



## AFFORDABLE RENTAL HOUSING FINANCE PARTNERSHIP

### Eligible Projects

1. All rental project(s) must provide permanent housing.
2. All rental project(s) must serve a low to moderate income population as determined by HUD.
3. The property proposed for development must be located within the city of **Memphis limits**.
4. All projects that consist of newly constructed or rehabilitated single family rental units must be developed by non-profit agencies only.
5. The subject property must not have any delinquent City or County taxes.
6. The property proposed for use in the project must not have received HOME funding in the past 20 years.
7. The funding awarded to project(s) under this program will be disbursed by reimbursement only.
8. All rental project(s) will be required to have a property manager and or management company.
9. Strategic Anchor Areas have been implemented by the Memphis 3.0 Plan . Priority will be given to applications for projects that are proposed within these Strategic Anchor Areas. (Please refer to the link at the bottom of this page the Anchor Areas map)



**10.** All projects designed to be Energy Efficient, meet ENERGY STAR guidelines, Ecobuild and Green Practices will be given priority within the anchor areas as determined by Memphis 3.0. Please refer to the link at the bottom of this page for the Anchor Area Maps .

([https://docs.wixstatic.com/ugd/100a0d\\_4c40d3f0fa9d45139ad7cbcdad411331.pdf](https://docs.wixstatic.com/ugd/100a0d_4c40d3f0fa9d45139ad7cbcdad411331.pdf))

## **Guideline Overview**

### **1. HOME Investment Partnership Funds**

The Affordable Homeownership & Rental Development Office currently utilize funding from HUD's HOME Investment Partnerships Program (HOME) for eligible rental projects.

The HOME Investments Partnership Program (HOME) provides formula grants to states and localities that communities use - often in partnership with local non-profit groups to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing or providing direct rental assistance to low-income people. HOME is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.

HOME funds may be used for the following activities:

- Land/property acquisition in conjunction with new construction or rehabilitation of rental properties
- New construction of rental properties
- Rehabilitation of rental properties
- Relocation as applicable
- Demolition in conjunction with new construction of rental properties

### **2. Licensing and Business Requirements**

The Developer is responsible to comply with all licensing requirements and business regulations whether local, state or federal that apply to the project. It is the responsibility of the project manager to determine the applicability of any rule, regulation or requirement.

### **3. Property Standards**



Housing that is constructed with HOME funds must meet all applicable state and local codes, ordinances, and zoning requirements. HOME-assisted new construction projects must meet state or local residential and building codes, as applicable or in the absence of a state or local building code, the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council. The housing must meet the applicable requirements upon completion of the project.

All new construction projects must meet the accessibility requirement of 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act, implemented at 28 CFR parts 35 and 36 as applicable.

All rehabilitation projects funded with HOME must meet the requirements of the rehabilitation standards established by The Division of Housing and Community Development.

#### **4. Affordability**

HOME-assisted rental units carry rent and occupancy restrictions for varying lengths, depending on the average amount of HOME funds invested per unit . HOME affordability periods are minimum requirements. If a developer desires a shorter affordability period, they can take steps to reduce the HOME per unit subsidy. The HOME subsidy can be reduced or replaced with another funding type or the developer may choose to designate a higher number of HOME-assisted units required to reduce the HOME per unit subsidy. Affordability restrictions remain in force regardless of transfer of ownership or repayment of the HOME funds. The affordability restrictions are enforced by deed restriction and a declaration of restrictive covenants. The affordability period commences upon the completion of the project.

#### **5. Rent and Occupancy Requirements**

HOME-assisted rental units must meet certain rent and occupancy requirements, established by HUD annually.

The Developer must initially determine the annual income of a tenant of a HOME-assisted unit using the method in 24 CFR 92.203 (a)(1)(i). The annual income must be at least two (2) months of source documentation. The initial annual income must be submitted to our office to verify income eligibility. For subsequent income determinations during the period of affordability, the Developer may use one of the methods in accordance with 24 CFR 92.252 (h).

Every HOME-assisted unit is subject to rent limits designed to make rents affordable to low income households. These maximum rents are referred to as HOME rents. HOME rents differ from Section 8 Fair Market Rents limits; however, HOME Rent Limits are required. Rents listed are gross and include



allowances for tenant paid utilities. If the tenant pays for utilities or other mandatory fees, these fees must be deducted from the rents published to determine the maximum rent that can be charged. Utility allowances must be calculated for each rental project.

Additionally, the applicable rent and occupancy requirements for individual units depend on the size of the project as follows:

### **Income Targeting**

1. In projects consisting of five (5) or more HOME-assisted units, twenty percent (20%) of the HOME-assisted units must be rented to households whose initial annual income is at or below fifty percent (50%) of the Area Median Income (AMI) for the Memphis Metropolitan Area and must be rented at no more than the Low HOME Rent Limit. The remaining eighty percent (80%) of the HOME-assisted units must be rented to households whose initial income is at or below sixty percent (60%) of the AMI at no more than the High HOME Rent Limit.

2. In projects consisting of less than five (5) HOME-assisted units, all HOME-assisted units must be rented to households whose initial annual income is at or below sixty percent (60%) of AMI at no more than the High HOME Rent Limit.

### **6. Designation of HOME-assisted units as Fixed or Floating**

The Affordable Homeownership and Rental Development Office will determine if a property has fixed or floating units at the time of project commitment.

Properties with fixed HOME-assisted units have specific units, identified by address, that are designated as HOME-assisted. Owners/Managers must maintain these specific units as HOME-assisted throughout the affordability period. Additionally, the AHRD Office will tell Owners/Managers how many units must be High HOME Rent and Low HOME Rent units. Owners/Managers must maintain the original number of fixed units throughout the affordability period, but the unit designations as High or Low HOME Rents may change during this time.

Properties with floating HOME-assisted units do not have specific units that are designated as HOME-assisted during the affordability period. Instead, throughout the affordability period, the HOME-assisted unit designations change, or “float” among comparable assisted or non-assisted units. When re-designating units, to maintain the required total number of units, Owners/Managers may substitute a comparable unit. They may choose to substitute a “greater” unit for a “lesser” unit, but may never substitute a “lesser” unit for a “greater” unit.



## **7. Additional Federal Requirements**

All projects must comply with all U.S. Department of Housing and Urban Development's (HUD) HOME Investments Partnership Program (HOME) regulations. Information on HOME requirements included in this fact sheet and below provides an overview, however the complete regulations can be found at 24 CFR Part 92.

### **A. Conflict of Interest (24 CFR Part 92.356)**

In the procurement of property and services by participating jurisdictions, State recipients, and subrecipients, the conflict of interest provisions in 2 CFR 200.317 and 2 CFR 200.318 apply. In cases not governed, to 2 CFR 200.317 and 2 CFR 200.318, the provisions of 24 CFR Part 92.356 apply.

### **B. Employment and Contracting**

1. Equal Employment Opportunity (Executive Order 11246)
2. Minority, Women and Small Business Enterprise (Executive Orders 11625, 12138, and 12432)
3. Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 135)

### **C. Environmental Review (24 CFR Part 58)**

No construction, rehabilitation or property acquisition may be undertaken nor funds committed or expended (federal or other) until completion of an environmental review and receipt of a Release of Federal Funds from HUD.

### **D. Fair Housing and Equal Opportunity**

1. Title VI of the Civil Rights Act of 1964, as amended (42 U.S. C. 2000d et seq.)
2. The Fair Housing Act (42 U. S. C. 3601-3620)
3. Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)
4. Age Discrimination Act of 1975, as amended (42 U.S. C. 6101)
5. Americans with Disabilities Act (42 U.S. C. 12131; 47 U.S.C 155. 201. 218, and 225)
6. Section 504 of the Rehabilitation Act of 1973
7. Violence Against Women Act (VAWA) of 2013

### **E. Labor Requirements (24 CFR 92.354)**

1. Davis-Bacon Act – Every construction of housing that includes 12 or more HOME-assisted units must contain a provision requiring the payment of not less than the wages prevailing in the locality, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141), to all laborers and mechanics employed in the development



of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701).

2. Copeland Anti-Kickback Act (40 U.S.C. 276c)

3. Fair Labor Standards Act, as amended (29 U.S.C. 201, et seq.)

**F. Lead-Based Paint Requirements (24 CFR part 35, subparts A, B, J, K, M and R)**

Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821- 4846) and the Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856).

**G. Site and Neighborhood Standards (24 CFR 983.6 (b))**

HUD requires its participating jurisdictions, HCD, that administer HOME programs to establish site and neighborhood requirements with respect to new construction of rental housing. Proposed sites for new construction units must comply with the following site and neighborhood standards stated in 24 CFR 986.6 (b).

**H. Uniform Relocation Act, if applicable (49 CFR Part 24)**

The Uniform Relocation Assistance and Real Property Acquisition Act (URA), is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

- **49 CFR Part 24** is the government-wide regulation that implements the URA.
- **HUD Handbook 1378** provides HUD policy and guidance on implementing the URA and 49 CFR Part 24 for HUD funded programs and projects.

**I. Minority, Women and Small Business Enterprise Requirements**

The developer will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. The affirmative steps shall include but shall not be limited to:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;



3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
4. Establishing delivery schedules, where the requirements permit, which encourage participation by small and minority business, and women's business enterprises;
5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs € (2) (i) through (v) of this section.

**J. Section 3 Requirements (24 CFR Part 135)**

The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

**K. Violence Against Women Reauthorization Act (VAWA)(24 CFR 5.2001 et seq (Subpart L))**

On March 7, 2013, the [Violence Against Women Reauthorization Act](#) of 2013 (VAWA 2013) was signed into law. The law significantly expanded housing protections to victims of domestic violence, dating violence, sexual assault, and stalking across HUD's core housing and homelessness programs. To implement the law's new provisions, HUD issued a [final rule](#), which took effect on December 16, 2016. (92.259 and 24 CFR 5.2001 et seq (Subpart L). VAWA provides protections to applicants to tenants of HOME-units who are survivors of: domestic violence, dating violence, sexual assault, or stalking. It also applies regardless of gender. The Property Owner may not reject applicant or terminate/refuse to renew tenant as a direct result of the fact individual is/has been a victim. The lease bifurcation is provided by allowing only abuser to be evicted while survivor stays. The Emergency Transfer Plan will consist of the following: transfer to another HOME unit within the same project; if multi-family, external transfer to another HOME project; if units are available, the owner must waive any early termination fees.

**8. Written Agreement (24 CFR 92.504c)**

The HOME Program regulations requires a written agreement that includes all required provisions for each project. The agreement must be legally binding, signed by all parties to the agreement, and all signatures must be dated. If the signatures of the parties to the agreement have different dates, it is the



last dated signature that is the date of execution of the commitment. HUD strongly recommends that the written agreement be a separate document from the finance documents because an agreement which imposes the HOME affordability restrictions must remain in force until the end of the affordability period.