Insurance**
HOME funds may not be invested in housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless flood insurance is obtained, and the community participates in the National Flood Insurance Program. New FEMA flood hazard maps were issued in May 2012. Owners should check the updated maps to confirm their property’s status. More information is available on the National Flood Insurance website at: www.floodsmart.gov.

**No Debarred Contractors/Sub Recipients**
No agency, nor its principals, officers, employees, and subcontractors can be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

The System for Awards Management (SAM) (www.sam.gov) is the new site employed when searching for debarred, suspended or ineligible contractors or organizations receiving federal funds. Using the search tab at the top of the page, enter the name of the company, or principal into the first box or the company’s Data Universal Numbering System (DUNS) number and then select the search button.


**Uniform Administrative Requirements**
Requirement to comply with applicable federal administrative requirements (OMB Circular A-87 and applicable HOME Policies- Procedures: September 2009 Page 20 provisions of 24 C.F. R. Part 85 for
governmental entities, or OMB Circular A122 and applicable provisions of 24 C.F. R. Part 84 for non-profit entities).

UEI Number (formerly FFATA/DUNS)
This number is used to identify specific commercial, non-profit, and government entities. The UEI is used within SAM.gov as a primary key to uniquely identify an entity or part of an entity. A UEI is required to receive funding as an affordable housing developer.

Conflict of Interest
Federal regulations require recipients of federal funds to comply with conflict-of-interest provisions. In general, no person, nor their family or business partners, who may exercise any function with respect to a federally funded activity, may obtain a personal or financial benefit from the activity during their tenure and for one year after. In addition, any potential conflict of interest on the part of the applicant or its employees must be disclosed to the County. HOME regulations require PJs, state recipients and subrecipients (including CHDOs acting as subrecipients) to comply with two different sets of conflict-of-interest provisions. The first set is provisions under 24 C.F. R. Parts 84 and 85; the second, which applies only in cases not covered by 24 C.F. R. Parts 84 and 85, set forth in the HOME regulations.

MONITORING PLAN

Summary of Spokane County's Monitoring Plan
The objective of the Spokane County HOME Monitoring Plan is to establish standards for evaluating and reporting a subrecipient’s compliance with program requirements. Spokane County will conduct on-site and remote reviews to verify the accuracy of records/documents, review program policies and procedures, conduct housing inspections, and evaluate overall administrative compliance to federal and local regulations.

Monitoring Format
A written report will be prepared and provided to the subrecipient following the completion of each monitoring review. The report will include the following information:
- An explanation of the purpose and scope of the review
- A list of findings, comments, recommendations, and corrective actions to be taken
- A list of the client files reviewed
- An evaluation of project performance to date
- A time frame for taking corrective action

Monitoring Compliance
HOME activities will be evaluated based on the following program areas:
- Adherence to HOME guidelines, procedures, and regulations
- Subrecipient’s administrative plan, Scope of Work, and program policies and procedures
- Overall administration and management
- Fair Housing
- Housing Quality Standard Inspections
- Davis-Bacon and Lead Based Paint, if applicable
- Environmental Review

Pre-Monitoring Preparation
Prior to an on-site monitoring visit, the County will provide written notification of the visit to the subrecipient. The notice will provide the following information:

- The date(s) and time of the visit;
- A copy of the monitoring checklist;
- A list of the properties to be inspected and client files to be reviewed;
- The subrecipient may be asked to provide the County with the following:
  - Disbursement and expenditure reports;
  - Agreements/contracts;
  - Policy guidelines and procedures, administrative plans, and operation manuals;
  - Beneficiary and HMIS data

**Monitoring and Inspection Schedule**

Spokane County staff will provide program monitoring over three phases, consistent with the monitoring plan developed prior to contract:

- **Contract Development Phase**
  - Agency risk assessment
  - Ensuring that projects are consistent with the Consolidated Plan
  - Ensuring that all Environmental Review requirements have been met
  - Ensuring clients are income-eligible

- **Development Phase**
  - Ensuring that project costs, budgets, and timelines are adhered to
  - Ensuring conformance to HOME standards through periodic property inspections

- **Post-Development Phase (Recurring)**
  - The duration and frequency of on-site subrecipient monitoring and inspections is based on the length of the affordability period and the total number of HOME units.

**Primary Monitoring Forms and Checklists**

- [https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2](https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2)
- HUD Checklist Exhibit 7-5: Guide for Review of Homebuyer Projects
- HUD Checklist Exhibit 7-7: Guide for Review of Rental Projects
- HUD Checklist Exhibit 7-9: Guide for Review of TBRA Projects