

Appendix B
WCHC Funding Priorities
 Adopted August 2019

Level I Priorities	Reason
Project provides 100% of rent restricted units at or below 40% of the Area Median Income for family units; at or below 45% of Area Median Income for senior projects. The average rent for all HOME units is at or below 40% of the AMI for family units, and at or below 45% of AMI for senior projects.	Area has need for units affordable to lower income tenants
Project provides supportive services, or owner/manager partners with a service provider to provide supportive services.	Services create sustainability
Level II Priorities	Reason
Project is located within a transit corridor or a regional center	Families/seniors need affordable, available transportation
Project contains one or more green components above and beyond the minimum energy efficiency requirements	Creates savings for project and tenants/adds to sustainability of project-meets set standards for new construction/rehab as applicable
Project addresses one or more objectives of the current Consolidated Plan for the region	The Consolidated Plan identifies local needs and numerical goals for meeting the needs of the community using HUD funds.
Project addresses one or more objectives of the current Regional Plan	The Regional Plan goals focus on coordinating master plans of local governments and other entities in the region as they relate to land use, infrastructure, resource management, etc. The Plan promotes the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of the region's households and allow for flexibility of housing location, type, and density.
Project addresses one or more objectives of the local 10 year plan to end homelessness titled "Housing for All"	The "Housing for All" plan identifies local homeless service and housing needs. Addressing these needs will help reduce the number of individuals and families experiencing homelessness in our community.
Project is a mixed income/use project.	Mixed income/use projects may increase the sustainability of low-income housing projects by subsidizing the lower rents through commercial and market rate rents. Low-income residents may benefit from this project type by having commercial businesses, better schools, and opportunities for upward mobility within short reach. Mixed income projects are less likely to "concentrate" income levels in a certain area. This also promotes tax bases of areas. Too many low income projects concentrated in one area may reduce tax rolls significantly for neighborhoods.
<u>Project preserves, maintains and restores existing affordable housing units that have expiring tax credit or HOME affordability restrictions.</u>	<u>Preserving affordable housing can oftentimes be more cost effective than building new units, and it can provide certainty and stability for low-income households.</u>

Projects not meeting the priorities above are still welcome to apply for AHMLP funding; however, preference will be given for projects with one or more of the above characteristics.

Developers are encouraged to propose project sites outside of areas of low income or minority concentration, where the proportion of low income or any racial or ethnic minority is more than 10% higher than the proportion for the regional as a whole. Developer should be aware that projects located in concentrated areas of low income or minority populations may be subject to additional review by the

Washoe County HOME Consortium and the U.S. Department of Housing and Urban Development. Ultimately a project allocated funds by the WCHC may be prohibited by the Division of Fair Housing and Equal Opportunity within HUD from entering into a funding agreement and proceeding.

The Washoe County HOME Consortium Standard Operating Policies and Procedures

Objective: In 1994, the City of Reno, City of Sparks and Washoe County entered an Intergovernmental Agreement creating the Washoe County HOME Consortium (WCHC or the Consortium) in an effort to improve the provision of affordable housing throughout Washoe County. The WCHC is committed to working throughout the community to expand and improve the supply of affordable housing. The WCHC works to provide decent, safe and affordable housing to residents by alleviating the problems of excessive rent burdens, homelessness and deteriorating housing stock as well as to increase opportunities for moderate income households to become homeowners. The WCHC continue to provide housing that furthers compliance with civil rights laws, and that promotes greater choice of housing opportunities.

Purpose: This manual establishes the policies and procedures by which the Consortium will conduct its responsibilities agreed upon in the terms of the Intergovernmental Agreement. This manual also defines the roles and responsibilities of the Technical Review Committee, the Directors (Managers), and the Regional Governing Board in the oversight of the Washoe County HOME Consortium.

Disclaimer: The following policies are developed within the guidelines of the HOME regulations established by HUD, along with the guidelines established by the State of Nevada for the use of Affordable Housing Trust Funds (AHTF). In order to maintain compliance with these two funding streams, the following policies may be revised at any time as necessitated to be in conformance with Federal and State mandates.

DEFINITIONS-----

Action Plan – The one-year portion of the Consolidated Plan that serves as the annual application for HOME funds.

Adjusted Income – Adjusted income is annual (gross) income reduced by deductions for dependents, elderly households, medical expenses, handicap assistance expenses and child care (these are the same adjustment factors used by the Section 8 program). Adjusted Income is used in HOME to compute the actual tenant payment in TBRA programs.

Affordability – The requirements of the HOME Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME Final Rule (24 CFR (Code of Federal Regulations) Section 92). Affordability requirements vary depending upon the nature of the HOME assisted activity (i.e. homeownership or rental housing).

Affordable Housing Municipal Loan Program (AHMLP) – The official name of the funding program used by the WCHC to support housing projects and programs.

Annual Income – The HOME Program allows the use of Section 8 annual income and adjusted gross income as defined for reporting on IRS Form 1040. The WCHC may approve the use any of the applicable definitions, but, once established for the program or activity, only that one definition may be utilized for *all* clients under that program/activity. WCHC **requires** the use of the Section 8 definition, unless specified in funding agreements. At least two months of source documentation (e.g., wage statements, interest statements, or unemployment compensation documentation) when determining household income for all potential HOME beneficiaries. This change establishes a minimum standard for all PJs. The income of *all* persons in the household, including non-related individuals, must be counted.

Area Median Income (AMI) –The median income of the region, established by HUD, which is adjusted for family size and used to determine the maximum income for households targeted in assisted projects. This is provided by HUD on an annual basis.

Census Long Form as Definition of Income - The 2013 Rule amends §92.203(b)(2) **to eliminate** the pre-2013 Rule option PJs to use the definition of “annual income” that is based on income reported on the U.S. Census Long Form.

- (1) The PJ has executed a legally binding agreement with a recipient, sub-recipient, or contractor to use a specific amount of HOME funds for an eligible project or program;
- (2) Has executed a written agreement reserving a specific amount of funds for a CHDO.
- (3) Non-specific reservations of funds to CHDOs no longer permitted as a commitment -- **effective 90 days after the publication date of the Final Rule, on October 22, 2013. This provision will be implemented by HUD for deadlines that occur on or after January 1, 2015.**

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

Consortium – Geographically contiguous units of local government consolidated to be in a single unit of general local government for HOME Program purposes when certain requirements are met. The WCHC includes the City of Reno, City of Sparks, and Washoe County.

Community Housing Development Organization (CHDO) – A private, nonprofit organization that meets certification requirements established under the HOME regulations at 24 CFR Part 92.2, 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 set-aside at least 15 percent of its annual allocation for award to a CHDO eligible project(s). The pre-2013 Rule requires that a nonprofit organization, in order to qualify as a CHDO, must be organized under the Internal Revenue Code of 1986 (IRC) at 501(c)(3) or 501(c)(4). The 2013 Rule expands this definition to include: (1) a subordinate of a central organization under IRC 905 (this was previously permitted in practice, but is now codified); or (2) a wholly-owned entity that is regarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly-owned by an organization that qualifies as tax-exempt), when the owner organization has a tax exemption ruling from the IRS under section 501(c)(3) or 501(c)(4) of the IRC.

Community Housing Development Organization (CHDO) Eligible Project – Each year 15 percent of the HOME grant must be set-aside for award to a project in which a certified CHDO is the developer, owner or sponsor as established in 24 CFR 92.300. If the CHDO owns the project in partnership, it must be the managing general partner (51%) and have effective project control over *all aspects* of the development and that position must be clearly defined in all agreements and documents related to this project.

Draw – The request and receipt of funds by the funded entity from the WCHC or the WCHC from a federal or state funder from an established line of credit.

Extremely Low-Income Families – Families whose annual incomes do not exceed 30 percent of the median income for the area (adjusted for family size). The definition further states that a student enrolled at an institution of higher learning, who is not a veteran, is under 24 years of age, does not have a dependent child, is not otherwise individually low-income, and does not have parents who qualify as low income *does not qualify* as a low-income family.

Fair Market Rent (FMR) – Published by HUD, usually on a yearly basis, 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.

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.

First-Time Homebuyer: An individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with HOME funds. Definition also includes an individual who is a displaced homemaker or single parent as defined by HUD.

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

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

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 subsidy that may be provided to a project.

HOME Funds – Refers to all appropriations for the HOME Program, plus all repayments and interest or other returns on the investment of these funds.

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

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. Rents are published by HUD at least annually. HOME rents may or may not be the same as Section 8 and LIHTC rents and the participating jurisdiction will provide the updated HOME rents as they become available.

Homeownership: Homeownership is defined as: Fee simple title in a 1- to 4- unit dwelling or condominium unit or at least a 99-year leasehold interest, except; Housing located in insular areas must have a ground lease for at least 40 years; Housing located on an Indian trust or restricted Indian land, for at least 50 years; Housing located on land owned by a community land trust, for at least 50 years (NEW); Manufactured housing on a ground lease that is at least equal to the applicable affordability period. (NEW) Additional guidance on manufactured housing is found at §92.251(e).

The revised 2013 definition expressly states existing HUD policy that a contract for deed (also known as an installment contract or land sales contract) is *not* an eligible form of homeownership. A contract for deed is a financing mechanism that fails to provide equitable title to the contracting party, who remains vulnerable to forfeiting the property until the final payment is made.

Funder a homeowner rehabs program four additional forms of ownership: heir property, life estate, living trust, and beneficiary deed.

Household – One or more persons occupying a housing unit.

Joint Project - A joint project is one in which both jurisdictions make a financial contribution to the project. The contribution can be in the form of a grant, loan, or relief of a significant tax or fee (such as waiver of impact fees, property taxes, or other taxes or fees customarily imposed on projects within the jurisdiction) and must contribute to the feasibility of the project HOME statutory requirements prohibit a local PJ from investing HOME funds in projects outside its boundaries, except for projects located in a contiguous jurisdiction that are joint projects that serve the residents of both jurisdictions.

Jurisdiction – A state or unit of local government.

Low-Income Families – Families whose annual incomes do not exceed 80 percent of the median income for the area (adjusted for family size). The definition further states that a student enrolled at an institution of higher learning, who is not a veteran, is under 24 years of age, does not have a dependent child, is not otherwise individually low-income, and does not have parents who qualify as low income *does not qualify* as a low-income family. Excluded students are prohibited from receiving any type of HOME assistance, including renting HOME-assisted rental units, receiving HOME tenant-based rental assistance, or otherwise participating in the HOME program independent of their low- or very low-income families

Match – Match is the local contribution to HOME program activities. The match contribution must equal not less than 25 percent of the HOME funds drawn down in that fiscal year.

New Construction – Is the creation of new dwelling units. Any project that includes the creation of new or additional dwelling units in an existing structure is considered new construction.

Participating Jurisdiction (PJ) –Is a 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.

Program Income – Gross income received by the PJ, state recipient, or a sub-recipient directly generated from the use of HOME funds or matching contributions, as well as interest earned on the local HOME account. Program income does not include gross income from the use, rental,

or sale of real property received by the project owner, developer, or sponsor unless the funds are paid to the PJ, subrecipient, or state recipient.

Project – A site or an entire building or two or more buildings, together with the site or sites on which the building or buildings are located, 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 – All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw down has been disbursed for the project; the units are ready for occupancy; and all required documentation (completion report, Section 3 report, etc.) are submitted. Tenant info is not required to be in IDIS for rental units. For TBRA, project completion means the final draw down has been disbursed for the project. The input of beneficiary data in IDIS is no longer required for project completion; units may be marked as vacant. Projects must have all necessary title transfer requirements and construction work complete; projects must comply with all HOME requirements (**including property standards at §92.251 which apply to projects to which funds are committed 18 months after the publication date of the Final Rule, January 24, 2015**); final draw must be disbursed; and project completion data must be entered into IDIS (except for rental projects as amended). §92.502(d) requires project completion data to be entered into IDIS within 120 days of the final drawdown for all activity types.

Reconstruction (also rehabilitation) – Is the rebuilding, on the same lot, of housing standing on the same site at the time of project commitment. The number of housing units on the lot may not be changed as part of the reconstruction project, but the number of rooms per unit may change. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing. An exception to the reconstruction requirement that housing must be standing on a site at the time of commitment allows housing that was destroyed by disaster to be rebuilt on the same lot, if the HOME funds are committed to the project within 12 months of the destruction of the housing that originally stood on the site. Since reconstruction is considered rehabilitation under the HOME program, the periods of affordability for reconstructed housing are based on the per-unit investment for rental projects [§92.252(e)]

Refinancing - HOME funds can be used for refinancing only in projects where rehabilitation is the primary activity. The 2013 Rule adds a provision at §92.206(b)(1) that clarifies that for refinancing to be an eligible cost, the rehabilitation cost must exceed the amount of debt that is refinanced with HOME funds. Refinancing alone is not an eligible HOME activity and HOME funds may not be used to refinance existing debt of projects unless rehabilitation is the primary activity taking place.

The 2013 Rule also amends §92.206(b)(2) to require that the eligibility of costs of refinancing existing debt, and the requirement for PJs to adopt accompanying refinancing guidelines, are intended to cover all rental housing – multifamily and single family sale and recapture provisions of §92.254(a)(5).

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. In order for a project to be designated as an SRO, its characteristics cannot be inconsistent with the PJ’s applicable building and zoning code classifications. For jurisdictions whose building and zoning codes do not include an SRO designation, SRO housing is permitted because it is not “inconsistent.”

Site and Neighborhood Standards – Depending on the nature of the activity, specific guidelines apply to the properties to be eligible for funding. (24 CFR 92.251)

- For owner-occupied and homebuyer properties, the value and purchase price of the property are limited. The price or value may not exceed 95% of the area median purchase price for the housing type; in the case of rehabilitation the limit is based on value after rehabilitation. Current maximum value limits may be obtained by contacting WCHC. The recipient must ensure they are using the current limits when assistance is provided.
- Assisted properties must also meet established guidelines regarding physical condition (Table 1 below). Generally, a unit/structure must meet the more stringent of the HUD determined property standards identified in the table below or the local building code. Locally, this means assisted properties must be inspected for and determined to be in compliance with the local building code and other applicable standards.
- In addition, all assisted housing must comply with the accessibility requirement of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. Site and neighborhood standards apply to all new construction, rental housing.

State Recipient – State PJs can award their HOME funds to units of local government administering a local HOME program (a state recipient). The state is responsible for ensuring that HOME funds allocated to state recipients are used in accordance with the HOME regulations and other applicable laws.

Sub-recipient – A public agency or nonprofit organization selected by a PJ to administer all or a portion of the PJ’s HOME *program*. A public agency or nonprofit organization that receives HOME funds solely as a developer/owner of housing is not a sub-recipient.

Targeting – Requirements of the HOME Program relating to the income or other characteristics of households that may occupy HOME assisted units, typically by AMI.

Tenant Based Rental Assistance (TBRA) – TBRA is a rental subsidy that participating jurisdictions can provide to help individual households afford housing costs such as rent, utility costs, security deposits, and/or utility deposits. These include rental assistance programs, self-sufficiency programs, homebuyer programs, targeted population programs,

anti-displacement assistance programs, and security deposit programs. HOME TBRA contracts with individual households may not exceed two years but are renewable.

Underwriting and Subsidy Layering - Underwriting is required for *all* HOME projects (rental and homebuyer) whether or not the projects are assisted with other governmental assistance. The PJ's subsidy layering and/or underwriting must demonstrate that it is not investing any more HOME funds, alone or in combination with other funds, than are necessary to provide quality, affordable, and financially viable housing for at least the duration of the affordability period. The evaluation must determine a reasonable level of profit or return on the owner's or developer's investment in a project.

§92.250(b)(1),(2), and (3) state that the PJ's subsidy layering and underwriting guidelines must require the PJ to:

- Establish standards to assess the reasonableness of profit or return to the owner or developer, for the size, type, and complexity of the project.
- Examine the sources and uses for each project and determine whether the costs are reasonable.
- Assess the market conditions of the neighborhood in which the project will be located.
- Assess the experience and financial capacity of the developer.
- Determine whether there are firm financial commitments for the project.

Uniform Physical Condition Standards (UPCS): The UPCS are uniform national standards established by HUD for housing that is decent, safe, sanitary, and in good repair, pursuant to 24 CFR 5.703. These standards are adopted for HOME rehabilitation, acquisition, and tenant-based rental assistance projects in accordance with revisions made to the property standards requirements at §92.251. These new requirements become effective on **January 24, 2015 (18 months after the publication date of the Final Rule)**.

Very Low-Income Families – Families whose annual incomes do not exceed 50 percent of the median income for the area (adjusted for family size). A student enrolled at an institution of higher learning, who is not a veteran, is under 24 years of age, does not have a dependent child, is not otherwise individually very low-income, and does not have parents who qualify as very low income *does not qualify* as a very low-income family. Excluded students are prohibited from receiving any type of HOME assistance, including renting HOME-assisted rental units, receiving HOME tenant-based rental assistance, or otherwise participating in the HOME program independent of their low- or very low-income families.

GENERAL ADMINISTRATION-----

Technical Review Committee: The purpose of the TRC is to provide a forum for the discussion of regional housing issues, to provide recommendations regarding the funding of affordable housing projects and programs, as well as to provide recommendations in regard to funding priorities, policies and procedures of the Consortium. The composition and procedures of the TRC are governed by By-Laws adopted on October 31, 2012 (Attachment B).

Washoe County HOME Consortium Directors: The city managers of Reno and Sparks, and the county manager of Washoe County, and/or their designees, shall serve as the Directors of the Consortium. The WCHC Directors shall provide leadership and have overall management responsibility to direct the WCHC activities. The Directors shall review and consider all funding decisions of the TRC.

Truckee Meadows Regional Planning Governing Board: The Governing Board is a ratifying body that shall review and ratify all projects and programs that use funding from HOME or Affordable Housing Trust Funds. The RPGB does not act as the lead agency, nor does the Governing Board have administrative or management responsibility to direct WCHC activities.

Process to Amend and the Policies, Procedures or Priorities of the Washoe County HOME Consortium: Any revisions to documents related to the general administration, priorities, policies and procedures of the WCHC shall first be considered by the TRC, and then forwarded to the Directors for their final review, approval and possible adoption. These documents include the following:

1. The WCHC Funding Priorities.
 - a. The priorities shall be reviewed and updated on an annual basis promptly after each funding round in which projects have been selected.
2. The Standard Operating Policies and Procedures.
3. The Technical Review Committee By-Laws.

This amendment procedure does not apply to the Intergovernmental Agreement, and does not apply to any changes necessary to comply with the HOME Final Rule 24 CFR Part 92 or State of Nevada requirements of the Trust Fund program.

Amendments to Written Agreements and Funding Approvals: Requests for debt forgiveness, requests to defer payments beyond five years, and requests to decrease the number of HOME or Trust Fund units shall be reviewed and considered by the Directors of the Consortium. All agreements must remain in compliance with the HOME Final Rule 24 CFR Part 92 and State of Nevada Trust Fund regulations at all times.

Funding: Funds available for affordable housing activities are provided by the U.S. Department of Housing and Urban Development (HUD) through the Home Investment Partnership Program (HOME) under 24 CFR 92. In addition, the WCHC annually receives an allocation of Low Income Housing Trust Funds (LIHTF) and pass-through HOME funds from the Housing

Division of the State of Nevada Department of Business and Industry to support eligible affordable housing activities. The WCHC intergovernmental agreement allows other housing funds to be received through the consortium.

Activities assisted with WCHC funds are approved by the Technical Review Committee and WCHC Directors, ratified by the Regional Planning Governing Board (RPGB), and approved by HUD.

Types of Projects:

- Homeowner Rehabilitation
- Homebuyer assistance
- Rental housing development
- Tenant Based Rental Assistance (TBRA)

WCHC Schedule: The WCHC operates on a fiscal year of July 1 through June 30. Requests for proposals are released the first week of October and due to the City of Reno, as lead agency, in the first week of December. Funds are estimated to be available after July 1st, with the understanding that no contracts/agreements can be executed until the WCHC has executed funding agreements with HUD, which could be as late as October of the fiscal year.

Long-Term Affordability: It is the intention of the WCHC to improve the efficiency and effectiveness of funding by ensuring the long-term affordability of assisted properties. The WCHC typically requires a minimum affordability period and vary depending upon the nature of the HOME assisted activity. WCHC generally requires an affordability period of 30 years for new rental projects multi-family properties, but can vary based upon the nature of the activity and the requirements of other funding sources.

Monitoring: Monitoring is done to ensure production and accountability in funded projects and programs. Monitoring ensures compliance with funding and associated federal requirements and is an evaluation of organizational and project performance. Specific requirements are outlined in the homebuyer/homeowner and rental sections below.

Other Federal Requirements: WCHC enforces the required additional federal regulations that may apply to a project or program. Additional federal requirements may include but are not limited to: environmental reviews, labor standards, relocation requirements, lead based paint, conflict of interest, fair housing and affirmative marketing, Section 3, Section 504, and women and minority business owners. An explanatory list of applicable federal requirements is provided below.

GENERAL PROGRAM RULES-----

The HOME Program has a number of basic general rules that apply to all program activities, including:

- The definition of a project
- The form and amount of subsidy
- [Additional requirements of the WCHC](#)
- Match Requirements
- Eligible costs
- The property
- The applicant or beneficiary
- The long-term affordability of the project
- Applicability of other Federal requirements

WCHC funds are intended to provide gap financing for development projects and to fund projects that would otherwise not be available in the community. In addition, WCHC funding in a project must not exceed the proportionate share based on the number of units designated as WCHC units compared to the overall project size.

Definition of a Project. Project means a site or sites together with any building or buildings located on the site(s) under common ownership, management and financing, to be assisted with HOME funds as a single undertaking. The “project” includes all of the activities associated with the site and building. For assistance provided to individuals, including TBRA, down payment assistance, or owner-occupied rehabilitation, “project” means the assistance provided to one household.

Forms of Subsidy. HOME allows virtually any form of financial assistance to be provided for eligible projects and to eligible beneficiaries. The participating jurisdiction (PJ), WCHC, determines what forms of assistance it will provide. Some forms of assistance will require legal instruments for implementation. HOME regulations list the following forms of assistance as eligible:

- **Interest or non-interest bearing loans or advances:** These loans are amortizing loans, with or without accruing interest. Repayment is expected on a regular basis so that over a fixed period of time all of the principal and interest is repaid. The term of the loan may vary and the property or some other assets are used as collateral.
- **Deferred Loans (forgivable or repayable):** These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred until some point in the future. Deferred loans can be structured in a variety of ways and terms may differ greatly. Deferred payment loans use the property or some other form of collateral as security for repayment.
- **Grants:** Grants are provided with no requirement or expectation of repayment. They require no liens on the property or other assets.

- **Interest Subsidies:** This is usually an up-front discounted payment to a private lender in exchange for a lower interest rate on a loan.
- **Equity Investments:** An investment made in return for a share of ownership. Under this form of subsidy, the PJ acquires a financial stake in the assisted property and is paid a monetary return on the investment if money is left after expenses and loans are paid.
- **Loan Guarantees and Loan Guarantee Accounts:** HOME funds may be pledged to guarantee loans or to capitalize a loan guarantee account. A loan guarantee or loan guarantee account ensures payment of a loan in case of default.
- Except in the case of TBRA, WCHC funds are provided as **loans** with terms based upon project needs.

Subsidy Limits. The *maximum* per unit HOME subsidy varies by metropolitan area and is based on Section 221(d)(3) limits. Each year, HUD calculates these maximum amounts by area. Current subsidy limits may be obtained by contacting WCHC staff. Under the regulation the maximum limit relates to the HOME funds; however WCHC will utilize the subsidy limit to evaluate the number of units required to be WCHC assisted units based on the total funding. Preference will be given to projects complying with the HOME subsidy limits for all sources of funds. The maximum per-unit subsidy that may not be increased above 240 percent of the base limits authorized by section 221(d)(3)(ii) of the National Housing Act (12 U.S.C.7151(d)(3)(iii)).

Starting in 2013, Section 221(d)(3) program limits will no longer be calculated and published by HUD due to the elimination of the 221(d)(3) Mortgage Program. The HOME statute and the HOME regulation at 24 CFR 92.250(a) limit the amount of HOME funds that a PJ may invest in a HOME-assisted unit. The maximum HOME per-unit subsidy limit is set at the basic Section 221(d)(3)(ii) mortgage limit for elevator-type projects, by bedroom size (with adjustments up to 240% for “high cost” geographic areas). Because HUD is no longer calculating 221(d)(3) limits, PJs must continue to use the 2012 published Section 221(d)(3) limits for all HOME projects, until further notice from the Office of Community Planning and Development at HUD. These limits were published in December 2011, became effective January 1, 2012, and are available at <http://www.gpo.gov/fdsys/pkg/FR-2011-12-22/pdf/2011-32811.pdf>.

The *minimum* amount of HOME funds that must be invested in any project is \$1,000 for every assisted unit in the project. The minimum relates only to HOME funds, not to any other funds, including match that might be used for project costs. The minimum amount does not apply to tenant based rent assistance.

An evaluation must be made to ensure that the HOME funds, in combination with other governmental and non-governmental funds, do not exceed what is necessary to provide affordable housing. This is generally referred to as the “subsidy layering review”. PJs must conduct a subsidy layering review prior to the award of any funds. The WCHC will evaluate the reasonableness and need for the requested assistance by analyzing pro-formas for cash flow, debt-coverage ratios, and the appropriateness of fees charges with and without the HOME funds. The WCHC will: 1) examine the sources and uses for each project and determine whether the costs are reasonable; 2) assess the market conditions of the neighborhood in which the project

will be located; and, 3) assess the experience of the developer, the financial capacity of the developer, and ensure that there are firm financial commitments for the project.

Additional Requirements of the WCHC: The Consortium maintains the right to establish requirements that are more restrictive than the rules and regulations of the funding source. The WCHC has adopted the following additional requirements for new construction, acquisition and/or and rehabilitation projects, but not including tenant-based rental assistance programs:

1. In projects of five or more HOME units, half (50%) of the total number of HOME units shall be affordable and serve households at or below 50 percent of the area median income.
2. For group homes, a minimum of three beds shall be provided per project, which shall serve households at or below 30 percent of the area median income.
3. The minimum level of HOME investment per project shall be \$50,000.

In limited cases, exceptions to the minimum standards above may be approved with the support and approval of the Technical Review Committee and the Directors of the Consortium.

Match Requirements. The HOME program requires participating jurisdictions to have a match of at least 25%. Sources of match can be cash, donated land or real property, infrastructure improvements, bonds issued by state or local government, donated materials, equipment, or professional services, sweat equity, and the value of foregone taxes. Forms of match typically reported by the WCHC include the Low Income Housing Trust Funds and the value of tax-exemptions resulting from the investment of HOME funds into affordable rental properties.

Due to the use of LIHTF as match for local and state HOME funds, LIHTF funded projects and programs will typically be required to comply with the federal regulations. Areas where funding requirements may differ are acknowledged in the appropriate sections below.

Eligible Costs. Eligible costs depend on the activity. HOME funds can be used to cover both hard (construction, rehab) and soft (fees, insurance, appraisals) costs associated with a project. Eligible expenses for which WCHC funds may be used are:

- **New Construction:** Funds can be used for new construction of both rental and ownership housing. Any project that includes the addition of dwelling units to an existing structure is considered new construction.
- **Rehabilitation:** Rehab includes the alteration, improvement or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with WCHC funds.
- **Reconstruction:** Refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction also includes replacing a substandard manufactured house with a new manufactured house. During reconstruction,

the number of rooms per unit may change, but the number of units may not. An exception to the reconstruction requirement that housing must be standing on a site at the time of commitment allows housing that was destroyed by disaster to be rebuilt on the same lot, if the HOME funds are committed to the project within 12 months of the destruction of the housing that originally stood on the site.

- **Conversion:** Conversion of an existing structure from another use to affordable residential housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls of an existing structure, the entire project will be deemed new construction.
- **Site Improvements:** Site improvements include new on-site improvements (sidewalks, utility connections, sewer and water lines) where none are present that are essential to development or repair of existing improvements. Building new, off-site utility connections to an adjacent street is also eligible.

Acquisition of Property: Acquisition of existing standard property, or substandard property in need of rehabilitation, is eligible as part of either a homebuyer program or a rental housing project. Housing that is to be used as rental housing must meet the property standards for new construction or rehabilitation, as applicable, and document compliance, or be rehabilitated to meet these standards at the time of project completion. For acquisition projects that are homebuyer projects the housing must be free from all health and safety defects before occupancy and must meet the property standards not later than 6 months after transfer.

- **Acquisition of Vacant Land:** Acquisition of vacant land is eligible only if construction will begin on a HOME project within 12-months of purchase.
- **Demolition:** Demolition of an existing structure may be funded only if construction will begin on a HOME project within 12-months.
- **Relocation Costs:** The Uniform Relocation Act and Section 104(d) apply to all assisted properties. Both permanent and temporary relocation assistance are eligible HOME costs. However, these funds are included in the subsidy limit calculation.
- **Refinancing:** Funds may be used to refinance existing debt on funded rehabilitation properties. The refinancing must be necessary to reduce the owner's overall housing costs to make the housing more affordable.
- **Project Related Soft Costs:** These costs must be reasonable and necessary, including:
 - Finance related costs
 - Architectural, engineering and related professional services
 - Costs of a project audit required by WCHC
 - Affirmative marketing and fair housing services to prospective tenants or owners of a funded project
 - Staff time directly related to carrying out a project

- PJ staff costs directly related to projects (except TBRA)

Prohibited Activities. Funds cannot be used for Project Reserve Accounts, Tenant Based Rental Assistance to serve special purposes of the Section 8 program, as Match for federal programs (except McKinney-Vento Act funds), Operations or Modernization of public housing, payment of delinquent taxes, fees, or charges on properties to be assisted with WCHC funds, or for properties receiving assistance through the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) or the Emergency Low Income Preservation Act (ELIHPA).

During the first year after completion of a project, the WCHC may commit additional funds to a project. After the first year, no additional HOME funds may be provided to a previously assisted project. For existing HOME-assisted rental projects that are troubled (i.e., projects in which operating costs significantly exceed operating revenues) HUD may approve one or more of the following actions to preserve a HOME-assisted rental project:

- 1) investment of additional HOME funds provided the total amount of HOME investment does not exceed the maximum per unit subsidy limits established in § 92.250;
- 2) use of HOME funds to capitalize operating reserves; and,
- 3) reduction of the number of HOME units if more than the required minimum number of units were originally designated.

However, rental assistance to families may be renewed, rental assistance may be provided to families that will occupy housing previously assisted with WCHC funds, and a homebuyer may be assisted to acquire a unit that was previously assisted with HOME funds. Funds cannot be used for rent assistance if the recipient of the rent assistance is tied to occupancy in a particular project. A PJ may not use funds to reimburse itself for property in its inventory. However, a jurisdiction may use funds to acquire property or reimburse itself for property acquired with other funds in anticipation of an eligible project.

Property & Property Standards. Depending on the nature of the activity, specific guidelines apply to the properties to be eligible for funding. (24 CFR 92.251)

Table 1. Property Standards to be Utilized by Activity Type

Activity	Property Standard to be Used
Acquisition of Existing Owner-Occupied Housing, with or without rehabilitation	Local Building Code or UPCS
Tenant-Based Rental Assistance	UPCS
Rehabilitation of Housing, Multi-family or Owner-Occupied	Local Rehabilitation Standards <i>And</i> Local Building Codes or Minimum Property Standards <i>And</i> Applicable Accessibility requirements
New Construction of Housing	Local Building Code or Minimum Property Standards

	<p><i>And</i> Model Energy Code <i>And</i> Applicable Accessibility requirements</p> <p>New Construction rental housing must also meet site and neighborhood standards at 24 CFR 983.6(b)</p>
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- For owner-occupied and homebuyer properties, the value and purchase price of the property are limited. The price or value may not exceed 95% of the area median purchase price for the housing type; in the case of rehabilitation the limit is based on value after rehabilitation. Current maximum value limits may be obtained by contacting WCHC. The recipient must ensure they are using the current limits when assistance is provided.
- Assisted properties must also meet established guidelines regarding physical condition (Table 1 below). Generally, a unit/structure must meet the more stringent of the HUD determined property standards identified in the table below or the local building code. Locally, this means assisted properties must be inspected for and determined to be in compliance with the local building code and other applicable standards.
- In addition, all assisted housing must comply with the accessibility requirement of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. Site and neighborhood standards apply to all new construction, rental housing.
- Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion, except as provided in paragraph (b) of this section. The participating jurisdiction must have written standards for rehabilitation that ensure that HOME-assisted housing is decent, safe, and sanitary ([Attachment A](#)). In the absence of a local code for new construction or rehabilitation, HOME-assisted new construction or rehabilitation must meet, as applicable, one of three model codes: Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926. To avoid duplicative inspections when FHA financing is involved in a HOME-assisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.
- All other HOME-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

- The housing must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).
- Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR part 3280. These standards pre-empt State and local codes covering the same aspects of performance for such housing. Participating jurisdictions providing HOME assistance to install manufactured housing units must comply with applicable State and local laws or codes. In the absence of such laws or codes, the participating jurisdiction must comply with the manufacturer's written instructions for installation of manufactured housing units. Manufactured housing that is rehabilitated using HOME funds must meet the requirements set out in paragraph (a)(1) of this section.

(a) The following requirements apply to housing for homeownership that is to be rehabilitated after transfer of the ownership interest:

(1) Before the transfer of the homeownership interest, the participating jurisdiction must:

(i) Inspect the housing for any defects that pose a danger to health; and

(ii) Notify the prospective purchaser of the work needed to cure the defects and the time by which defects must be cured and applicable property standards are met.

(2) The housing must be free from all noted health and safety defects before occupancy and not later than 6 months after the transfer.

(3) The housing must meet the property standards in paragraph (a)(1) of this section not later than 2 years after transfer of the ownership interest.

(b) An owner of rental housing assisted with HOME funds must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

(c) All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the housing quality standards in 24 CFR 982.401.

The Applicant/Beneficiary. The Washoe Consortium’s Affordable Housing Municipal Loan Program (AHMLP) is designed to provide affordable housing to low-income families and individuals. Therefore, the program has rules about targeting program resources and establishing applicant eligibility.

By regulation, all HOME funds must be used to assist families with incomes below 80 percent of AMI and LIHTF must benefit households at or below 60 percent of AMI. Additional restrictions apply when HOME is used for rental housing or tenant based rent assistance. For each HOME allocation, 90% of the occupants of HOME assisted rental units and households assisted with HOME funded TBRA must have incomes that are 60% or less of the area median. Known as the Project Rule, twenty percent (20%) of the units in *each* rental housing project with *five* or more HOME assisted units must be occupied by families with incomes at or below 50% of area median income. In addition, based upon the needs identified in the housing assessment completed for the Consolidated Plan, WCHC funded multi-family projects target all funds to very-low income households (50% AMI) with 20 percent of the assisted units targeting extremely-low income (30% AMI) households.

Beneficiaries of funds – homebuyers, homeowners, or tenants – must be determined income eligible based upon a review of their income and projecting their annual anticipated income. Annual income is the *gross* amount of income **anticipated** by all adults (everyone 18 years of age or older, including non-related individuals) in a household during the 12 months following the effective date of determination. The determination must not be more than 6 months old at the time assistance is received.

To calculate annual (gross) income, the PJ may use either of these definitions of income:

- Section 8 annual (gross) income;
- IRS adjusted gross income, using the calculation for “adjusted gross income” on IRS form 1040; or

The PJ makes the determination as to what definition will be used. There may be different definitions for different programs, but the same definition must be used within a program. For example, a PJ can use the IRS definition for its homeowner rehab program and the Section 8 definition for its TBRA program, but it cannot use the IRS definition *and* the Section 8 definition for its homeowner rehab program. ***WCHC recipients are required to use the Section 8 definition of income unless otherwise specified in the executed funding agreement.***

To determine if applicants are income eligible, recipients must verify income using **source documentation**. Third-party verification is the required method for WCHC assisted projects and programs; however, in instances where *third party verification* cannot be obtained source documentation such as wage statements, interest statements, and unemployment compensation statements for a minimum of the most recent 60 to 90 days may be used to calculate anticipated income.

Income eligibility is based on anticipated income, so likely changes in income must also be used in the determination. For example, pay stubs show current income but they do not report

projected raises or bonuses, which must be included in the income calculation. *If six months has passed before assistance is provided, e.g. rehabilitation has not yet started or family closes on the purchase of a home, income must be re-certified in the manner described above.*

Rental and TBRA programs require annual re-certification of income. For TBRA programs, source documentation is required for initial and all subsequent income verifications. For HOME and/or LIHTF-assisted rental projects, the requirement for annual income re-certification can be fulfilled with tenant self-certification. Self-certification must include a statement that provides the family's annual income and family size, along with a certification that the information is complete and accurate. The certification must state that the family will provide source documents upon request. Income must be verified with source documentation every sixth year during the affordability period.

Long-Term Affordability. To ensure investments provide affordable housing over the long term, rent and occupancy restrictions continue throughout the period of affordability.

- **Period of Affordability** – It is the intention of the WCHC to ensure the long-term affordability of assisted properties. While the minimum length of affordability period depends on the amount of the HOME investment in the property and the nature of the activity (outlined in Table 2 below), the WCHC typically has required a minimum affordability period of **30** years for multi-family properties.

Table 2. Minimum Affordability Period by Funding Amount and Project Type

Funding/Activity	Affordability Period
Less than \$15,000	5 years
\$15,000 to \$40,000	10 years
Greater than \$40,000	15 years
New construction of Rental	20 years
Refinance of Rental	15 years

- **Occupancy** – Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent.

If a home purchased with HOME assistance is sold during the period of affordability, resale or recapture provisions, outlined in the homebuyer section below, apply to ensure the continued provision of affordable housing. The 2013 Final Rule 24 CFR 92.254(a)(5) is revised to require PJs to obtain HUD’s specific and written approval of its resale and/or recapture requirements. WCHC will continue to follow the pre-2013 Rule procedures to submit its resale and recapture provisions for HUD approval as part of their Consolidated Plan or annual Action Plan. However, rather than provide implicit approval as part of the Consolidated Plan or annual Action Plan

approval, **HUD is required to issue separate, written approval of these provisions. It is a statutory requirement that HUD approves resale or recapture provisions.**

Other Federal Requirements: Funded projects and programs are also subject to a number of cross cutting federal regulations. If the sole source of funding is LIHTF some requirements may be waived or reduced. Some of the major additional requirements are:

1. **Hatch Act, Title 5, Chapter, 15, United States Code:** Refers to political activity of certain state and local employees. These employees are those principally employed in connection with programs financed in whole or in part by loans or grants made by a United States federal agency. Employees of private nonprofit organizations are covered by the Hatch Act only if the statute through which the organization receives its federal funds contains language which states that the organization shall be considered to be a state or local agency for purposes of the Hatch Act.

2. **The National Environmental Policy Act of 1969** as set forth in P. O. 91-190 and the implementing regulations in 24 CFR, Parts 51 and 58: (*P. O. 91-190 – 42 USC§4321*) The purposes of the act are to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources; important to the National and to establish a Council on Environmental Quality. *24 CFR 51 and 56* are the environmental criteria and standards and the environmental review requirements.

3. **Title VIII of the Civil Rights Act of 1968, P.L. 90-284 (Fair Housing Act)** Prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, national origin, disability or familial status, as well as establishing administrative enforcement mechanisms, revised and expanded Justice Department jurisdiction, and contains design and construction accessibility provisions for certain new multifamily dwellings developed for first occupancy. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act, which: expanded the coverage of the Fair Housing Act to prohibit discrimination based on disability or on familial status (presence of child under age of 18, and pregnant women); established new administrative enforcement mechanisms with HUD attorneys bringing actions before administrative law judges on behalf of victims of housing discrimination; and revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts.

4. **24 CFR Parts 5, 200, 203, 236, 400, 570, 574, 882, 891, and 982: Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity** - ensure that its core programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status

5. **Section 109 of the Housing and Community Development Act of 1974:** Prohibits discrimination on the basis of race, color, national origin, disability, age,

religion and sex within Community Development Block Grant programs or activities. Section 109 investigates complaints of discrimination on these bases.

6. Title VI of the Civil Rights Act of 1964, P. L. 88-352 and the regulations of HUD with respect thereto, including 24 CFR, Parts 1: Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

7. Executive Order 13166: Improving Access to Services for Persons With Limited English Proficiency Requires that greater emphasis be put on existing requirements under Title VI of the Civil Rights Act to protect persons who, as a result of national origin, are limited in their English proficiency (LEP)

8. Fair Housing Act: As amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

9. Section 3 of HUD Act of 1968, as amended, with regulations from 24 CFR 135: (applies to contracts of \$100,000 or more). Section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations of HUD with respect thereto, including 24 CFR, Part 135, Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u). Section 3 requires the WCHC to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons. It is the policy of the Washoe County HOME Consortium (WCHC) to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

All Section 3 covered contracts, including this one shall include the Section 3 Clause (Attachment C)

10. Executive Order 11063, as amended: Prohibits discrimination in the sale, leasing, rent and other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

11. Age Discrimination Act of 1975: Prohibits discrimination on the basis of age to programs or activities receiving federal financial assistance.

12. Section 504 of the Rehabilitation Act of 1973: The Rehabilitation Act (1973) Section 504: Applies to new construction multi-family rentals of 5 or more units and substantial rehab

(greater than 75% of replacement cost, which is the value of the rehab after completion) of 15 or more units, requiring 5 % of the total number of the project's *units* to be for physically impaired (a unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in Sec. 8.32 is accessible for purposes of this section), *PLUS* an *additional* 2% of the total number of the project's *units* to be for sensory impaired (Please note that HUD has advised that using kits marketed to adapt the unit for sensory impaired persons may not fully meet this unit requirement). For example, a complex with 40 units would need 2 units for physically impaired plus an additional one unit for sensory impaired, or 3 total units. Other situations must be addressed "to the maximum extent feasible." The act also requires that the program be made accessible (that is, with office accessibility, intake procedures, applications, etc.) and promoted affirmatively. It further requires that all units be made "visitible" by persons with disabilities to the furthest extent feasible. Employers must make employment accessible and recipients or subrecipients having 15 or more employees must designate a Section 504 Coordinator and notify program participants and employees of non-discrimination policies, as well as conduct self-evaluations of compliance with Section 504.

For this project all areas of the acquired property must be made Section 504 compliant. Attachment D, *Architect's Certification of Compliance with Minimum Standards for Accessibility by the Physically Handicapped*, must be executed and returned to the WCHC prior to disbursement of retention.

13. Executive Order 11246 (Applies to contracts in excess of \$10,000): Bars discrimination in federal employment because of race, color, religion, sex, or national origin.

14. The Fair Labor Standards Act: Establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.

15. Section 202(a) of the Flood Disaster Protection Act of 1973: Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 3(a) of said Act (42 U.S.C. 400(a)), one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, for use in any area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program.

16. Section 302 and 401(b) of the Lead-Based Paint Poisoning Prevention Act: This subpart implements the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

17. Davis Bacon Act, as amended

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

18. 45 CFR Part 76 Subpart F of the Drug-Free Workplace Act of 1988:

Grantee shall certify to the agency that it will provide a drug-free workplace.

19. Section 319 of Public Law 101-121 (certification required for contracts and subcontracts of \$100,000 or more):

Prohibits use of federal funds for lobbying the executive or legislative branches of government in connection with specific contract, grant or loan, etc. which prohibits Developer from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan, and requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of Developer, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

20. Title I of Housing and Community Development Act of 1974

Sub-grantee shall:

- a. not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give preference in employment to persons on the basis of religion; and
- b. not discriminate against any person applying for such public services on the basis of religion and not limit such services or give preference to persons on the basis of religion; and
- c. provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision of such public services.

21. Financial assistance shall not be used to directly or indirectly employ, award contracts to, or engage the services of any contractor or subcontractor who is currently debarred or suspended. Developer must search the Internet at <https://www.sam.gov/portal/public/SAM/> to determine if contractors and/or subcontractors are currently debarred or suspended.

Developer must forward a list of contractors/subcontractors and results from the search to WCHC's Lead Agency prior to beginning contracted work.

22. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); Work Hours and Safety Standards Act (40 USC 327- 333). This Act applies to both service and construction contracts and requires employees to be paid time and one-half for all hours worked in excess of 40 per week. The Act also contains certain health and safety standards

23. The Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.): The Copeland “Anti-Kickback” Act generally prohibits federal contractors or subcontractors engaged in building construction or repair from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract and requires such contractors and subcontractors to submit weekly statements of compliance.

24. The Vietnam Era Veterans' Readjustment Assistance Act of 1974;

The Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) requires covered federal government contractors and subcontractors to take affirmative action to employ and advance in employment specified categories of veterans protected by the Act prohibits discrimination against such veterans. In addition, VEVRAA requires contractors and subcontractors to list their employment openings with the appropriate employment service delivery system, and that covered veterans receive priority in referral to such openings. Further, VEVRAA requires federal contractors and subcontractors to compile and submit annually a report on the number of current employees who are covered veterans. The affirmative action and mandatory job-listing provisions of VEVRAA are enforced by the Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) within the U.S. Department of Labor (DOL). DOL's Veterans' Employment and Training Service (VETS) administers the veterans' employment reporting requirement.

25. The Jobs for Veterans Act 2002: The Veterans' Readjustment Assistance Act, more fully known as the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), establishes an affirmative action program to be followed by government contractors.

26. The Immigration Reform and Control Act of 1986: Required employers to attest to their employees' immigration status; made it illegal to knowingly hire or recruit unauthorized immigrants; legalized certain seasonal agricultural illegal immigrants; legalized illegal immigrants who entered the United States before January 1, 1982 and had resided there continuously with the penalty of a fine, back taxes due, and admission of guilt.

B. Developer shall provide the WCHC, upon project completion, records and data on Minority Business Enterprise, Women's Business Enterprise, and affirmative marketing efforts. These records shall contain, but are not limited to, the following:

1. Data on the attempts to reach minority-owned and female-owned businesses when announcing business opportunities; and
2. Data on racial/ethnic or gender character of business to whom a contract was awarded and the contract amount; and
3. Data on attempts to affirmatively further fair housing.

Executive Orders:12432 - Minority business enterprise development, and **12138** - National Women's Business Enterprise Policy and National Program for Women's Business Enterprise. The WCHC, in its discretion, may request such other and further information, as from time to time required to ensure compliance with the mandates of the Executive Orders set forth above.

Financial Management Requirements: Projects and programs receiving HUD funds must abide by the financial management requirements of the Federal Office of Management and Budgets which pertain to their particular type of organization, whether it is an institution of Higher Education, a hospital, other non-profit, a state, a local government, etc. For instance, a CHDO serving as a sub-recipient for the Consortium and as a development organization has different OMB requirements based on their activity.

Some of the basic financial requirements are:

OMB Circular A-110: Uniform Administrative Requirements for grants and Agreement with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (<http://www.whitehouse.gov/omb/circulars/a110/a110.html>);

OMB Circular A-13: Audits of States, Local Governments and Non-Profit Organizations (<http://www.whitehouse.gov/omb/circulars/a133/a133.html>);

OMB Circular A-122: Cost Principles for Non-Profit Organizations (<http://www.whitehouse.gov/omb/circulars/a122/a122.html>

WRITTEN AGREEMENTS-----

A written agreement *must be entered into before any funds are committed or disbursed to a recipient*. When executed the agreement is:

- A statement of the relationship between the WCHC and the funding recipient;
- A statement of the conditions under which the funds are provided;
- Tool for monitoring performance and verifying compliance;
- A tool for parties using funds to learn about the applicable rules and regulations; and
- A method for enforcing the program requirements and protecting the WCHC investment.

Required Provisions. The specific contents of agreements will vary depending upon the type of activity and administrative role of the recipient. Under HOME regulations there are specific provisions that must be included in written agreements. The required provisions are:

- **Use of HOME funds:** Description of tasks to be performed, schedule for completing tasks, a budget in sufficient detail to effectively monitor performance and the period of the agreement. Documents detailing this information must be provided by the recipient to WCHC prior to the execution of the funding agreement. Commitment of HOME funds does not include an agreement between: A PJ and a subrecipient that the PJ controls (such as an authority that is part of the local government), or a lead entity of a consortium and a consortium member.
- **Dates:** Signatories to written agreements must *date* the document in order for it to constitute a valid commitment. Since the HOME statute and regulations require the PJ to enter into a legally binding commitment within 24 months of signing the HOME Investment Partnerships Agreement, dates are needed to verify compliance.
- **Requests for Disbursement of Funds:** Requirement that HOME funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Disbursements should be scheduled to make draws no more than *120 days* apart to alleviate the possibility of the project being considered closed.
- **Project Requirements:** Enumeration of all project requirements applicable to the type of projects(s) to be assisted. Examples include affordability requirements, property standards, rents and recapture/resale provisions. The written agreement may permit the owner to limit the eligibility or give a preference to a particular segment of the population in accordance with 24 CFR §92.253(d).
- **Records and Reports:** Enumeration of records that must be maintained, and information and reports that must be submitted.
 - Annual report on rents and occupancy of HOME-assisted units to verify compliance with affordability requirements

- If the project has floating HOME units, information on unit substitution and filling vacancies to ensure that the project maintains the required unit mix
 - Reports (including financial reports) that enable the PJ to determine the financial condition and continued financial viability of the rental project.
- **Reversion of Assets/Program Income Requirements:** Statement regarding the disposition of program income or other assets received by the recipient as a result of the WCHC investment. All program income received from the operation of a WCHC funded program must be returned to the WCHC upon receipt. It is expected that program income received in the operations of funded multi-family projects be reinvested in the property or invested in the development of additional affordable rental units.
 - **Enforcement and Duration of the Agreement:** This provision is in the agreement with all parties, including owners, and is the means of enforcing the provisions of the written agreement.
 - **Affirmative Marketing:** Requirements for affirmative marketing in projects with five or more assisted units.
 - **Other Program Requirements:** Requirements regarding other federal requirements, including non-discrimination and equal opportunity, affirmative marketing and minority outreach, environmental review, displacement, relocation and acquisition, labor standards, lead based paint, and conflict of interest.
 - **Uniform Administrative Requirements:** Requirement to comply with applicable federal administrative requirements (OMB Circular A-87 and applicable provisions of 24 CFR Part 85 for governmental entities, or OMB Circular A-122 and applicable provisions of 24 CFR Part 84 for non-profit entities).
 - **CHDO Provisions:** Requirements for the use of funds to CHDOs, including set-aside funds, operating expenses and project-specific loans and capacity building assistance. CHDO set-aside funds must be committed to *specific projects* for a specified amount of HOME funds within 24 months of signing their HOME grant agreement.
 - **Conditions for Religious Organizations:** Includes conditions set forth in 24 CFR Part 92.257 concerning religious organizations.
 - **Conflict-of-Interest:** 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 CFR Parts 84 and 85; the second, which applies only in cases not covered by 24 CFR Parts 84 and 85, set forth in the HOME regulations

Additional Provisions. In addition there are a number of elements that may be included in the funding agreement to increase its usefulness to both parties. These include:

- The roles and responsibilities of each party.
- A description of the project or program being funded, spelling out the eligible uses of funds.
- A project timetable with major milestones (performance standards).
- Criteria for successful completion of the program or project.
- A description of project close-out requirements.
- The consequences of non-performance.
- CHDO provisions (24 CFR 92.300 and 92.301)
- Monitoring

Amending Documents. Written agreements may be amended by mutual agreement of the parties for changes in terms, for the receipt of additional funds, or changes in project scope. However, agreements will be automatically amended if so required to ensure compliance with regulations per agreement enforcement and termination found under 24 CFR 85.43 and 85.44.

Other Documents. Other types of documents may be executed as conditions of funding and may include mortgage and loan agreements, deed restrictions and other use agreements between the PJ and the owner, property management agreements between the owner and property manager, and asset management agreements between the owner and asset manager.

- Mortgage and loan documents are signed at closing and contain the financial terms and conditions of the loan.
- Deed restrictions and other use agreements will be used to place specific restrictions on the property.
- Property management agreements detail the specific responsibilities of the property manager. Copies of management agreements executed assigning the management responsibility of WCHC funded projects must be provided to WCHC prior to the release of retention or within 15 days of execution, whichever is later.

RENTAL ACTIVITIES-----

Eligible Activities. [24 CFR 92.205(a)]

Activities allowed with the use of WCHC funds are activities and projects that support and provide incentives for the development of affordable rental housing that addresses needs identified in the Consolidated Plan. These activities may include: new construction, reconstruction, acquisition or rehabilitation of non-luxury housing available with rent restrictions serving very-low and extremely-low income households. Housing development may only be permanent or transitional housing. Single-room occupancy (SRO) and group homes are permitted but have additional conditions. If Tenant-Based Rental Assistance (TBRA) is identified in the current Consolidated Plan as an appropriate response to market conditions, such programs may be awarded WCHC funding.

Funding will be limited to the amount necessary to facilitate completion of the project and will not exceed a proportionate share of costs in a project with floating units.

Eligible Costs. [HUD Regulations 24 CFR 92.206]

Funds may be used to pay the following:

- Development hard costs for both new construction and rehabilitation;
- Refinancing costs to permit the continued affordability of the project in compliance with WCHC refinancing guidelines;
- Acquisition costs
- Costs relating to payment of loans
- General Management
- Related soft costs
 - Architectural, engineering or related professional services required;
 - Costs to process and settle the financing for a project;
 - Costs of a project audit required by the WCHC respect to the development;
 - Costs to provide information services such as affirmative marketing and fair housing information to prospective tenants as required by 92.351;
 - Operating costs directly related to carrying out the project, such as work specifications preparation, and loan processing inspections;
 - Costs for the payment of impact fees charged for all developments within a jurisdiction; and
 - Costs of environmental review and release of funds in accordance with 24 CFR part 58 directly related to the project.

All costs must be in direct relation to a WCHC assisted unit and supporting documentation of all expenditures is required for all costs being paid for with the WCHC funding. With the exception of acquisition and financing costs, WCHC funds are available as reimbursement for eligible expenses. Related soft costs must be necessary for the development of WCHC units. *Documentation must be provided for any cost re-imburement.* If requesting reimbursement of staff time, timesheets and payment records documenting time allocated to WCHC units is required.

Prohibited Activities. [HUD Regulations 24 CFR 92.214]

WCHC funds may NOT be used to:

- Pay delinquent taxes, fees or charges on properties to be assisted with HOME funds;
- Pay for any cost that is not eligible under the HOME program at 92.206 and 209;
- Provide project reserve accounts;
- Pay for the acquisition of property owned by any of the member jurisdictions unless purchased in anticipation of carrying out a HOME eligible project;
- Land bank;
- Provide tenant-based rental assistance for the special purposes of the existing section 8 program;
- Provide assistance to housing previously assisted with HOME funds (other than TBRA);
or
- Pay for activities related to Public Housing Modernization.

Form & Amount of Assistance. [HUD Regulations 24 CFR 92.205(b)]

While regulations allow assistance to be given in any of the forms listed above, WCHC assistance to development projects will be given in the form of an amortized or deferred loan. Funding Agreements will establish a minimum affordability period that is typically not less than 30 years but will at minimum meet the HOME guidelines. Before monies are released an agreement will be signed between WCHC and the recipient. The agreement will satisfy Federal requirements and establish the terms under which the funding is being provided. Funds will not be released until a funding agreement is executed.

WCHC provides gap financing to affordable housing projects and programs. It is recognized that a significant benefit of funding from the WCHC is the property tax-exemption that affordable properties receive as a result being funded with federal funds. Therefore, the foregone taxes will be considered in the subsidy layering review and determining the amount necessary HOME subsidy. A federally funded affordable housing project becomes eligible for the property tax-exemption when the federal funds are invested in the project, therefore the following guidelines will be used in awarding the property-tax exemption:

- Funded new construction projects will be eligible for tax-exemption upon recording of the Deed of Trust; and
- Rehabilitation projects will be eligible upon the first draw of WCHC funds.

Assistance for TBRA programs will be provided in the form of a grant to the sub-recipient serving households with initial incomes not greater than 50 percent of AMI. TBRA funding will be made from LIHTF. Funding TBRA with LIHTF allows WCHC to pay reasonable administrative costs. This structure of assistance allows the WCHC to meet a wide range of emergency housing needs while also ensuring funds will be available in the future to address other affordable housing needs. In addition, the following procedures apply to TBRA programs:

1. Agencies seeking funding for TBRA programs shall request funding through the Consortium's adopted public hearing process.
2. WCHC staff shall report to the TRC on the performance and overall administration of the programs at each funding cycle in which TBRA programs are applying.

Monitoring. All projects and programs are monitored annually and include a review of management processes, a file review, and/or a physical inspection of the property and assisted units. The WCHC will use a risk-based monitoring system of HOME-assisted rental projects and financial oversight of HOME-assisted rental projects during the affordability period of the project.

CFR §92.504(a) requires PJs to develop and follow written policies and procedures and implement a risk-based monitoring system to become **effective on July 24, 2014**.

Project completion inspections. Upon completion of the project, the PJ must conduct an on-site inspection to confirm that contracted work is completed and the property meets the property standards specified in §92.251. The initial monitoring, completed upon lease-up includes reviewing 100 percent of the WCHC client files and inspecting 20 percent of the assisted units. The first on-site ongoing inspections will occur within 12 months after project completion, and an inspection must be conducted at least once every three years.

Ongoing property inspections. On an ongoing basis throughout the period of affordability, the WCHC must conduct on-site inspections to determine that the property meets the property standards adopted by the WCHC pursuant to §92.251(f) and to verify the information submitted by the owners regarding rent, occupancy, and unit mix. The inspections must be done in accordance with the WCHC's inspection procedures required. Annually staff will review 20 percent of client files and inspect the associated units unless staff identifies issues that warrant further review or inspection of additional files and/or units. For each inspection visit, the WCHC must determine how many HOME-assisted units must be inspected in the project (for inspectable items--site, building exterior, building systems, and common areas) within these parameters:

- For projects with one to four units, the inspectable items for each building with HOME-assisted units and 100 percent of the HOME units must be inspected.
- For projects with more than four HOME-assisted units, the inspectable items for each building with HOME-assisted units and at least 20 percent of the HOME-assisted units in each building, but not fewer than four units in each project and one HOME-assisted unit in each building.

Follow up to address deficiencies. If any deficiencies are identified for any inspectable items (as established in the WCHC's inspection procedures), a follow-up on-site inspection is required within 12 months. For non-hazardous deficiencies, the WCHC will either conduct an on-site inspection or accept third party documentation (such as a paid invoice for work completed).

Health and safety deficiencies. Health and safety deficiencies identified during inspections must be corrected immediately. The WCHC will adopt a more frequent inspection schedule for these properties

Annual certification. Property owners must submit an annual certification to the WCHC that each building and all HOME-assisted units in the project are suitable for occupancy.

Annual Inspections for TBRA Units. Annual on-site inspections of housing occupied by TBRA recipients to determine compliance with property standards will be conducted.

Financial Oversight. The WCHC will annually examine the financial condition of HOME-assisted rental projects with 10 or more HOME-assisted units to determine the continued financial viability of the project. If the financial review indicates potential problems, the WCHC will take actions to correct those problems to the extent feasible. **Effective July 24, 2014.**

The development process will also be monitored by WCHC staff through the draw process, including reviewing draw requests and attending draw meetings.

DEVELOPMENT.....

Property Management. Many established owners have property management departments within their organizations or have created separate organizations to perform this function. Other developers hire one management firm to manage properties in its portfolio. Property management is important to ensure the owner's physical, financial, administration and occupancy performance standards for the property. When working with the WCHC assisted units, it is expected that the owner enter into an agreement that the units will be operated in accordance with all applicable regulations.

Subsidy Layering. Before committing funds to a rental project, WCHC will evaluate the project and verify that the owner did not request or was not allocated any more HOME funds in combination with other governmental assistance than is necessary to provide the affordable housing. WCHC is required to review and keep project records demonstrating that each rental housing project meets required subsidy layering guidelines. Part of the documentation process includes a Proforma (project income and expense statement) which should include achievable rent levels, market vacancies and operating expenses.

HOME Investment Per Unit. The HOME program has minimum and maximum per-unit subsidy limit on projects.

- The minimum HOME investment is \$1,000.00
- The maximum HOME investment is determined by HUD and is adjusted annually.

Contact WCHC for maximum allowed per unit investment.

Property Specifics

Project Type. HOME rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management and financing. Projects may be permanent housing, transitional housing, group homes and SRO's. There are no preferences for project or unit size or style. Any property previously financed with HOME funds that is still in the affordability period is not eligible for additional HOME funding. HOME funds will not be used for operations or modernization of public housing projects.

Property Standards. All properties constructed or rehabilitated with WCHC funds will meet the minimum local codes and standards. Owners must maintain properties in accordance with property standards throughout the affordability period. Monitoring visits will be conducted by WCHC to ensure property standards are being met.

Accessibility. In addition to applicable Fair Housing Requirements, assisted housing must meet the accessibility requirements of 24 CFR Part 8 which address "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development". The purpose of this part is to effectuate Section 504 of the Rehabilitation Act of 1973.

Affordability. An affordability period will be determined by the amount of funds invested in a project. WCHC has the right to require a minimum affordability period beyond that required by HUD and typically requires a minimum of 30 years. Throughout the period of affordability the owner must enforce funding requirements. This includes rent limits, income limits and property standards. Affordability requirements apply without regard to the term of any mortgage or loan, or transfer of ownership.

During the affordability period the project will be inspected and monitored annually for compliance with funding requirements. During the affordability period all assisted units must be in compliance with rent and income limits.

“Fixed” or “Floating” HOME units. WCHC will determine the number of units based on the funding award. Generally, WCHC allows the owner of the project to determine if the assisted units will be “fixed” or “floating. A “fixed” unit is when the owner applies funding requirements to specific units throughout the affordability period, for example unit #1 would always be an assisted unit. This is sometimes an easier process because it allows consistent knowledge of which unit is restricted for monitoring and file inspection purposes. A “floating” unit is when the units may change throughout the project. No matter which decision an owner makes, there always has to be the required amount of designated WCHC units in the project.

Rent Limits. Every HOME unit is subject to rent limits. HUD releases rent limits annually. The rent limits are maximums that can be charged per unit by bedroom size including a utility allowance. If a unit has multiple restrictive funding sources, e.g. HOME and Low Income Housing Tax Credits, the more restrictive programs guidelines must be met for rent and income limits. At no time can a tenant be charged more than HOME rent limits even in conjunction with another program. Current limits are available from WCHC.

Determining Allowable Rent. To determine the maximum rent allowed for contract rents you must consider both the HUD Rent standards and the utility allowances. After you have made sure that a tenant meets therequired income levels to occupy an assisted unit, you must also verify you are meeting the rent requirements. You will begin with the rent standards allowed for the unit bedroom size, the High or Low HOME rent or 30 percent of the targeted income for an appropriate family size. The amount of the utility allowances must then be subtracted from rent limit to determine the total tenant rent.

Overpayment of rent by either the renter or the Section 8 program will result in the owner reimbursing that amount of the overpayment to the tenant or the housing authority. Rents may be adjusted annually based upon revised rent limits published by HUD; however, tenant rents can not be adjusted until their leases are renewed and must be provided 45 days notice.

Rent Increases/Decreases. All rent increases in excess of five percent, or the amount specified in the funding agreement, of the current tenant rent must be approved by WCHC. All tenants subject to rent increases will receive a minimum of 45-day notice as required by the Nevada Revised Statutes. HOME rent limits may decrease; and must be implemented for the

next applicable rent payment. Project rent levels are not required to decrease below the HOME rent limits in effect at the time of project commitment.

TENANTS

Income. Before a tenant occupies a HOME unit, all income must be verified with third-party documentation. WCHC must examine at least two months of source documentation (e.g., wage statements, interest statements, or unemployment compensation documentation) when determining household income for all potential HOME beneficiaries. In such instances where management is unable to obtain third-party documentation sources documents, such as wage statements, interest statements and unemployment compensation statements for the past 60 to 90 days may be used. The project will be required to collect and obtain this information to be kept in client file. **WCHC requires the Part 5/ Section 8 definition of annual income.**

WCHC projects must count the income of *all adult (18 years or older)* persons in the household. If a household member 18 years of age or older are claiming they receive no income, they are required to complete an *Affidavit of Non-employment*.

Recertification. To ensure compliance with the affordability period, owners must establish systems to re-certify tenant income on an annual basis. Typically each tenant's income will be examined on the anniversary date of the original income certification or at lease renewal. However, the owner may adopt an annual schedule to perform all verifications at the same time. Recertification documentation will be monitored by WCHC. There are two alternative methods for income verification method which may be used:

1. A written statement from the family indicating size and income. This must include a signed certification from the family and source documents must be available upon request.
2. A written statement from the administrator or other government program from which the family receives benefits. Statements must include family size, current income, current income limit for their program and a statement that the family's income does not exceed that limit.

Full income verification and collection of source documents is required for recertification every sixth year of the affordability period.

Over Income Tenants. A tenant's income is likely to change over time. If these changes occur during the affordability period, the project owner must take certain steps to maintain compliance with HOME rent and occupancy requirements.

The project must maintain the correct number of units targeting the identified incomes.

- Rents must be adjusted for tenants whose incomes rise above 80 percent of the area median income to either 30 percent of tenant income or fair market rent.
- If the income of a tenant occupying a Low rent unit increases, but does not exceed 80% of the area median income, that unit becomes a High rent unit and the Low rent unit must be the next available unit (if floating units) or HOME assisted unit (for fixed units) to a very low income tenant that meets the 50% median income requirement. Subject to the

terms of the lease, the rent of the initial tenants whose income has increased may be increased to the High rent limit for the unit. This process should not increase the number of assisted units.

- If a tenant's income increases above 80% of the area median income, the unit this tenant occupies is still considered to be a HOME unit, but the tenants rent must be adjusted. In projects where the HOME units float, the next available unit in the project of comparable size or larger must be rented to a HOME eligible household. The unit occupied by the over-income tenant is no longer considered HOME assisted, and the rent of that unit can be adjusted as appropriate.

LEASES.....

Term. The term between the tenant and the owner must be at least one (1) year (12 months), unless otherwise agreed upon by the tenant and landlord.

Language. The lease may **NOT** contain the following provisions:

- **Agreement to be sued.** 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;
- **Treatment of property.** 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, however, 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. The owner may dispose of this personal property in accordance with State law;
- **Excusing owner from responsibility.** Agreement by the tenant not to hold the owner or the owners agents legally responsible for any action or failure to act, whether intentional or negligent;
- **Waiver of notice.** Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
- **Waiver of legal proceedings.** 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 parties;
- **Waiver of a jury trial.** Agreement by the tenant to waive any right to a trial by jury;
- **Waiver of right to appeal court decision.** Agreement by the tenant to waive the tenants right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- **Tenant chargeable with cost of legal actions regardless of outcome.** 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.

Termination. Termination of the lease requires a 30 day notice of refusal to renew or termination of tenancy.

HOMEBUYER/HOMEOWNER ACTIVITIES-----

Eligible Activities. Eligible homebuyer activities include the construction of new housing units or down payment assistance for low income households.

Eligible homeowner activities include the rehabilitation of housing units that are owned and occupied by low income households. In addition, funds may be used for costs associated with refinancing the owner's mortgage if this is necessary to reduce the families overall housing costs.

Eligible Costs. In general, eligible costs under rental housing are eligible for homeowner/homebuyer activities, including the following:

- Development hard costs for both new construction and rehabilitation;
- Refinancing costs to permit the improve the affordability for the owner of a home being rehabilitated;
- Acquisition costs;
- Costs relating to loans;
- Related soft costs:
- Architectural, engineering or related professional services required;
- Costs to process and settle the financing for a project;
- Costs of a project audit required by the WCHC respect to the development;
- Operating costs directly related to carrying out the project, such as work specifications preparation, and loan processing inspections;
- Costs for the payment of impact fees charged for all developments within a jurisdiction; and,
- Costs of environmental review and release of funds in accordance with 24CFR part 58 directly related to the project.

In contrast to rental projects, assistance may be provided to assist a household to purchase a home that was previously assisted with WCHC funding.

Prohibited Activities. Funds may NOT be used to pay for any cost that is not eligible costs under the HOME program at 92.206 and 209, including delinquent taxes, fees or charges on properties to be assisted. WCHC funding may also not be used to pay the costs of administering a homebuyer assistance or homeowner rehabilitation program.

Forms & Amount of Assistance. [HUD Regulations 24 CFR 92.205(b)] In general, assistance provided to homebuyers and homeowners will be in the form of a deferred loan or "silent second" mortgage at no more than 3 percent annual interest. Typically, the assistance will be subject to recapture provisions as outlined in the Consolidated Plan; however, if the amount of assistance provided to individual homebuyers is greater than \$20,000, the WCHC will discuss the possibility of implementing resale requirements. Additional funds may be allocated to the sub-recipient to pay directly-related soft costs. These funds may be provided as a grant to the sub-recipient to make the program feasible.

For homeownership development projects the funds will be provided as a below market-rate interest loans payable upon sale of the assisted units to qualified homebuyers. This will serve to meet the recapture provisions and meeting the developer's responsibility toward the period of affordability.

Program Requirements, All entities funded for the development of for-sale units or to provide financial assistance for the purchase or rehabilitation of owner-occupied housing are responsible for ensuring the assisted household is eligible, the property is qualified, appropriate documents are executed, and project processing steps outlined in the funding agreement are followed. The latter including but not limited to WCHC completion of the environmental and sub-recipient staff checking the federal debarred list and reviewing required inspections,.

It is important that sub-recipients administering homeownership programs make every effort to assist the homebuyer to understand the process of purchasing a home, the long-term commitment of purchasing a home, the implications of accepting a mortgage and under different terms, the recapture or resale option, and to consider the ability of the family to maintain a mortgage over time. Program guidelines must address how each of these issues will be addressed. For example, are interest only loans acceptable? If so, under what conditions? What debt ratio will be used to ensure the mortgage is affordable and the household is able to maintain the home?

Monitoring. Programs will be monitored annually, as long as the program is operating. Staff will review 20 percent of program files for compliance with income determination procedures and property eligibility, evaluation of affordability, written agreements, documentation that property is the principal residence enforced by lien or mortgage, title documentation, copy of deed or other ownership documentation, recapture/program income documentation, lead-based paint notification, etc.

Tenant-Based Rental Assistance (TBRA) Rent/Utility Deposit Program

The City of Reno's TBRA Rent/Utility Deposit Program is designed as a **one time only grant assistance to provide** application, security and utility deposits for permanent housing to eligible individuals and families who are experiencing homelessness. The Washoe County HOME Consortium has allocated Low Income Housing Trust Funds to support Tenant-Based Rental Assistance (TBRA) Rental and Utility Deposits for households meeting the Eligibility Requirements. Participant(s) must be experiencing homelessness as defined by the HEARTH Act, must currently be residing in an emergency shelter in Washoe County that participates in HMIS Program, and **must apply through a shelter case manager**. Applicants must be:

- Individuals or families currently residing in the Men's, Women's or Family Shelter located at 335 or 315 Record Street, who are working with and referred by a shelter case manager; or
- Individuals currently residing in a jurisdictionally approved Safe Ground/Tent City located in Washoe County; or
- Individuals currently residing in the winter overflow shelter; or
- Individuals or families currently residing in a shelter for those fleeing domestic violence in Washoe County (CAAW/Safe Embrace); or
- Individuals who entered a HMIS participating rehabilitative or transitional housing program directly from a CAC shelter or Safe Ground, and successfully completed the program; or
- Individuals or families living in a vehicle, on the streets, in abandoned buildings or tents, which are currently working with a VA Healthcare for Homeless Veterans Outreach Social Worker, or other approved Street Outreach Social Worker;

Individual's or families' household income must be at or below 60% of the Area Median Income as established by HUD annually.

A student enrolled at an institution of higher learning, who is not a veteran, is under 24 years of age, does not have a dependent child, is not otherwise individually low-income, and does not have parents who qualify as low income *does not qualify*.

Household income will be determined in conformance with Code of Federal Regulations 24, Part 5. The Applicant(s) or their assisting agency will complete a TBRA application for submission, including third party documentation of the income status for all members of the household 18 years and older. Completed income verifications will be placed in the applicant file.

Applicants who do not have a source of income *sufficient to sustain monthly rent payments* along with monthly living expenses will be determined ineligible for the deposit assistance. For instance, an applicant with a monthly income of \$480 cannot sustain a rental unit at \$500. However, an applicant may be determined eligible for the program but the deposit would only be provided for housing that would be sustainable, along with other living expenses, with the applicant's income.

ONE TIME ONLY ASSISTANCE

This is **one time only assistance**. Therefore, applicants should be especially aware of eligibility requirements of the property when applying to rent there (evictions, criminal history, credit history, etc.), and must consider continued ability to pay rent and utilities, food, transportation, etc. The budget in the application should be used to consider these factors when choosing a unit.

RENTAL SECURITY DEPOSITS

The City of Reno's TBRA Rent/Utility Deposit Program will pay a rental deposit that is reasonable based on local market practice. The **maximum** amount of funds provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Only the prospective tenant, not the landlord, may apply for security deposit assistance.

Households receiving deposit assistance must be able to continue to afford the unit rent without subsidy assistance. While referrals to other agencies that provide rental assistance will be made, the household's ability to pay rent without subsidy assistance will be determined in the following manner:

- A participant's ability to pay rent will be determined by analyzing income vs. rent expense.
- A participant's net income (income after taxes) must be equal to, or greater than, the proposed unit's rent amount. Failure to meet this requirement will result in a denial of the specific unit.
- Applicants with no real income will not be approved for deposit assistance unless the proposed unit rent is based on tenant income and has no minimum tenant payment.
- Deposits must be paid directly to the third party -- the security deposit payment to be paid to the owner (landlord) and the utility deposit payment to the appropriate utility company.

UTILITY DEPOSITS

Utility deposits may be made in conjunction with the provision of a security deposit, but cannot be provided separately as a "stand alone" deposit. Utility deposits may be paid for any of the tenant-paid utility services included on the Reno Housing Authority utility allowance schedule. **Connection fees included with deposit can be paid. For clients moving into subsidized housing, a waiver may be obtained for the payment of back to utility costs if that cost must be paid for them to obtain a unit. That costs cannot exceed six(6) months of back utility bills.**

The TBRA program will pay the initial utility deposit only for gas, water and electric. Phone, cable, satellite dishes, internet costs, etc., are not eligible. **This is a one time only deposit**

assistance for utilities. Should the applicant move to another apartment, no assistance can be provided. To set up utilities for deposit payment:

- The approved applicant should call NVEnergy and/or TMWA to have the utilities placed in their name **ONLY after being approved for the assistance, the unit passes HQS, and the applicant has signed the lease.**
- The utilities **must be** in the name of the same person for whom deposit assistance was provided.
- The TBRA program will not pay for any back bills or penalties.
- The applicant must call NVEnergy (834-4444 or 1-800-962-0399) or TMWA (775-834-8080) to have their utilities turned on. They need at least a 24 hour notice.
- NVEnergy/TMWA will provide the applicant an Account # and the amount of the deposit.
- The applicant must provide the Account # and deposit amount to the case manager who will report that to the City.
- Upon receipt of the first utility bill, the applicant must provide a copy showing the deposit amount to the program. A check in the amount of the deposit will be made out to NVEnergy/TMWA for the applicant at the property for which the deposit was made and mailed directly as payment to NVEnergy/TMWA.

LEASE REQUIREMENTS

The participant and the landlord must mutually enter into a formal lease agreement. The lease agreement must be a minimum term of six months and must not exceed one year. Additionally, the lease must not contain any of the following provisions:

- **Agreement to be sued.** Agreement by the tenant to be sued, admit guilt, or consent to a judgment in favor of the owner in a lawsuit brought in connection with the lease.
- **Agreement regarding seizure of property.** 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 unit after the tenant has moved out. The owner may dispose of personal property in accordance with state law.
- **Agreement excusing the owner from responsibility.** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for actions or failure to act, whether intentional or negligent.
- **Waiver of notice.** Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant.
- **Waiver of legal proceedings.** 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 parties.
- **Waiver of jury trial.** Agreement by the tenant to waive any right to a jury trial.

- **Waiver of right to appeal a court decision.** Agreement by the tenant to waive the tenant's right to appeal or otherwise challenge in court a decision in connection with the lease.
- **Agreement to pay legal costs, regardless of outcome.** Agreement by the tenant to pay attorney fees or other legal costs even if the tenant wins the court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

RENT REASONABLENESS:

Participants seeking deposit assistance must choose a unit that meets "Rent Reasonableness" requirements. "Rent reasonableness" means that the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private, unassisted market and must not be in excess of rents charged by the owner during the same time period for comparable non-luxury unassisted units.

HOUSING QUALITY STANDARDS (HQS):

The proposed unit must meet Housing Quality Standards (HQS). The unit must pass an HQS Inspection prior to the participant signing the lease and moving in to the unit. If a unit fails to pass an HQS inspection, the participant will be notified through their case manager. The participant may choose another unit, or wait for the landlord to fix the violations, at which time another inspection must be completed.

Applicant(s) must reside in appropriate accommodations (no more than 2 persons per bedroom).

APPLICATION REVIEW PROCEDURES

1. Case Manager determines if individual/household may be eligible for the deposit program.
2. Case Manager informs eligible applicants of the **one time only grant assistance and provides** application to interested eligible applicants. Applicants should clearly understand this is one time only assistance and if funds are paid out once to any rental property for rent deposit or for utility allowance, no further assistance will be provided. The program will cover only one application fee.
3. Applicant(s) must complete and sign the application (Appendix A).
 - Applicant must complete budget section with case manager and submit with the application the budget demonstrating their *sustainability in a rental unit*.
4. Case Manager submits hard copy of application, including documentation of income for all household members over 18 (most recent SS letter, a copy of paychecks, third party verification of income – attached form) to TBRA administrator.
5. **Income verification:** As long as appropriate income documentation is provided, income will be verified by City and applicant(s) checked against debarred list within 3-5 working days. Income verification is for the income anticipated over the next twelve months. **Verification of income is only to determine eligibility to participate in the program, not a guarantee of deposit payment to any landlord or utility.**
6. **Eligibility Notification:** Case Manager will be notified in writing of applicant's eligibility status for the program by the City. Notification time frame depends on when all appropriate documentation is submitted. If the applicant is not eligible, the case manager will be notified in writing of the reason for non-eligibility. If applicant wishes to apply and does not appear to be eligible, the case manager should provide a reason in writing to the applicant and a copy placed in their file,
7. Case Manager notifies and provides applicant(s) with notice of eligibility or non-eligibility (**Document 2**) when received from WCHC. **Applicant(s) cannot obligate funds to the property prior to final approval by the City, their eligibility for the program, the HQS, etc. Only** the completed and signed WCHC **agreement** document is the City's guarantee to pay the deposit. For example, the applicant(s) cannot request that property go ahead with credit check and promise payment by program.

Any applicant who moves into a unit, signs a lease or any other obligating document, has the utilities placed in their name, obligates themselves to the landlord for a unit verbally or in writing, requests a unit to be held for them, or pays or obligates any funds prior to receiving a signed agreement from the City program **can not apply for and will not** be provided deposit assistance.

If an Applicant expends personal funds, these funds will not be reimbursed.

8. **Denials and Appeals:** If an application is submitted, reviewed, but **denied**, the case manager will be given written notice of the denial to give to the applicant that provides the specific reason(s) for the action. The applicant has ten (10) days from the date of the notice to file a written informal appeal. The informal appeal review will be conducted by an individual within the City of Reno Housing and Neighborhood Development, other than the person who made the initial decision. The applicant will be notified of the decision of the informal review within ten (10) days from the date of the appeal receipt. **The decision of the third party reviewer is final.**
9. **Eligible Units:** Only when the applicant obtains the eligibility approval may they actively look for a unit. An eligible unit cannot be a property that is a mobile home, RV, or motel or a unit generally considered a weekly. The unit must pass an HQS inspection prior to move-in. Applicant(s) must reside in appropriate accommodations (2 persons per bedroom). Any questions regarding a property should be addressed to the City.
10. **Lease:** Applicant must be able to obtain a lease of at least 6 months. **Copy of Lease must meet requirements as noted above and be approved by City before applicant signs.**
11. **Budget:** Applicant notifies case manager of property of interest and provides information from the property of the amount of application fee, credit check fee, etc., and deposit amount required for move-in. The case manager should then assist the applicant in reviewing their budget (in the application) to determine *affordability of unit to income*. A copy of the lease and proposed rent with contact information will be submitted to the City by the case manager.
12. **Unit Inspection (HQS):** Upon approval of the lease and verification of applicant's ability to rent, an **HQS** will be scheduled. Applicants who have Section 8 vouchers which require Reno Housing Authority to inspect their units before moving in must provide documentation that the unit was inspected and submit that to the City before the city will provide the agreement document.
13. **Renting the Unit:** When the HQS is completed **and approved**, the applicant may then work with the complex to rent the unit. The case manager should complete the agreement document, providing the location and rental amount with the applicant's signature, and submit it to the City for signature. The City will sign off on the agreement and return it to the case manager and the applicant should then take the signed agreement with them when they sign the lease as their guarantee of payment.
14. Assistance will be given **for only one property application**, so applicants should be very certain of their property choice and ability to meet the property requirements such as income, credit check, background check, etc. City will do disbursement request to have check cut for the landlord in the appropriate amount. Application fees for credit check will be paid prior to lease signing. However, the applicant should be aware that if they are denied, no further application fees will be paid.

If the applicant is denied by the property, based on application, credit check, etc., the denial reason(s) must be in writing from the landlord to the applicant with copy to the City.

15. Once the applicant has signed the lease, Case manager submits tenant information set-up for TBRA form (**Document 4**), with copy of the signed lease, to the City as confirmation that tenant has moved into the unit. No funds (other than an application fee) will be paid out until a signed lease is received and the applicant has moved in.
16. **Applicant Responsibilities:** Once the applicant signs a lease, any issues related to the rental property are between the tenant and landlord or tenant and a utility company. **The WCHC is responsible only for the payment of the approved deposits in the signed agreement.**
17. Should the applicant vacate the unit for any reason, any applicable deposit refunds should be paid to:

City of Reno
ATTN: Washoe County HOME Consortium
P.O. Box 1900
Reno, NV 89505

COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS-----

The Washoe County HOME Consortium (WCHC) allows for a comprehensive approach to address affordable housing issues on a regional basis. The WCHC invests in their Community Housing Development Organizations (CHDOs) by providing funding opportunities through its **Affordable Housing Municipal Loan Program (AHMLP)**. The WCHC certifies agency's as CHDOs based on the HUD legal criteria and requirements for CHDOs under 24 CFR 92. A WCHC *certified* CHDO has the opportunity to apply for types of WCHC funding assistance not available to other applicants. WCHC CHDOs may also apply for any of the available AHMLP funds.

A Community Housing Development Organization (CHDO) is a private nonprofit, community-based service organization that has paid staff whose experience qualifies them to undertake CHDO set-aside activities. Capacity cannot be demonstrated by use of a consultant, except in the first year that a CHDO becomes certified.

- The definition of a CHDO, as well as other regulations regarding CHDOs, can be found in the Code of Federal Regulations Title 24 (Housing and Urban Development), Part 92.2. To be certified or re-certified as a CHDO, the non-profit organization must: (1) meet HUD's legal and regulatory requirements as a CHDO; (2) meet the additional criteria regarding proposing and constructing an affordable housing development project(s); and (3) submit a completed WCHC CHDO application for consideration and be approved by the Washoe County HOME Consortium

Each time the WCHC commits HOME funds, it must re-certify a nonprofit's qualifications to be a CHDO and its capacity to own, sponsor, or develop housing. [§92.300(a)]

To qualify for certification and/or to be recertified as a WCHC CHDO, an organization must meet certain criteria and be certified/recertified by the Washoe County Home Consortium. All *existing* WCHC CHDOs must be recertified on an annual basis.

The criteria (24 CFR 92.2) include legal status, organizational structure, capacity, experience, and financial standards as described below:

Legal Status:

A CHDO seeking WCHC recertification or an organization/agency seeking certification as a CHDO must:

- Be organized under state/local laws;
- Have a provision of decent housing that is affordable to low-and moderate-income persons among the purposes of the organization and this commitment must be evidenced in the CHDO's:
 - charter,
 - articles of incorporation,
 - by-laws, or
 - a resolution of the CHDO's board of directors.
- Assure that no part of the CHDO's earnings (profits) may benefit any members, founders, contributors or individuals.
- Have a clearly defined geographic service area.

- Have proof of nonprofit status: A CHDO must have received a tax-exempt ruling from the IRS under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986 in order to be designated as a CHDO, or it may be classified as a subordinate of a central organization nonprofit under Section 905 of the Internal Revenue Code. A group exemption letter from the IRS that includes the CHDO is required. The 501 (c) designation must either be a conditional or final designation; **a pending 501(c) status will not meet the requirements.**

Organizational Structure:

At the time of application, a CHDO seeking WCHC recertification or an organization/agency seeking certification as a WCHC CHDO must have a governing board organized as follows:

LOW INCOME REPRESENTATIVES:

At least 1/3 of the governing board must be:

- residents of low-income neighborhoods (neighborhoods where 51% or more of the residents are low-income);or
- other low-income residents of the community (low income defined as having an annual income of less than 80% of the area median income). If the individual does not live in a low income neighborhood, the CHDO or the resident will need to certify that they qualify as low income; or
- **elected** representatives of low-income neighborhood organizations whose primary purpose is to serve the interests of the neighborhood residents (i.e., block groups, town watch groups, civic associations, neighborhood church groups)

Should the CHDO not have the full complement of low-income representatives on the board, the CHDO has **45 days** in which to fill that position. ***The CHDO is considered out of compliance with the requirements for CHDO status when they do not have the full one-third low income members on the board and decisions of the board cannot be finalized without the minimum required 1/3 low income membership.***

Written process for low-income program beneficiaries: Input from the low-income community is not accomplished only by having low-income representation on the board. The CHDO must also provide a **formal, written** process for low-income program beneficiaries to advise the CHDO on design, development and management of affordable housing. The process must be described clearly and it must be included in the organization's bylaws or through a board resolution. This requirement is especially important for CHDOs serving a large geographic area where it may not be possible for a CHDO to have low-income representatives on its board from every neighborhood in which it will develop, own or sponsor housing. WCHC CHDOs must establish systems for community involvement in parts of their service areas where housing development is planned but which are not represented on their boards, for example:

- Ad hoc or special committees of neighborhoods of a proposed development site.
- Neighborhood advisory boards (NABs) or similar groups.
- One or more open neighborhood or town meetings.
- Temporary expansion of the CHDO board to include neighbors during the period of housing planning and development activity.
- Resident advisory committees/boards.

WCHC will require applicants to provide **a copy of their formal process for low-income, program beneficiaries to advise the organization in decisions regarding design, siting, development, and management of affordable housing projects.** This description should include the role low-income program beneficiaries and tenants have taken in the designing, location of sites, and development and management of your CHDOs affordable housing project(s) and the process the CHDO has taken in securing input from the persons in the their target area. The applicant will be asked to detail the steps the CHDO will take or has taken to include residents in their service areas which do not have representatives on their board. Dates and locations of public meetings/forums held in their target area within the last twelve (12) months to receive input and evidence of community support (i.e., letter of support from businesses, neighborhood associations, groups) will be requested. If the applicant is submitting a project during a funding round, the applicant will be required to describe how surrounding property owners were notified and what the property owners' roles were in the design, siting, development, and management of affordable housing projects, along with agendas and attendance lists.

STATE OR LOCAL GOVERNMENT APPOINTMENTS:

No more than 1/3 of the governing board may be appointed by a state or local government. Those representatives who are appointed by public **officials cannot select other members of the board.** Other restrictions on the participation of public officials on the boards of nonprofit organizations seeking public funds apply and CHDOs **must** observe conflict-of-interest policies.

PUBLIC SECTOR REPRESENTATIVES:

No more than 1/3 of the board may be public officials or representatives of the public sector (low income residents/representatives who work for a public agency in *any* capacity must be considered public sector representatives.) While officers and employees of the governmental entity can serve as Board members to the CHDO (subject to the one-third appointment limitation), they cannot serve as officers or employees of the CHDO. The additional limitations of the pre-2013 Rule on the involvement of a public entity remain unchanged

BALANCE OF THE BOARD MEMBERS:

The HOME program does not set any other limits on the composition of a CHDO's governing board and the remaining seats may be filled by a wide variety of individuals.

The Board has the ultimate fiscal responsibility for the CHDO and the following responsibilities:

- Building the Agency's Financial Capacity
- Raising the funds to maintain the organization long-term
- Budgeting funds productively
- Managing funds wisely
- Report on funds raised

Per the new 2013 Final Rule, if a for-profit entity creates or sponsors a potential CHDO, while the officers and employees of the for-profit entity can serve as Board members of a CHDO (subject to the one-third appointment limitation), they cannot serve as officers or employees of the CHDO.

MEMBER DESIGNATION FORM

This form should be completed by EACH member of the board.

(1). **I am a low-income resident of the community.** Low-income resident must have a household income at or below the 80% of the median household income for the area in which he or she lives, according to HUD. (Community can mean neighborhood, the city, county, or metropolitan area)*

(2). **I am a resident of a low-income neighborhood.** A low-income neighborhood is an area where 51% or more of the households in that Census tract have incomes at or below 80% of the median household income, as defined by HUD. (This does not mean that you must be a low-income person only that your residence is in a low-income neighborhood.) If you need to verify that you live in a low-income area as defined above, contact the WCHC (334-2578) offices for verification.

(3). **I am an *elected* representative of a low-income neighborhood organization.** (A low-income neighborhood organization is an organization composed primarily of residents of a low-income neighborhood. Examples of such organizations are: block groups, town watch organizations, civic associations, neighborhood church groups, etc.)

The Name of this organization is: _____

Attached to this designation form is evidence of election (appointment) by the low income members of the organization.

(4). **I am a representative of the public sector.** I am a:
_____ elected public official
_____ an appointed public official
_____ a public/government employee of a public agency or department
_____ appointed by a public official to serve on this CHDO

(5). **I am a representative appointed by the for-profit entity which created or sponsored this CHDO.**

(6). **Other.**

*** If you are designated as Low-Income member, please indicate how your eligibility was determined by the CHDO.**

I agree to notify the CHDO board if my representation status as a CHDO board member should change during my tenure on the board. I certify that the information provided above is correct as of the date indicated below:

Signature (Board Member)

Date

Print Name: _____

Please indicate what housing or related expertise you feel you bring to the CHDO as a member of the board:

A CHECKLIST FOR CHDOS

Below are the minimum criteria to be certified/recertified as a CHDO. Agencies should review this list carefully. *If an agency does not meet these minimum requirements, the WCHC cannot consider certification or recertification. The WCHC staff will review all CHDO certification/recertification applications.*

HUD CHDO CERTIFICATION/RECERTIFICATION CRITERIA

Organizational Status & Mission:

- _____ The non-profit must be organized under state or local laws in which it plans to be a CHDO as evidenced by a Charter or Articles of Incorporation.
- _____ The non-profit must have a tax exemption ruling from the Internal Revenue Service evidenced by a 501(c)(3) or (4) certificate from the IRS or a group exemption letter under Section 905 from the IRS that includes the CHDO. Documentation that the CHDO has an application for 501(c) status **pending will not suffice** to fulfill the non-profit status requirements. The 2013 Rule expands this definition to include: (1) a subordinate of a central organization under IRC 905 (this was previously permitted in practice, but is now codified); or (2) a wholly-owned entity that is regarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly-owned by an organization that qualifies as tax-exempt), when the owner organization has a tax exemption ruling from the IRS under section 501(c)(3) or 501(c)(4) of the IRC. The nonprofit must meet the other qualifying criteria outlined in the CHDO definition.
- _____ The non-profit must have in its purpose the provision of decent housing that is affordable to low- and moderate-income persons. This commitment must be evidenced by its Charter, Articles of Incorporation, By-Laws, or a Resolution of the board of directors.
- _____ The organization must have a **clearly defined** geographic service area. By clearly defined, the organization should state the areas served (Reno, Sparks, Incline Village, etc.). Note that the organization may not indicate the entire state as its geographic service area.
- _____ No part of the CHDO's earnings (profits) may benefit any members, founders, contributors or individuals.

Board Composition:

- _____ At least 1/3 of the board membership must be for residents of low-income neighborhoods, other low-income community residents or *elected* representatives of low income neighborhood organizations.
- _____ No more than one-third of the governing board members can be public officials (including any employees of the PJ) or appointed by public officials, and government-appointed board members may not, in turn, appoint any of the remaining board members.
- _____ If the CHDO is sponsored/created by a for-profit entity, the for-profit entity may not appoint more than one-third of the membership of the CHDO's governing body, and the board members appointed by the for-profit entity may not in turn, appoint the remaining two-thirds of the board members.
- _____ CHDO cannot be controlled, nor receive directions from, individuals or entities seeking profit from the organization.
- _____ If sponsored or created by a for-profit entity, the for-profit entity's primary purpose cannot include the development or management of housing. If a for-profit entity creates or sponsors a potential CHDO, while the officers and employees of the for-profit entity can serve as Board members of a CHDO (subject to the one-third appointment limitation), they cannot serve as officers or employees of the CHDO.
- _____ If sponsored or created by a for-profit entity, the CHDO must be free to contract for goods and services from vendors of its own choosing.
- _____ If sponsored by a religious organization, the CHDO must be a separate secular entity from the religious organization, with membership available to all persons, regardless of religion or membership criteria.

Other Requirements:

- _____ The CHDO must have a history of serving the community within which housing to be assisted with HOME funds is to be located, documented by at least one year of experience in serving the community or, for a new organization, documentation that its parent organization has at least one year of experience in serving the community.
- _____ The CHDO must have a formal **written** process for low-income, program beneficiaries to advise the organization in decisions regarding design, siting, development, and management of affordable housing projects.
- _____ The CHDO must conform to the financial accountability standards of 24 CFR 84.21, “Standards for Financial Management Systems,” as evidenced by a notarized statement by the President or chief financial officer; a certification from a CPA; or a HUD approved audit summary.
- _____ The CHDO must have a demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by experienced key staff who have completed similar projects to HOME-funded activities.

CHDO CAPACITY/EXPERIENCE

A WCHC CHDO seeking recertification or an agency seeking certification as a WCHC CHDO must demonstrate *capacity* to carry out HOME assisted activities with experienced staff who have successfully completed similar projects, which draws a distinction between development, management of rental housing and development, and/or sale of housing for first-time homebuyers,

The purpose of the CHDO capacity requirement is for the CHDO to **build its own professional staff**, therefore the staff **cannot be municipal, county or state employees or consultants (paid or volunteer)**. HUD defines CHDO staff as paid employees who are responsible for the day-to-day operations of the CHDO **and** have housing experience appropriate to the role the nonprofit expects to play in projects

Volunteers, board members or consultants are not staff, although paid staff can take on a few different forms. An employee is not just from an IRS standpoint of how that person is paid and who is paying the payroll taxes. A CHDO may have a contractual employee format where the staff person may be treated for IRS purposes as an independent contractor who receives a 1099 and pays their own payroll taxes. An employee can be full-time or part-time staff. The WCHC will determine the staffing level adequacy in light of the size, scope and complexity of the project to be funded.

Contract Employee Staff vs. Consultant: There are important ways to distinguish between a project consultant and a contracted employee:

Key Staff:

- have a responsibility for the CHDO project, but are likely to have organizational duties beyond just the project at hand.
- have not just project duties and tasks, but some level of authority to act on behalf of the organization, such as approving contracts or change orders, approving income eligible applicants for program participation, or those sorts of things.
- oversees and manages the development team
- have more open-ended, ongoing contracts with the CHDO

Consultants:

- tend to have discreet scopes of work, such as designing the project, packaging the deal for financing, review the legal documents on this transaction, that once done the contract is over.
- contracts are activity or project specific.
- contracts are time limited, not ongoing,
- contracts deal with discreet task and do not include general day-to-day operations of the CHDO
- authority is limited; they may provide advice to someone else who is responsible for making the actual decision
-

Consultants or volunteers can continue to fill occasional skill gaps or undertake activities that are required only on a periodic basis (e.g., project underwriting), but cannot be the basis of a determination that a nonprofit has the capacity to be designated as a CHDO.

Shared Staff

CHDOs may share its staff or is staffed by people who are employees of another parent organization. The shared staffing relationship must be formalized with a written interagency agreement, such as an MOU, a professional services contract, an administrative services agreement, etc. That agreement should specify the staff who will serve as CHDO staff and that this staff have appropriate experience and relevant skill sets in the context of the size, scope and complexity of the projects the CHDO will take on. The agreement should outline specific services that will be provided and identify the responsibility and authority for day to day activities of the CHDO. The CHDO should actually pay for the staffing services that are flowing down from the parent. In practice, the CHDO is likely to be using its developer fees to pay for the folks who are at staff even though at the end of the year, the IRS will likely see those people as employees of the parent organization.

FINANCIAL STANDARDS

A WCHC CHDO seeking recertification or an agency seeking certification as a WCHC CHDO must have financial accountability standards that conform to 24 CFR 84.21, “Standards for Financial Management Systems.”

Checklist for CHDO CERTIFICATION/RECERTIFICATION

The WCHC will utilize the CHECKLIST attached to these policies and procedures to evaluate requests for CHDO certification and recertification. The following are considerations that will be made while completing the checklist:

1. Staff classification and documentation – To be counted as staff, the person must be employed by the CHDO, and documentation is needed.
 - a. Full time or part time employment – This would be evidenced by a payroll report or a W-4 or a W-2.
 - b. Contracted staff – This would be evidenced by a “contract” for employment and a W-9 and 1099 (at the end of a year).
2. Relevant development experience – Document the basis for answers to the applicable project type.
 - a. Homeownership development – Has the staff person been involved in the acquisition, rehabilitation/construction and sale of homebuyer housing? Previous experience purely in counseling, marketing, or financing activities is not sufficient to be considered development experience.
 - b. Rental development – Has the staff person been involved in the acquisition, rehabilitation/construction and/or ownership/operation of rental housing?

Developer Capacity & Fiscal Soundness

3. Past and current performance
 - a. Has the CHDO performed adequately in the past in HOME, CHDO, and/or other real estate development activities?
 - b. Is the CHDO currently in good standing on all its development and administrative activities? Does it show the capacity to take on this additional activity and continue to manage everything that it has ongoing?
4. Capacity – CHDO Organization
 - a. Organizational structure – Can the current corporation structure support housing development activities, or is there a need for a subsidiary or other organizational structure for future development? Are there operations or activities that need to be organizationally separate from housing development activities and portfolios?
 - b. Management structure/practices – Does the current management have the ability to manage additional development activities? Are the corporate lines of authority for development activities clear? Are policies & procedures in place governing development activities?

- c. Pipeline/portfolio – What does the CHDO have as its current project pipeline and program responsibilities? Will it be able to handle the additional project proposed? If the organization pursues housing development, what other activities are likely to suffer or not be able to be pursued due to the effort required for development activities? Does its portfolio of projects/properties evidence competent management and oversight? Do the properties appear to have adequate funding?
 - d. Staff capacity – Do(es) the identified staff have the time to direct toward management of the proposed project? How strong are staff in the following areas: Legal/financial aspects of housing development? Management of real estate development? Oversight of design & construction management? Marketing & intake? Property management (if applicable)? Are staff encouraged to obtain training and develop new skills? What is their potential for learning skills that they currently do not have?
 - e. Board expertise/skills – Do board members have professional skills directly relevant to housing development (e.g., real estate, legal, architecture, finance, management)? Has the board demonstrated the ability to make timely decisions? Is there a good relationship between board and staff? Does the board have a committee structure or other means of overseeing planning and development? Has there been stability/continuity of board members over the last several years?
 - f. Project specific capacity for marketing & sale of homebuyer units or operation of rental units – If a homebuyer project, does the CHDO experience and capacity to market the units and counsel and qualify homebuyers? If a rental project, does the CHDO experience and capacity to oversee the marketing, management and ownership of the project?
5. Development Team Capacity
- a. Development team roles – Are all of the key development team roles filled with qualified individuals or firms?
 - b. Partner/consultant – Does the CHDO have a need for a partner or a consultant to supplement its skills and help it to ensure success, while still maintaining development control?
 - c. Prior experience – Do team members have prior experience directly relevant to the proposed project?
 - d. Experience working together – Have the team members worked together before or demonstrated the ability to work effectively as a team?
6. Fiscal Soundness
- a. Financial management – Is there evidence that the CHDO meets the 84.21 standards? Does it do annual budgeting of its operations and all activities or programs? Does it track and report budget v. actual income and expenses? Does it have adequate internal controls to ensure separation of duties & safeguarding of corporate assets? Is there

sufficient oversight of all financial activities? Is financial reporting regular, current, and sufficient for the board to forecast and monitor the financial status of the corporation?

- b. Financial stability – To what extent does the organization have a diversified and stable funding base for operations? How regularly does it experience cash flow problems?
- c. Liquidity – Does CHDO management know its current cash position and maintain controls over expenditures? Does the current balance sheet and budget indicate sufficient funds to supports essential operations? Does it have funds available for pre-development expenses capital advances required for development?
- d. Audit – Does the CHDO have an annual audit? Is the most recent audit current? Were there management or compliance findings in the last two years? Are finding resolved?
- e. Portfolio & corporate liabilities – If it has a portfolio of properties, are they are in stable physical and financial condition or are they a drain on corporate resources? Are there assets at risk of default? Does it collect adequate revenues and management fees from the properties? Does it maintain adequate insurance – liability, fidelity bond, workers comp, property hazard, & project?

7. Other Factors

- a. Community relations – How strong are the current reputation of the corporation and the relationship with the community? To what extent does NIMBY opposition exist to low income housing in the service area? To what extent do channels exist for the CHDO to negotiate with the community and potential opponents?
- b. Local government relations – How strong is the CHDO’s relationship with the local government? How strongly does local government support its housing activities?
- c. Lender relations – Does the CHDO have good working relationships with lenders, especially those who might participate in the proposed project?

THE ROLES OF A CHDO

The CHDO can act in one of the three capacity roles as listed below:

(a) **Owner:** The CHDO is an “owner” when it holds valid legal title to or has a long-term (99-year minimum) leasehold interest in rental property. The CHDO may be an owner with one or more individuals, corporation, partnership or other legal entities. The definition of “owner” has been significantly revised in the 2013 Rule at §92.300. The Rule now permits a CHDO to own and operate housing that it does not develop. A nonprofit that will undertake property ownership and management must demonstrate ownership/management experience.

(b) **Developer:** A CHDO is a “developer” when it either owns a property and develops a project, or has a contractual obligation to a property owner to develop a project. A nonprofit that will undertake development activities must demonstrate development capacity. The requirement for development capacity can no longer be demonstrated through the use of consultants with development experience, except during the first year of operation as a CHDO, provided that the consultant trains the CHDO staff. Further, the capacity requirement cannot be met through the use of volunteers or staff that is donated by another organization.

(c) **Sponsor:** A CHDO is a sponsor if it develops a project that it solely or partially owns and agrees to convey ownership to a second non-profit organization at a predetermined time or it is a sponsor for HOME-assisted homebuyer’s program when it owns the property, then shifts responsibility for the project to another nonprofit at some specified time in the development process and the second non-profit in turn transfers title, along with the HOME loan/grant obligations and resale requirements, to a HOME-qualified homebuyer within a specified timeframe.

TYPES OF FUNDING

OPERATING FUNDS:

These are funds for general CHDO operating costs, which are “reasonable and necessary” costs for the operation of the CHDO (24 CFR 92.208), including salaries, wages, benefits and other employee compensation; employee education, training and travel; rent and utilities; communication and technology costs; taxes and insurance; and equipment, materials and supplies.

- The majority of the AHMLP funds are from the US Department of Housing and Urban Development (HUD) and allow for participating jurisdictions to set aside **up to 5 percent** of their Home Investment Partnership Act (HOME) funds to assist CHDO groups with operating costs (24 CFR 92.300(f)). At the discretion of the WCHC, operating funds may be provided to enable certified WCHC CHDO groups to develop affordable housing. These operating funds **cannot** be used to fund *specific project costs*.
- ***A WCHC policies, a CHDO may receive operating funds for no more than four years or through the development of two (2) CHDO set-aside projects, whichever occurs first.***

- The funds are allocated based on a competitive, criteria-based scoring system explained in this application.
- Availability of operating funds cannot be guaranteed from year to year, so it is vital that a non-profit seeking CHDO certification plan for and have other sources of funding. **Neither re-organization of an existing CHDO nor a CHDO’s failure or desire to skip a year or more of recertification will change or extend the maximum number of years that operating funds will be provided.**
- WCHC CHDOs **may** receive up to 50% or \$50,000, **whichever is less**, of the CHDO’s total operating expenses in that fiscal year based on available funds. This total includes organizational support and housing education assistance provided under Title 42, The Public Health and Welfare, Chapter 130 – National Affordable Housing, Subchapter II – Investment in Affordable Housing, Part B – Community Housing Partnership, Section 233. Housing education and organizational support, b (1), (2), and (6) which is other assistance available for:
 - (1) Organizational Support: “Organizational support assistance ...available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.
 - (2) Housing education: “Housing education assistance...available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this chapter.” And,
 - (3) Community Land Trusts: “Organization support, technical assistance, education, training, and continuing support under this subsection...available to community land trusts and to community groups for the establishment of community land trusts.”

HOME program regulations require that any CHDO receiving operating funds MUST:

- (1) Receive CHDO **set-aside funds** for a housing development activity **in the same fiscal year** (July-June) as the operating funds are allocated; **AND/OR**
- (2) Enter into a written agreement with the WCHC that provides that the CHDO is reasonably expected to submit an application for **set-aside funds** for a housing development activity within 24 months of receiving the funds for operating expenses. The agreement must also specify the conditions upon which this expectation is based. To demonstrate a “reasonable expectation,” a WCHC CHDO must include the following documents with their application:
 - Preliminary Project Description – short narrative
 - Site Control Information (purchase agreement, option, etc.)
 - Preliminary Site Plan (if available)

- Preliminary Development Team
- Preliminary Financing Plan (sources do not need to be confirmed) and Five Year Pro forma
- Preliminary Architectural Renderings (if available).

Any portion of the 5% Operating Funds not allocated to an agency may be used by the WCHC during the fiscal year to provide appropriate technical assistance to CHDOs. In instances of extenuating and detrimental circumstances, such as a loss of key development personnel, a certified CHDO may be eligible to receive assistance to rebuild capacity during the year, as approved by staff on a case-by-case basis. Retained funds may also be utilized by WCHC staff to provide technical assistance to one or more CHDOs as determined beneficial to improving the ability to provide affordable housing and comply with regulations. In the case that any portion of the five percent of the HOME grant is unexpended at the end of the fiscal year, such funds will be available for housing activities in the next funding year.

CHDO SET-ASIDE FUNDS:

The WCHC also must invest at least **fifteen (15) percent** of its total HUD HOME allocation (24 CFR 92.300(a)) in development projects that are owned, developed or sponsored by CHDOs and which will result in the development of homeownership or rental units, including projects that have a new construction or rehabilitation component. A 5-year deadline for expenditure of CHDO set-aside funds established at §92.500(d)(1)(C) becomes effective on January 1, 2015, and will be implemented by HUD for all deadlines that occur on or after that date. **They cannot be used for programs.**

- **Eligible CHDO Activities (92.300(A)):** CHDOs may use HOME funds (excluding Operating Funds) for **all** eligible HOME activities, but only the following are eligible for the CHDO set-aside funds:
 - Rental Housing acquisition, new construction and/or rehabilitation.
 - Acquisition and/or rehabilitation of properties for sale to homebuyers.
 - New construction of homebuyer properties.
 - Direct financial assistance (i.e., down payment and closing costs) to purchasers of HOME-assisted homebuyer housing owned, sponsored or developed by a CHDO with HOME funds.

Tenant-based rental assistance (TBRA), homeowner rehabilitation, and brokering or other real estate transactions **are not eligible** for the 15% CHDO set-aside funding.

- **Effective Project Control:** **For any project to be considered for CHDO set-aside funding, whether the CHDO is the owner with one or more individuals, a corporation, a partnership or other legal entity, the CHDO *MUST* be the managing general partner with *effective decision making control (51%)*.** When a CHDO is in partnership with another entity, partnership agreements with verbiage that ensures that the CHDO has effective project control must be provided.

PRE-DEVELOPMENT LOANS:

Up to ten (10) percent of the WCHC's CHDO set-aside amount may be provided **ONLY** to CHDOs in the form of **pre-development loans** which are intended to assure that its CHDOs have access to funds for up-front, eligible project expenditures and are to be **repaid** to the Consortium from construction loan proceeds or other project income or incorporated into additional project financing. The costs must all be reasonable and customary and related to a specific project which, if deemed feasible, would receive HOME funds for development. This assistance can take the form of technical assistance and site control loans used to establish preliminary feasibility prior to site control and seed money loans, which may be used to cover pre-construction costs. The total amount of funds used for **pre-development cannot exceed 10 percent of the total amount of HOME funds reserved for CHDOs** by the Consortium in any given grant year **for CHDO set-aside eligible activities**.

SELF-SUFFICIENCY PLAN:

- All certified/recertified WCHC CHDOs were required to submit a plan to reach self-sufficiency within a five year time period. Agencies certified for the first time after that date must submit a plan to reach self-sufficiency within a five year time period after their first certification. This plan is to include cumulative revenues and expenditures, organization balance sheets, a strategic/written narrative component, and measurable goals related to the CHDO mission, including capacity building. CHDOs may apply for operating funds during these five years. An agency that is a CHDO choosing not to apply for operating funds or recertification during a funding year does not extend its five year period.
- If a WCHC CHDO previously received operating funds with the requirement that they submit a CHDO set-aside eligible development project within 24 months of being allocated those funds, is still within the 24- month period, but is not currently submitting a development application that is eligible for CHDO set-aside funding, a detailed progress report(s) is required in the application on the CHDO'S progress/activities to bring forward a project before the end of the 24 month period.
- ALL applicants requesting certification/recertification, whether or not applying for operating funds, are required to complete the self-evaluation which is part of the criteria for funding. For those applicants requesting operating funds, the criteria will be used to determine the amount of funding, if any, that will be allocated to the CHDO.
- ***In considering allocation of Operating Funds, the strongest consideration*** will be given to first time applicants and those applications that reflect qualified and experienced CHDO staff that can carry out the administration and functions required for the management and development of housing projects and can demonstrate a **need** for these funds to fill a gap not funded from other sources.

WHEN APPLYING FOR CHDO CERTIFICATION OR ANNUAL CHDO RECERTIFICATION

- **Community Housing Development Organizations (CHDOs) must meet all qualifying criteria regarding legal status, organizational structure, and capacity and experience to be certified/recertified. *Although an agency may meet all of the qualifying criteria, the status of CHDO is not guaranteed and is at the sole discretion of the WCHC.***
- Agencies that are currently receiving CDBG/HOME/LIHTF funds, who apply for HOME funds, must be in compliance with all terms of those current agreement(s) and must not have any outstanding audit findings, monitoring findings or concerns as determined by the Consortium.
- Only certified CHDOs may apply for CHDO operating funds, pre-development funds, and CHDO set-aside funds. A organization, whether or not they are recertified as a , may apply for other Affordable Housing Municipal Loan Program funding in the same manner as any other developer.
- Applicants that meet criteria as a CHDO **are not guaranteed** an award of operating funds.
- Successful operating fund applications may be funded for less than the amount requested or receive no funding.
- Nonprofit agencies must have an **active** Board of Directors documented by submitting an attendance list of board meetings for the previous 12 months and must submit a board membership list with their application.
- The applicant may be ineligible to apply for certification/re-certification if, in WCHC's discretion, the applicant has demonstrated a documented untimely or poor use of previously awarded HOME funds.

The applicant shall not exclude any organization or individual from participation under any project/program funded in whole or in part by HOME funds on the grounds of race, color, religion, national origin (ancestry), sex, family status, disability, sexual orientation and gender identity or expression.

- No agency may be certified IF it has been suspended or debarred under HOME (debarred list at (<http://www.SAM.gov>) or any other federal program may receive HOME funds. Proof that this information has been researched will be required.

CHDO SELF- EVALUATION OF APPLICATIONS AND OPERATING FUNDS ALLOCATION CRITERIA

Applicants for CHDO certification/recertification must meet all **minimum** threshold criteria for certification/recertification required by the Department of Housing and Urban Development (HUD) for certification of all CHDOs. The WCHC staff will review applications to determine if an applicant meets the minimum criteria for certification/recertification.

In order to receive WCHC CHDO operating funds, a CHDO must be certified and meet one of the following criteria:

- ❖ Submit a CHDO set-aside eligible development application **and be allocated CHDO set-aside funds** for the housing development activity in the application; and/or
- ❖ Enter into a written CHDO Operating Funds agreement with the WCHC that indicates the CHDO expects to submit an application for set aside funds for a housing development activity within 24 months of signing the agreement and receiving operating expenses (**24 CFR 92.300 (3)**). The agreement must also specify the conditions upon which the “reasonable expectation” of a development project is based. To demonstrate a “reasonable expectation,” **the CHDO must include a Preliminary Project Description narrative with the WCHC CHDO certification/ recertification application and attach the following documents with this narrative under this tab:**
 - Identification of site and/or evidence of Site Control (purchase agreement, option, etc.)
 - Preliminary Site Plan (if available)
 - Preliminary Development Team Information
 - Preliminary Financing Plan (sources do not need to be confirmed)
 - Pro forma(s)
 - Preliminary Architectural Renderings (if available)
 - Letters of Funding Interest
 - Development Time Table (Milestones/Deadlines)

As of July 1, 2007, all existing CHDOs recertified and new CHDOs certified for FY08/09, were required to submit a plan to reach self-sufficiency within a five year time period. Agencies certified after that date must submit a five-year self-sufficiency plan with their first certification application. This plan is to include cumulative revenues and expenditures, organization balance sheets, a strategic/written narrative component, and measurable goals related to the CHDO mission, including capacity building. CHDOs may apply for operating funds during this five years. A current CHDOs decision not to apply for operating funds or request recertification during a funding round does extend their five year period.

ALL CHDO applicants, *whether requesting consideration for CHDO Operating Funds or not*, are required to complete the self-evaluation. The criteria reference current development projects, development history, CHDO staff and board member capacity for developing affordable housing, full and complete budget information, demonstrated need for operating funds, etc. Self-scoring should be done in the far right column of the Criteria Table below.

All CHDO certification/recertification applicants **requesting operating funds consideration or new CHDO applicants** are further required to make a presentation to the Technical Review Committee of no more than 10 minutes. For new applicants, it is a chance to introduce their agency. For all applicants the emphasis during the presentation should be to demonstrate clearly and specifically its needs for operating assistance.

The WCHC also scores those applicants who meet all of the legal criteria for certification and are recommended for certification. This score is a review of the CHDOs and will be utilized to determine allocation of operating funds. Funding availability, total demand for operating funds, and organizational need as indicated by the information provided in the application will also be utilized by WCHC staff to make operating fund recommendations.

For those seeking operating funds, the TRC members will rank the applicants by awarding points on a scale of 0-10, with “0” being “did not demonstrate need for operating funds” to “10 “ being “CHDO demonstrate could not cover operating necessary costs without allocation of CHDO operating funds .”

The following are items you may want to address very briefly:

- **History:**
 - Initial year of certification, noting any gaps in certification and why
 - Other community development involvement;
 - Population(s) served and housing needs addressed by the organizations projects and programs.

- **Experience in housing development:**
 - What role(s) has the CHDO played (owner, developer, sponsor, other) in previous developments or for the development for which you are requesting development funds this funding round, if applicable.
 - Describe the roles/activities your staff undertake in the development of project(s)
 - Describe how the need and demand for your project (s) was determined.

- **Successes over the last year:** Describe briefly list major successes over the last year.

- **The following is ONLY for Applicants seeking operating funds:**
 - (1) If submitting a CHDO set-aside eligible development project application, the CHDO will be required to provide summarize the project (name, location, population served, expected date of completion).
 - (2) If *not* submitting a CHDO set-aside eligible development project application for funding during a funding round, the CHDO is required to explain the applicant’s plan to submit an application and receive project set-aside funds within 24 months of receiving operating funds.
 - (3) If the proposed project does not go forward, the CHDO must provide steps to be

taken to meet the requirement to have a CHDO set-aside funded project within the 24 months after signing the operating funds agreement.

(4) The CHDO must have a plan to repay the operating funds if it does not meet the 24 month requirement to have a CHDO eligible project.

- CHDO must explain what and why the expenses for which the operating funds will be used are “reasonable and necessary costs”, and why the CHDO would be **unable** to cover the operating costs without the allocation of operating funds, as well as from what other sources has the CHDO sought funding.
- **Self-sufficiency Plan:** The five year self-sufficiency plan must address the goal of eliminating the need for operating funds over the next four years. Existing CHDOs must show how their goals in the five year plan are being met.

The presentation will be held the first meeting after the application deadline. An agenda will be posted for this meeting and provided to all applicants. The TRC will have an opportunity to ask questions after the presentation. Each TRC member will score each CHDO. The scores will be totaled and divided by the number of members scoring the CHDOs to obtain one TRC score of 1-10 for each CHDO presentation. That number will be added to the WCHC staff criteria scores to determine a final score for each applicant. There are a possible 100 points --which includes the TRC 10 points--in the scoring criteria, plus 10 bonus points. The final scores will be provided to the applicants. Applicants will be ranked 1, 2, 3, etc., based on the calculated scores. Prior to first public hearing in January, the CHDO's will be notified of their rankings and at the first public hearing, the rankings will be provided to the TRC.

There will be no appeals of the criteria scoring.

The final recommendation for operating funding will be based on the criteria ranking and will be made during the first public hearing and will be forwarded to the Directors along with all other funding allocation recommendations. The funding approved by WCHC Directors will then be forwarded to the Regional Planning Governing Board for final ratification.

Although an agency may meet all minimum requirements for CHDO certification, the WCHC *does not guarantee and is not obligated* to certify or recertify any agency as a CHDO nor is it obligated to award operating funds. Further, the WCHC is not obligated to award the maximum award amount or the amount requested by the applicant. In any case, the WCHC will not award more than \$50,000 or 50% of the CHDOs operating budget, whichever is less.

Any funding that is awarded will be based on funds available and the criteria scoring, as follows:

Number of Eligible CHDOS	Percentage Based on Rank
One eligible applicant	Receives \$50,000 or 50% of the CHDOs operating budget, whichever is less.
Two eligible applicants	Highest Score: 60% Second: 40%
Three eligible applicants	Highest: 50% Second: 30% Third: 20%
Four eligible applicants	Highest: 45% Second: 25% Third: 18% Fourth: 12 %
Five eligible applicants	Highest: 44% Second: 22% Third: 16% Fourth: 10% Fifth: 8%

In case of a tie in the criteria score, the TRC will make the final determination as to how the percentages will be applied.

NOTE: If a CHDO is in default of a previous operating agreement that has not been repaid, it will not be eligible to receive additional operating funds. If the operating agreement default is cured within the CHDO's four year time period for receiving operating funding and the CHDO wants to apply for operating funds again, the CHDO must submit and receive an allocation for a CHDO eligible set-aside project during the same funding round.

OPERATING CRITERIA SELF-EVALUATION CHECKLIST

CRITERIA ALL CHDO CERTIFICATION/RECERTIFICATION APPLICANTS MUST COMPLETE THE SELF-EVALUATION FORM. This form will be used to rank CHDOs who are requesting consideration for operating costs.	Max Points	Applicant Self-Scoring	WCHC Staff Scoring
Applicant has current development project	20		
Applicant has site control and is the managing general partner in the development partnership as a sponsor, developer, or owner.	4		
Project is eligible for CHDO set-aside funds	5		
Project meets a PJ priority	4		
Project is consistent with housing development strategies and plans identified in the current Consolidated Plan	2		
Project provides the greater of 3 or 30% of its units for households with incomes less than or equal to 30% AMI or serve a special needs population	5		
Development History	10		
Applicant has successfully completed affordable housing projects over the past three years a. As owner, developer, or sponsor and managing general partner (3); or b. In partnership with another entity, but managing general partner (2); or c. As a member of a partnership (1)	3		
Applicant has utilized partnerships to build development capacity and increase key staff capacity to do development projects	2		
Applicant has received CHDO set-aside eligible funds for and completed a project within the last three years	5		
Capacity	10		
Applicant staff and board members have attended workshops and training designed to increase the CHDO's ability to participate in affordable housing development and the knowledge of CHDO related regulations/requirements a. HUD HOME training programs (3); or b. CHDO training (2); or c. Other housing training (1) <i>Based on evidence of attendance provided in application.</i>	3		
Applicant Board members attend meetings regularly and have direct input into project development <i>Based on board meeting agendas for last 12 months.</i>	2		
Applicant has its own, paid staff adequately skilled and experienced to successfully plan and develop affordable housing or to carry out the work related to the housing development(s) of the CHDO, such as planning, development, complex management, etc. (5); or Applicant does not have designated staff (0). <i>Based on organizational chart and resumes for CHDO provided in application.</i>	5		

The individual items indicate the maximum points that may be awarded for each item:

Demonstrated Need for Operating Funds	40		
Applicant has provided a full and complete budget for staff analysis in the application, clearly breaking out the any HOME funding/expenses. (5) or Applicant has provided a full and complete budget of the organization (3)	5		
Narrative, along with budget information submitted, clearly demonstrates a need for operating funds	6		
Applicant demonstrated evidence that other sources have been sought to fill the gap in operating funds.	5		
Five Quantifiable (measurable) outcomes were provided in the application	3		
Copy of most recent audit was submitted, and contained no unresolved findings	5		
Applicant has board consisting of members who have professional skills directly related to housing development (e.g., real estate, legal architecture, finance, management). <i>Based on Membership form provided in application</i>	2		
Agency board has an approved conflict-of-interest policy that governs its employees and development activities, particularly in procurement of contract services, award of housing units for occupancy and participation in programs or any other perceived conflict of interest. <i>Based on policy attached to the application.</i>	3		
CHDO has viable, self-sufficiency plan to alleviate its dependency on CHDO operating funds over the next five years(5)	5		
Existing CHDO ONLY: Applicant has expended AHMLP funds in a timely manner, including operating funds, program funds, project funds.	6		
NEW APPLICANT: a. Applicant has utilized federal funds previously and expended them in a timely manner (6) b. Applicant has completed previous housing development projects and expended funds in a timely manner (4)	6		

CHDOS SEEKING RECERTIFICATION	10		
The CHDO has no unresolved, outstanding monitoring issues.	4		
Annual CHDO monitoring has indicated no areas of non-compliance with project and operating agreements and HUD regulations over the past five years.	3		
The CHDO has demonstrated that it has met the measurable goals indicated in its FY12/13 application.	1		
CHDO has met its self-sufficiency goals for the present year	2		
For Applicants seeking first time CHDO certification ONLY:	10		
Current agency structure can support housing development activities (hired staf with applicable housing experience)	4		
Organization has no monitoring or compliance issues with other state or federal agencies/ regulations.	2		

Organization demonstrated that it has a good reputation and relationship with the community it will serve	2		
Current agency structure can support the financial and record keeping requirements made on CHDOs	2		
TRC PRESENTATION POINTS AWARDED (Do not self-score this item.)	10	N/A	Average of TRC points ()
TOTAL POSSIBLE POINTS	100	90	

BONUS POINTS	10		
Applicant is a new CHDO, certified for the first time during the present funding round, and has demonstrated a clear need for operating funds to assist in the development of a viable CHDO set-aside eligible project.	2		
Applicant has submitted a CHDO set-aside eligible application with this funding that will begin within 12 months of receiving funds.	2		
Applicant has clearly demonstrated that it has a development project anticipated to be funded within the next 24 months that might not go forward unless the CHDO has operating funds to assist staff during further project development. (Failure to receive CHDO set-aside eligible funding for a project within this time frame would require the CHDO to repay received operating funds and not be eligible for further operating funds until a set-aside eligible project is submitted and funded.)	2		
Applicant is an existing CHDO that has received operating funds for 4 years (0 points), 3 years(1 points), 2 years (2 points), 1 year (3 points), has not received funding for operating funds (4 points)	4		
TOTAL BONUS POINTS			

CHDOs must provide the following documents:

CONFLICT OF INTEREST CERTIFICATION

I/WE certify that I/WE understand and adhere to the conflict of interest provisions for the procurement of goods and services by HOME recipients as required by 24 CFR parts 84 and 85, and that no exceptions may be made to these provisions. (CPD Notice 98-09, II.)

I/WE further certify that in accordance with 24 CFR 92.356 (HOME Final Rule) I/We understand that no employee, agent, consultant, officer, elected official, or appointed official, or any person who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME funds or who is in a position to participate in a decision-making process or gain inside information with regard to these activities of a Participating Jurisdiction, State Recipient, or Subrecipient; or an owner, developer or sponsor of a HOME-assisted project or an officer, employee, agent or elected or appointed official or consultant of the owner, developer or sponsor whether private, for profit or nonprofit (including a CHDO when acting as an owner, developer or sponsor of housing) receiving HOME funds may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:

- ‡ Any interest in any contract, subcontract or agreement with respect to a HOME-assisted project or program administered by the applicant, or the proceeds thereunder; or
- ‡ Any unit benefits or financial assistance associated with HOME projects or programs administered by the applicant, including:
 - Occupancy of a rental housing unit in a HOME-assisted rental project;
 - Receipt of HOME tenant-based rental assistance;
 - Purchase or occupancy of a homebuyer unit in a HOME-assisted project;
 - Receipt of HOME homebuyer acquisition assistance; or
 - Receipt of HOME owner-occupied rehabilitation assistance.

I/We understand that this prohibition does not apply to an employee or agent of the applicant who occupies a HOME-assisted unit as the on-site project manager or maintenance worker.

In addition, I/We certify that no member of Congress of the United States, official or employee of HUD, or official or employee of the Washoe County HOME Consortium shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted project or program.

I/We certify that prior to the implementation of the HOME-assisted activity exceptions to these provisions may be requested by the applicant in writing to the WCHC. If an exception is requested, the applicant certifies that it will demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME assistance. The applicant understands that the WCHC may grant exceptions or forward the requests to HUD as permitted by 24 CFR 92.356,85.36 and 84.42, as they apply.

(Signature) Chairman of the Board

Date: _____

(Print Name): _____

WASHOE COUNTY HOME CONSORTIUM AFFIRMATIVE FAIR HOUSING MARKETING PLAN

STATEMENT OF POLICY

The Washoe County HOME Consortium (WCHC), consisting of the City of Reno, the City of Sparks, and Washoe County, in accordance with the regulations of the HOME Investment Partnership (HOME) Program (24 CFR 92.3510), has established this “Affirmative Fair Housing Marketing Plan” to ensure that the consortium and all entities to whom they have allocated HOME or Low Income Housing Trust Funds employ a marketing plan that promotes fair housing and ensures outreach to all potentially eligible households, especially those least likely to apply for assistance.

The Consortium’s policy is to provide information and attract eligible persons to available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. The procedures followed are intended to further the objectives of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and Executive Order 11063, which prohibits discrimination in the sale, leasing, rent and other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

PROCEDURES

Although the HOME Final Rule regarding the development and adoption of affirmative marketing procedures and requirements apply to rental and homebuyer projects containing five or more HOME-assisted units, regardless of the specific activity the funds finance (e.g., acquisition, rehabilitation, and/or new construction), the WCHC will apply their affirmative marketing procedures to all programs funded by the WCHC, such as tenant-based rental assistance, owner-occupied rehab, and down payment assistance only programs.

The WCHC is committed to the goals of affirmative marketing that will be implemented through the following procedures:

- A. Providing equal service without regard to race, color, religion, sex, handicap, familial status, or national origin of any client, customer, or resident of any community;
- B. Keeping informed about fair housing laws and practices;
- C. Informing clients and customers about their rights and responsibilities under the fair housing laws by providing verbal and written information;
- D. Evaluating the effectiveness and compliance of all marketing as it relates to fair housing;
- E. Including the *Equal Opportunity* logo or slogan, and where applicable the accessibility logotype, in all ads, brochures, and written communications to owners and potential tenants;



- F. Displaying the HUD’s fair housing posters (at a minimum, English and Spanish versions) in rental offices or other appropriate locations;

- G. Soliciting applications for vacant units from persons in the housing market who are least likely to apply for assistance without the benefit of special outreach efforts; working with the local public housing authority and other service and housing agencies to distribute information to a wide and diversified population;
- H. Maintaining documentation of all marketing efforts (such as copies of newspaper ads, memos of phone calls, copies of letters).
- I. Maintaining a record of applicants for vacant units with a general profile of the applicant, how the applicant learned of the vacancy, the outcome of the application, and if rejected, why; maintaining this record for two years or through one compliance audit, whichever is the shorter period of time.
- J. Where changing demographics present challenges when marketing to an eligible population that is limited English proficient (LEP), WCHC and its funded entities, striving to:
 - 1. Translate its marketing material to serve this population
 - 2. Hire bilingual employees or have quick access to interpreters/translators
 - 3. Work with the language minority-owned print media, radio and television stations
 - 4. Partner with faith-based and community organizations that serve newly-arrived immigrants, and
 - 5. Conduct marketing activities at adult-education training centers or during “English as a Second Language” classes.
- K. Requiring all applicants for WCHC funds to sign, submit, and adhere to the policies included in the certifications relating to fair housing required in applications packets, including but not limited to attachments A, B, and C of this policy.

ASSESSMENT

In conjunction with the annual on-site compliance reviews, the WCHC will:

- A. Review and evaluate records of affirmative marketing efforts (advertisements, flyers, and electronic media spots, etc.);
- B. Evaluate outcomes and effectiveness of marketing efforts and make changes where needed.
- C. Evaluate whether good faith efforts have attracted a diversified cross-section of the eligible population.

CORRECTIVE ACTIONS

Failure to meet affirmative marketing requirements will result in the following corrective actions:

- A. **For failure to comply**, WCHC will set a probationary period for compliance, not to exceed six months, during which time the WCHC will provide more specific guidelines for compliance.
- B. **Further failure** to comply with the affirmative marketing requirements may result in the withdrawal of HOME and/or LIHTF support.
- C. **Further failure** to take appropriate actions to correct discrepancies in affirmative marketing programs may result in steps to recover all invested HOME or LIHTF funds.

We acknowledge the WCHC Affirmative Marketing Plan:

_____ **Date:** _____
Chairman/President of the Board

CERTIFICATIONS AND ASSURANCES

I/We declare under penalty of perjury that all of the application statements, attachments hereto, are true and correct.

Further, I/We agree that I/we shall meet, and continue to meet, all federal and local CHDO requirements outlined within the application and subsequent funding agreement during the funding timeframe, July 1, 2009 through June 30, 2010, or the WCHC shall not be required to reimburse or forgive operating expenses.

Further, I/We agree that I/we shall hold the Washoe County HOME Consortium (WCHC), Washoe County, the City of Reno, and the City of Sparks, its officers, employees, agents, and representatives harmless from any claims or lawsuits or from any damages that I/we may incur because of any action taken or not taken on this application, and I/we further agree that I/we shall defend and indemnify the WCHC, Washoe County, the City of Reno, and the City of Sparks, its officers, employees, agents, and representatives from and for any claims or lawsuits brought by, or damages paid to, any other persons, parties, or entities because of any action taken or not taken on this application. Such indemnification shall include payment of attorney’s fees and costs incurred by the WCHC, Washoe County, the City of Reno, and the City of Sparks, its officers, employees, agents, and representatives for defending, negotiating, and settling such claims or lawsuits.

I/We have read and understand the above and it is complete and acceptable to me/us. I/We further agree to abide by the foregoing conditions and realize that the failure of any or all of these conditions may relieve the WCHC, Washoe County, the City of Reno, and the City of Sparks of any obligations to pay any funds pursuant to the application for assistance.

(Signature) _____
Chairman of the Board

Date: _____

Type/Print Name

Attachment A (Insert other attachments)

WASHOE COUNTY HOME CONSORTIUM (WCHC)

CHDOS must certify that they will abide by Section 3 and include this clause in all development contracts:

Section 3 Clause

Affordable Housing Municipal Loan Program Funding Recipients

A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of 24 CFR 92 - HOME Investment Partnership Program § 92.350 and § 92.508 referencing Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal Financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractor and subcontractors, its successors, and assigns to those actions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

Project Name _____

_____ Print Name and Title

_____ Organization's Name

Signature of Organization's Authorized Representative

Date